

SAMFORD UNIVERSITY SEXUAL MISCONDUCT POLICY

I. STATEMENTS OF POLICY AND NON-DISCRIMINATION

A. Policy Statement. The mission of Samford University (“Samford” or the “University”) is to nurture persons in their development of intellect, creativity, faith and personhood. As a Christian university, Samford fosters academic, career and ethical competency while encouraging social and civic responsibility and service to others. Consistent with, and in furtherance of these objectives and purposes, Samford is committed to providing an academic, social and employment environment that is free from sexual harassment, assault, exploitation, dating violence, domestic violence, and stalking, as such terms are defined in this Policy and which are collectively referred to as “Sexual Misconduct.” Among other things, this Policy prohibits specific Sexual Misconduct that violates Title IX of the Education Amendments of 1972 (“Title IX”), the Violence Against Women Reauthorization Act of 2013 (“VAWA”), and/or Title VII of the Civil Rights Act of 1964 (“Title VII”). It is also a violation of this Policy to retaliate against a person for filing a complaint of Sexual Misconduct or for cooperating in a Sexual Misconduct investigation, adjudication or informal resolution. Individuals who are determined to be responsible for a violation of this Policy will be subject to disciplinary action up to and including termination from employment or expulsion from the University. Samford will respond promptly and equitably to reports of Sexual Misconduct and will take appropriate action to eliminate prevent its recurrence and correct and address its effects.

B. Notice of Non-Discrimination.

In accordance with applicable federal and state laws, such as Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination in Employment Act, and the Americans with Disabilities Act and ADA Amendments, the University does not unlawfully discriminate on the basis of sex, gender, race, color, national origin, age, disability, genetic information, veteran status, religion, or any other protected status under federal, state or local law applicable to the University, in its education policies, programs, and activities, in its admissions policies, in employment policies and practices, and all other areas of the University. As a religious institution, the University is exempted from certain laws and regulations concerning discrimination.

Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." The University is required by Title IX and its regulations not to engage in sex discrimination in its education program or activity, including admissions and employment. Sex discrimination is conduct based upon an individual's sex that excludes an individual from participation in, denies the individual the benefits of, or treats the individual differently in, the education program or activity. Sexual Harassment, as defined in this Policy, is a form of sex discrimination. In accordance with Title IX and its regulations, this Policy addresses the University's prohibition of the following forms of sex discrimination: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation.

The University will not tolerate Sexual Misconduct in any form. The University will promptly and equitably respond to all reports of Sexual Misconduct in order to take steps to eliminate the misconduct, prevent its recurrence, and address its effects on any individual or the community.

Inquiries or complaints about Title IX Sexual Harassment, Non-Title IX Sexual Harassment, or other forms of Sexual Misconduct may be directed to the University's Title IX Coordinator:

Lisa Overton
Title IX Coordinator and Student Conduct Coordinator
UC 352D
lwoverto@samford.edu
(205) 726-2764

Inquiries or complaints may also be directed to the U.S. Department of Education Office for Civil Rights:

The Office of Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: (800) 421-3481
Facsimile: (202) 453-6012 TDD#: (800) 877-8339
[Email: OCR@ed.gov](mailto:OCR@ed.gov)
<http://www.ed.gov/ocr>

C. Disclaimer of Contract

This Policy does not constitute a contract between Samford, on the one hand, and any student, employee, contractor, agent or other person, on the other, and none of the provisions of this Policy shall be construed as or deemed to be contractual in nature.

II. SCOPE OF THE POLICY AND DEFINITIONS

A. Scope and Application of the Policy. All University community members including students, faculty, administrators, staff, trustees, volunteers, vendors, independent contractors, applicants for admission or employment, visitors, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity with the University or on University property, are subject to this Policy. The Policy may also apply to individuals who interact with University community members under certain circumstances. All University community members are required to follow University policies and governing local, state, and federal laws.

This Policy applies to Sexual Misconduct committed by or against a University community member, including conduct that occurs on campus or other University property, conduct that occurs at University-sanctioned events or programs that take place off campus, such as study abroad and internships, and off-campus conduct that may cause or threaten to cause an unacceptable disruption at

the University or which may interfere with an individual's right to a non-discriminatory educational or work environment.

This Policy applies to Sexual Misconduct within the scope of Title IX, as well as Sexual Misconduct committed by or against a University community member that does not fall within the scope of Title IX. More information about what Sexual Misconduct falls within the scope of Title IX is provided in *Section III.A – Title IX Sexual Harassment*. More information about the processes applicable to different types of Sexual Misconduct is provided in *Article VIII - General Provisions for Complaint Resolution Process*. The complaint resolution procedures described in this Policy are the exclusive means of resolving complaints alleging violations of this Policy. To the extent there are any inconsistencies between the complaint resolution procedures in this Policy and other University grievance, complaint, or discipline procedures, the terms and provisions of this Policy will control.

B. Definitions. For purposes of this Policy, the following terms will have the corresponding definitions:

1. **Complainant:** An individual who is alleged to be the victim of conduct that could violate this Policy.
2. **Respondent:** An individual who has been reported to be the perpetrator of conduct that could violate of this Policy.
3. **Report:** An account of alleged Sexual Misconduct that has been provided to the University by the complainant, a third party, or an anonymous source.
4. **Formal Complaint:** A document filed by a complainant or signed by the Title IX Coordinator alleging a violation of this Policy and requesting that the University investigate the allegation of the Policy violation. A formal complaint begins the complaint resolution process as set forth in *Article IX - Procedures for Sexual Misconduct Complaint Resolution*.
5. **Preponderance of the Evidence.** A standard of evidence that requires a Hearing Panel to determine whether a complaint of Sexual Misconduct is “more likely than not” to have occurred. This standard applies for all complaints of Sexual Misconduct, including Title IX Sexual Harassment and Non-Title IX Sexual Harassment.
6. **Title IX Coordinator:** The designated staff member of the University with primary responsibility for coordinating Title IX compliance efforts, and who generally (i) oversees the intake of formal complaints, (ii) manages the implementation of supportive measures and remedies, (iii) supervises the complaint resolution process, and (iv) maintains official records. For more information regarding the Title IX Coordinator's role, see *Article IV - Responsibilities of the Title IX Coordinator and Title IX Team*.
7. **Sexual Misconduct:** As used in this Policy, Sexual Misconduct means the following forms of sex discrimination and other misconduct: (i) Title IX Sexual Harassment; (ii) Non-Title IX Sexual

Harassment; (iii) Sexual Assault; (iv) Domestic Violence; (v) Dating Violence; (vi) Stalking;¹ and (vii) Sexual Exploitation, as each of those terms is defined below in *Article III - Prohibited Conduct*.

III. PROHIBITED CONDUCT

This Policy prohibits the following forms of Sexual Misconduct: Title IX Sexual Harassment; Non-Title IX Sexual Harassment; Sexual Assault; Domestic Violence; Dating Violence; Stalking; Sexual Exploitation; Retaliation and Interference with Process; and aiding others in any of the foregoing prohibited conduct.

A. Title IX Sexual Harassment. As used in this Policy, Title IX Sexual Harassment includes conduct on the basis of sex that satisfies one or more of the following definitions, when the conduct occurs (i) in the University's education program or activity and (ii) against a person in the United States (i.e. a person who is located in the United States).

1. **Title IX Quid Pro Quo Harassment.** Title IX Quid Pro Quo Harassment occurs when an employee of the University, including a student-employee, conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct. Such unwelcome sexual conduct could include, but is not limited to, sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal, nonverbal, or physical conduct or communication of a sexual nature.

2. **Title IX Hostile Environment Harassment.** Title IX Hostile Environment Harassment is unwelcome conduct on the basis of sex 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.

(a) **Reasonable Person.** For the purposes of the definition of Title IX Hostile Environment Harassment, a reasonable person means a reasonable individual in the shoes of the complainant, considering the ages, abilities, and relative positions of authority of the individuals involved in an incident.

(b) **Severe, Pervasive and Objectively Offensive.** The circumstances that may be considered when determining whether conduct was so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity include, but are not limited to:

- the frequency of the conduct;
- the nature and severity of the conduct;
- whether the conduct was physically threatening;
- the effect of the conduct on the complainant's mental or emotional state;
- whether the conduct was directed at more than one person;
- whether the conduct arose in the context of other discriminatory conduct;

¹ Some instances of Dating Violence, Domestic Violence, and Stalking may not be sexual in nature. For purposes of this Policy, the term "Sexual Misconduct" encompasses all instances of Domestic Violence, Dating Violence and Stalking (as those terms are defined respectively in *Sections III.E, F and G*), regardless of whether there is a sexual component to the behavior.

- whether the conduct was merely a discourteous, rude, or insensitive statement; and
- whether the speech or conduct deserves the protections of academic freedom.

(c) **Unwelcome Conduct.** For the purposes of the definition of Title IX Sexual Harassment, conduct is unwelcome when the individual did not request or invite it and regarded the conduct as undesirable or offensive. The fact that an individual may have accepted the conduct does not mean that he or she welcomed it. On the other hand, if an individual actively participates in conduct and gives no indication that he or she objects, then the evidence generally will not support a conclusion that the conduct was unwelcome. That a person welcomes some conduct or sexual contact does not necessarily mean that person welcomes other conduct or sexual contact. That a person willingly participates in conduct or sexual contact on one occasion does not necessarily mean that the same conduct or sexual contact is welcome on a subsequent occasion. Whether conduct was unwelcome may be determined based on the context and circumstances of the encounter or incident. Multiple instances of the following conduct, or other unwelcome conduct on the basis of sex, may constitute Title IX Hostile Environment:

- unwelcome sexual flirtations, attention, advances, or propositions;
- requests for sexual favors; verbal abuse of a sexual nature or obscene language;
- jokes and comments of a sexual nature;
- verbal commentary about an individual's body, sexual innuendo, suggestive commentary about a person's clothing and appearance;
- displaying derogatory or sexually suggestive pictures or other objects in an office, in a residence hall, or on a computer monitor;
- visual conduct such as leering or making gestures;
- unwanted kissing;
- unwelcome touching of a sexual nature such as patting, pinching, or brushing against another's body;
- gossip about sexual relations; and
- cyber or electronic harassment.

3. **Sexual Assault, Domestic Violence, Dating Violence, and Stalking.** For purposes of Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, as those terms are defined below in Sections D,E,F and G of this Article III, exist when such conduct occurs (i) in the University's education program or activity and (ii) against a person in the United States.

4. **Education Program or Activity.** Whether alleged conduct occurred in the University's education program or activity is a fact specific analysis. At a minimum, the University's education program or activity includes all of the operations of the University, including (i) locations on campus or otherwise owned or controlled by the University, (ii) locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the alleged Sexual Misconduct occurred, and (iii) any building owned or controlled by a student organization that is officially recognized by the University.

B. Non-Title IX Sexual Harassment. While Title IX requires that the alleged conduct meet a certain threshold before it is considered Title IX Sexual Harassment, the University also prohibits unwelcome conduct of a sexual nature or based on sex (i) that may not rise to the level of Title IX

Sexual Harassment (as defined in the preceding Section III.A), (ii) that did not occur in the University's education program or activity, but may nevertheless cause or threaten to cause an unacceptable disruption at the University or interfere with an individual's right to a non-discriminatory educational or work environment, or (iii) that did not occur against a person in the United States.

As used in this Policy, Non-Title IX Sexual Harassment is unwelcome conduct of a sexual nature or based on sex, including sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal, nonverbal, or physical conduct or communication of a sexual nature, when:

1. Submission to such conduct, either explicitly or implicitly, is made a condition of an individual's employment or educational experience, or the individual's submission or rejection of such conduct is a basis for an employment, academic, or other education decision (Non-Title IX Quid Pro Quo Harassment); or
2. Such conduct has the purpose or effect of substantially and unreasonably interfering with an individual's employment or education, or of creating an intimidating, hostile, or offensive employment or educational environment (Non-Title IX Hostile Environment Harassment).

Non-Title IX Hostile Environment Harassment may include the same type of conduct described above as Title IX Hostile Environment Harassment, when such conduct (i) does not rise to the level of being so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; (ii) does not occur in the University's education program or activity; or (iii) does not occur against a person in the United States.

For the purposes of the Non-Title IX Sexual Harassment definition, conduct is unwelcome when the individual did not request or invite it and regarded the conduct as undesirable or offensive. The fact that an individual may have accepted the conduct does not mean that he or she welcomed it. On the other hand, if an individual actively participates in conduct and gives no indication that he or she objects, then the evidence generally will not support a conclusion that the conduct was unwelcome. That a person welcomes some conduct or sexual contact does not necessarily mean that person welcomes other conduct or sexual contact. That a person willingly participates in conduct or sexual contact on one occasion does not necessarily mean that the same conduct or sexual contact is welcome on a subsequent occasion. Whether conduct was unwelcome may be determined based on the context and circumstances of the encounter or incident. Non-Title IX Sexual Harassment does not include conduct covered under the definition of Title IX Sexual Harassment. *See Section III.A – Title IX Sexual Harassment.*

C. Sexual Exploitation. Sexual Exploitation occurs when an individual takes sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, without consent. Sexual Exploitation may include, but is not limited to:

- Intentional and repeated invasion of sexual privacy (e.g., walking into the other person's room or private space);
- Prostituting another person;
- Taking or distribution of photographs/images, video or audio-recording, or electronically broadcasting (e.g., with a web cam) a sexual activity;

- Intentional removal or attempted removal of clothing that exposes an individual's buttocks, genitals and/or groin area, or that is otherwise sexual in nature without consent;
- Intentionally allowing others to view/hear a sexual encounter (such as letting individuals hide in the closet or watch consensual sex);
- Engaging in non-consensual voyeurism;
- Viewing or permitting someone else to view another's sexual activity or intimate body parts, in a place where that person would have a reasonable expectation of privacy without consent;
- Knowingly transmitting an STI (sexually transmitted infection) or HIV to another person without his/her knowledge;
- Exposing one's genitals or breasts to another without that individual's consent;
- Inducing another person to expose his/her genitals or breasts without that individual's consent; and
- Distributing or displaying pornography to another without that individual's consent.

Sexual Exploitation does not include conduct that is covered under the definition of Title IX Sexual Harassment. *See Section III.A – Title IX Sexual Harassment.*

D. Sexual Assault. Sexual Assault is any actual or attempted sexual contact using any object with another person without that person's consent.

1. Sexual Contact. As used in this Policy, sexual contact includes intentional contact by the respondent with the complainant's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed; touching another with any of these body parts, whether clothed or unclothed; coerced touching by the complainant of another's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed; or forcing another to touch oneself or himself or herself with or on any of these body parts.

2. Examples of Sexual Assault. Sexual Assault includes, but is not limited to, an offense that meets any of the following definitions:

- Rape.** For purposes of this Policy, rape is the penetration, no matter how slight, of the vagina or anus with any body part or object, oral penetration by a sex organ of another person, or oral contact with the sex organ of another person, without the consent of the complainant.
- Fondling.** For purposes of this Policy, fondling is the touching of the intimate parts (including the genital area, groin, inner thigh, buttocks, or breast) of another person for the purpose of sexual gratification, without the consent of the complainant.
- Incest.** For purposes of this Policy, incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape.** For purposes of this Policy, statutory rape is sexual intercourse with a person who is under the statutory age of consent, which, in the State of Alabama, is 16 years old.

Sexual Assault includes other sexual crimes that are prohibited by Alabama law. See ALABAMA CODE Sections 13A-6-60 through -71.

E. Dating Violence. Dating Violence is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating Violence includes, but is not limited to, causing physical injury, engaging in conduct that creates a substantial risk of physical injury, or creating apprehension of imminent physical injury. Dating Violence can be a single event or a pattern of behavior. Dating Violence does not include acts covered under the definition of Domestic Violence. Dating Violence can be a criminal act prohibited by ALABAMA CODE Sections 13A-6-130 through -139.2.

F. Domestic Violence. Domestic Violence is an act of violence committed by a current or former spouse or intimate partner of the complainant, a person with whom the complainant shares a child in common, a person who is a current or former cohabitant of the complainant as a spouse or intimate partner, a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or any other person against an adult or youth complainant who is protected from that person's acts under applicable domestic or family violence laws of Alabama. Domestic Violence can be a criminal act prohibited by ALABAMA CODE Sections 13A-6-130 through -139.2.

G. Stalking. Stalking is a pattern of repeated and unwanted attention, harassment, contact, or other course of conduct directed at a specific person that would cause a reasonable person to either (i) fear for his or her safety or the safety of others or (ii) suffer substantial emotional distress. Stalking can include frightening communications, direct or indirect threats, and harassing a complainant through the Internet or other communication mediums. Stalking can be a criminal act prohibited by ALABAMA CODE Sections 13A-6-90 through -94.

1. Requisite Acts. Stalking requires two or more acts including, but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person or interferes with a person's property.

2. Substantial Emotional Distress. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.

3. Reasonable Person. Reasonable person means a reasonable person in the victim's circumstances.

4. Examples of Stalking. Stalking behavior may include, but is not limited to:

- Repeated, unwanted and intrusive communications by phone, mail, text message, email and/or other electronic communications, including social media;
- Repeatedly leaving or sending the complainant unwanted items, presents or flowers;
- Following or lying in wait for the complainant at places such as home, school, work or recreational facilities;

- Making direct or indirect threats to harm the complainant or the complainant's children, relatives, friends or pets;
- Damaging or threatening to damage the complainant's property;
- Repeatedly posting information or spreading rumors about the complainant on the Internet, in a public place, or by word of mouth that would cause a person to feel threatened or intimidated; and
- Unreasonably obtaining personal information about the complainant.

H. Retaliation and Interference with Process. Retaliation and Interference with Process is any act of intimidation, threat, coercion, or discrimination or any other adverse action or threat thereof against an individual for the purpose of interfering with any right or privilege secured by Title IX, its regulations, or by this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Encouraging or assisting others to either (i) engage in retaliation or (ii) to interfere with the processes included in this Policy are also considered Retaliation and Interference with Process and violate this Policy.

1. Examples of Retaliation and Interference with Process. While the University does not prohibit the complainant and respondent from discussing the allegations that are the subject of a formal complaint, acts that could constitute Retaliation and Interference with Process may include, without limitation: (i) acts or comments that are intended to discourage a person from engaging in activity protected under this Policy or that would discourage a reasonable person from engaging in activity protected under this Policy; (ii) acts or comments that are intended to influence whether someone participates in the complaint resolution process, including a live hearing; (iii) acts or comments intended to embarrass the individual; (iv) adverse changes in employment status or opportunities; (v) adverse academic action; and (vi) adverse changes to academic, educational, and extra-curricular opportunities.

2. Means of Retaliation and Interference with Process. Retaliation and Interference with Process may be in person, through social media, email, text and other forms of communication, through representatives, or through any other person. Retaliation and Interference with Process may be committed against a person even when the person's allegations of Sexual Misconduct are not substantiated.

3. Reporting Retaliation and Interference with Process. Anyone who is aware of conduct constituting Retaliation and Interference with Process should immediately contact the Title IX Coordinator. The University will take appropriate action against any individual who engages in Retaliation and Interference with Process in violation of this Policy.

I. Consent. Consent is clear, voluntary permission. Consent is not effective if it results from forcible compulsion, which is the use or threat of physical force, intimidation, coercion, or other conduct that eliminates or compromises an individual's ability to freely choose whether to have sexual contact. Lack of consent is also statutorily defined at ALABAMA CODE Sections 13A-6-70.

1. Demonstrating Consent. A person who engages in sexual activity of any type must first obtain the consent of the other party. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. An outward demonstration by an individual indicating that he or she freely chooses to engage in sexual activity is necessary for consent. It

may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. Failure to physically resist or verbally refuse sexual activity is not necessarily the same as consent.

2. No Inferred Consent. Consent to one form of sexual activity does not, by itself, constitute consent to engage in another form of sexual activity, nor does consent to engage in sexual activity with one individual constitute consent for sexual activity with anyone else. Individuals with a prior or current intimate relationship do not automatically give either initial or continued consent to sexual activity. Even in the context of an intimate relationship, there must be mutually-understandable communication that clearly indicates a willingness to engage in each instance of sexual activity.

3. Denial or Withdrawal of Consent. A verbal statement of "no," "stop," or words of similar meaning are clear demonstrations of the lack of consent. Either party may withdraw consent at any time by an outward demonstration through words or actions that clearly indicate a desire to cease sexual activity. As soon as it is expressed that consent is withdrawn, sexual activity must cease.

4. Incapacitation. An individual incapacitated by alcohol or drug consumption (whether voluntarily or involuntarily) or who is asleep, unconscious, unaware, or otherwise physically helpless, is considered unable to give consent to sexual activity. A person who is incapacitated may be unable to give valid consent if he or she is not able to understand the "who, what, where, when, why, and/or how" of a sexual interaction. A person is deemed incapable of providing consent if, at the time of the act, the person (i) is under the age of 16; (ii) suffers from a mental impairment, whether temporary or permanent, which renders him or her incapable of appraising the nature of his or her conduct (e.g., age, disability, or temporary impairment due to drug or alcohol consumption); or (iii) is physically helpless (e.g., unconscious), asleep, or in a state of shock. Sexual activity with someone that an individual knows or reasonably should know is intoxicated or otherwise incapable of giving consent is a violation of this Policy. All persons must be mindful that the impact of alcohol, drugs and other substances varies from person to person. Common indications that a person may be incapacitated or approaching incapacitation include vomiting, unsteady gait, slurred speech, an odor of alcohol, incontinence, combativeness, and emotional volatility. Being intoxicated or impaired by drugs or alcohol is never an excuse for Sexual Misconduct and does not diminish one's responsibility to obtain consent.

5. Coercion. Coercion is unreasonable and persistent pressure to compel a person against his or her will to initiate or continue sexual activity. Coercion includes a range of behaviors including intimidation, manipulation, threats, and blackmail. Coercive activity may be emotional, intellectual, psychological, or moral. A person's words or conduct are sufficient to constitute coercion if they impair another person's freedom of will and ability to choose whether to engage in sexual activity. In evaluating an allegation of coercion, factors to be considered include, without limitation, (i) the frequency of the pressure, (ii) the intensity of the pressure, (iii) the isolation of the person being pressured, and (iv) the duration of the pressure. Coercing a person to engage in sexual activity violates this Policy in the same way as physically forcing someone into engaging in sexual activity.

IV. RESPONSIBILITIES OF THE TITLE IX COORDINATOR AND TITLE IX TEAM

A. General Responsibilities. The Title IX Coordinator is the designated representative of the University with primary responsibility for coordinating Samford's efforts to end Sexual Misconduct, prevent its recurrence, and address its effects. The Title IX Coordinator oversees and monitors Samford's overall compliance with Title IX related policies and developments; the implementation and oversight of complaint resolution processes and procedures, including review, investigation, and

resolution of reports of Sexual Misconduct; the provision of educational materials and training for the campus community; and monitoring all other aspects of Title IX compliance by the University.

B. Examples of Title IX Coordinator Responsibilities. Examples of the responsibilities of the Title IX Coordinator include, but are not limited to, the following:

- Ensuring compliance with University policies and procedures and relevant state and federal laws;
- Informing any individual impacted by an allegation of Sexual Misconduct, including a complainant, a respondent, or another individual, about the procedural options and processes used by the University, and resources available at Samford and in the community;
- Training and assisting University employees regarding how to respond appropriately to a report of sex discrimination or Sexual Misconduct;
- Monitoring full compliance with all procedural requirements and time frames outlined in this Policy;
- Evaluating allegations of bias or conflict of interest relating to this Policy;
- Determining whether grounds for appeal under this Policy have been properly stated;
- Ensuring that appropriate training, prevention, and education efforts, and periodic reviews of the University's climate and culture take place;
- Keeping appropriate records of all incidents reported to the Title IX Coordinator;
- Coordinating the University's efforts to identify and address any patterns or systemic problems revealed by reports and complaints; and
- Assisting in answering questions related to this Policy.

C. Title IX Team. The University's Title IX Team includes the Title IX Coordinator, Deputy Title IX Coordinators, and appointed staff and faculty designees who may also be called upon to investigate complaints of Sexual Misconduct, serve as advisors, adjudicate complaints, review appeals, and/or facilitate informal resolutions of formal complaints. When this Policy refers to actions of the Title IX Coordinator, these actions may be fulfilled by the Title IX Coordinator or the Title IX Coordinator's designee.

V. PRIVACY AND CONFIDENTIALITY.

Samford protects the privacy of persons involved in a report of Sexual Misconduct in a manner that is consistent with a careful assessment of an allegation, and appropriate measures to eliminate Sexual Misconduct, prevent its recurrence, and address its effects. As used in this Policy, the meanings of the terms privacy and confidentiality are essential to a proper understanding of the Policy and its implementation.

A. Private. "Privacy" and "private" are terms that are applicable to information related to an incident of Sexual Misconduct that is reported pursuant to this Policy. Access to private information received by the University is available to a limited number of Samford employees who have a legitimate need to know the private information in order to assist in the assessment, investigation, and resolution of a report. This restricted access is authorized by the Family Educational Rights and Privacy Act (FERPA).

B. Confidential. “Confidentiality” and “confidential” are words used to identify information that is shared by a person with a designated Samford representative who is legally obligated to maintain the information in confidence unless disclosure is authorized by (i) the individual who communicated the information or (ii) by court order or governing law. Campus officials who may receive information on a confidential basis include the medical providers, professional counselors, and ordained clergy specifically designated in this Policy. Confidential off-campus resources include rape crisis counselors. *See ALABAMA CODE §15-23-42* Each of these persons is prohibited by law from violating confidentiality unless (i) there is an imminent threat of harm to self or others, (ii) the reported conduct may involve abuse of a minor, or (iii) disclosure is otherwise required or authorized by applicable law. Contact information for these confidential resources is included in *Section VII.C.1 – Confidential Employees*.

C. Release of Records. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the University’s FERPA policy. The privacy of an individual’s medical and related records generally is protected by the Health Insurance Portability and Accountability Act (“HIPAA”), except health records protected by FERPA. Access to an employee’s personnel records may be restricted in accordance with applicable laws, regulations, and policies. Whenever a report of Sexual Misconduct indicates a serious and immediate threat to the campus community, Samford will issue a timely notification to protect the health or safety of the community as required by the Clery Act. The Clery Act requires, among other things, that a post-secondary school that receives federal funds must report statistical information concerning Sexual Misconduct that occurs on properties owned or controlled by the school. This data is reported annually by the Samford Department of Public Safety to the U.S. Department of Education (“DOE”). The University prepares and publishes an Annual Security Report that includes statistical information concerning reported offenses that occurred either on campus, at off-campus properties controlled by Samford, or on certain public property adjacent to the University campus. Neither the Annual Security Report nor the statistical data provided to the DOE includes the name or other personally-identifiable information of any person involved in a reported incident. Samford may share non-personally-identifying information in aggregate form in various reports, including data about incident outcomes and sanctions.

VI. IMMEDIATE AND ONGOING ASSISTANCE FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT

A. Assessment of Supportive Measures. At any time after the University has actual knowledge of a potential violation of this Policy, the Title IX Coordinator shall promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant’s wishes with respect to supportive measures, inform the complainant of the availability of supportive measures, and explain to the complainant the process for filing a formal complaint. The Title IX Coordinator will also consider whether supportive measures are reasonably necessary or appropriate to protect other parties and the broader University community. The University shall comply with a student’s reasonable request for a living and/or academic situation change following an alleged incident of Sexual Misconduct. Samford will make appropriate accommodations and provide appropriate supportive measures with or without a formal complaint, even when a complainant asks

to keep a reported violation of this Policy confidential or requests that the University not investigate the matter, and regardless of whether an individual chooses to report to law enforcement.

B. Definition and Examples of Supportive Measures. Supportive measures are individualized services that are reasonably available, non-punitive, non-disciplinary, and not unreasonably burdensome to the other party, while designed to restore or preserve equal access to the University's education program or activity, including interim measures designed to protect the safety of all parties or the University's educational environment, or to deter Sexual Misconduct. Examples of supportive measures include, without limitation:

- Establishing a "no contact" directive prohibiting the parties involved from communicating with each other;
- Changing an individual's on-campus residency, dining, or transportation arrangements;
- Special parking arrangements;
- Assistance in finding alternative University housing, including reassignment to a different residence hall or room;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule, including transferring to a different section of a course;
- Providing academic accommodations or providing assistance with academic issues, including permission to withdraw from a course without penalty;
- Providing security escorts;
- Providing a temporary cellphone;
- Access to counseling and medical services;
- Making information about orders of protection and criminal no contact orders available to a complainant; and
- Assistance in identifying an advocate to help secure additional resources or assistance, including off campus and community advocacy, support, and services.

C. Selection of Appropriate Measures. The University determines which measures are appropriate for a particular individual on a case-by-case basis. Such measures will vary based on the particular facts and circumstances, including, but not limited to, the specific need expressed by the individual, the age of the individuals involved, the severity or pervasiveness of the conduct that is the subject of the allegations, any continuing effects on the individual, whether the complainant and respondent share the same residence hall, dining hall, class, transportation, or job location, and whether other judicial measures have been taken to protect the individual. The Title IX Coordinator will be responsible for determining what supportive measures will be put in place.

D. Requests for Supportive Measures. A complainant or respondent may request a supportive measure by contacting the Title IX Coordinator. Additional services are available on campus and/or in the community, as described in *Article XIV – Resources*.

E. Confidentiality. Samford will maintain as confidential any supportive measures provided to an individual, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the measures. The University will only disclose information necessary to provide the supportive measures in a timely manner to individuals who need to know the information

in order to effectively provide the measures. The Title IX Coordinator will determine what information about an individual should be disclosed and to whom this information will be disclosed based on the facts and circumstances of the specific situation and the measures to be provided. The University will inform the individual before sharing personally identifying information that the University believes is necessary to provide a supportive measure. The University will tell the individual the information to be shared, with whom it will be shared, and why it will be shared.

F. Violations of Supportive Measures. Any concern about an actual or perceived violation of a supportive measure should be reported to the Title IX Coordinator as promptly as is possible. Complaints of a violation of a supportive measure are addressed in *Section III.H - Retaliation and Interference with Process*.

VII. REPORTING

A. Reporting Sexual Misconduct.

1. How to Make Reports. Samford encourages all individuals who have experienced Sexual Misconduct or know about an incident of Sexual Misconduct to report the incident, so that affected individuals may receive the support they need and the University may respond appropriately. Individuals have several options for reporting allegations of Sexual Misconduct. An incident of Sexual Misconduct may be reported to the University by making a report to the Title IX Coordinator, a Deputy Title IX Coordinator or online on the University's Title IX website. Reports can be made by telephone, mail, email, in person, and online on the University website. Reports to the University should include as much information as possible, including the names of the individual who allegedly experienced Sexual Misconduct, the individual reporting the incident if a different individual, the respondent, and the date, time, place, and circumstances of the incident, to enable the University to respond appropriately.

2. When to Make Reports. Reports of Sexual Misconduct should be made as promptly as possible, but may be made at any time. Samford does not limit the time frame for reporting.

3. Online and After Hours Reports. Sexual Misconduct may be reported by completing an online reporting form provided at <https://www.samford.edu/departments/values-advocacy/report-relationship-violence>. The report should be made immediately so that the University can begin its assessment of the incident. Completing the online reporting form also fulfills the reporting obligation for Campus Security Authorities under the Clery Act. Outside of regular business hours, if a person does not have immediate access to the Internet, he or she should call the Samford Department of Public Safety at (205) 726-2020, and the dispatcher will promptly contact either the Title IX Coordinator or a Deputy Title IX Coordinator.

B. Communicating Reports. Upon receiving a report of Sexual Misconduct, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures with or without the filing of a formal complaint and to explain the process of filing a formal complaint. In addition, when a student or employee reports to the University that he or she has been a victim of Sexual Assault, Dating Violence, Domestic Violence, or Stalking, whether the offense occurred on or off campus, the University will provide the student or employee with a written

explanation of the student's or employee's rights and options, along with the procedures victims should follow.

C. Employee Reporting Responsibilities. An employee's responsibility to report incidents of Sexual Misconduct is determined by the employee's role at the University.

1. Confidential Employees. Confidential Employees are those Samford employees who are permitted to engage in confidential communications under Alabama law. On the University campus, this includes medical care providers (and those who provide administrative services related to the provision of medical care), licensed professional counselors, and ordained clergy who have been specifically designated (i.e. by name) by the University as Confidential Employees. Communications with and among Confidential Employees shall be treated as confidential. A Confidential Employee will not disclose personally identifiable information about Sexual Misconduct to the Title IX Coordinator without the individual's permission (subject to the exceptions set forth above in the explanation of Confidentiality). Confidential Employees may make general reports for statistical purposes and pattern tracking, but do not divulge personally identifiable information without an individual's consent. Confidential Employees are identified below:

Samford University Counseling Services

Richard Yoakum, ryoakum@samford.edu; (205) 726-2065, Room 203, Dwight Beeson Hall

Lyndsay Cogdill-Clark, Incogdil@samford.edu; (205) 726-4077, Room 203, Dwight Beeson Hall

University Office of Spiritual Life

Rev. Bobby Gatlin; bgatlin@samford.edu; (205) 726-4538, 202 Burns Hall

Rev. Todd Oakley; tkoakley@samford.edu; (205) 726-4852, 208 Burns Hall

2. Employees Who Are Not Confidential Employees. All University employees who are not a Confidential Employee are required to promptly reporting incidents of Sexual Misconduct to the Title IX Coordinator. Samford is not obligated to take action until a report of Sexual Misconduct is received by the Title IX Coordinator or other Samford employee who has authority to address the alleged Sexual Misconduct. Accordingly, every employee other than Confidential Employees must diligently report all incidents of Sexual Misconduct.

Employees, other than Confidential Employees, must promptly report to the Title IX Coordinator all relevant details known (obtained directly or indirectly) about an actual or alleged incident of Sexual Misconduct that involves a Samford student or employee as either a complainant or a respondent, or that occurred on property owned or controlled by the University, or in connection with a University employment or education program, including events hosted by University groups or University-recognized organizations. The reported information, to the extent known, should include dates, times, locations, and names of parties and witnesses.

Employees are not required to report information disclosed (1) at public awareness events (e.g. public forums in which students may disclose incidents of Sexual Misconduct); or (2) during an individual's

participation as a subject in an Institutional Review Board-approved human subjects research protocol. In instances where an employee has a specific concern that sharing information with the Title IX Coordinator may significantly impact the safety or well-being of the complainant or another individual, the employee shall promptly disclose the information to a Deputy Title IX Coordinator who will work with the reporting employee to evaluate the need to share personally identifiable information with the Title IX Coordinator based on the potential risk of harm to the complainant or broader campus safety concerns. Failure of an employee to report Sexual Misconduct in accordance with this Policy may result in disciplinary action, up to and including termination of employment, depending on the circumstances of the Policy violation.

D. Mandatory Reporting of Child Abuse. Under Alabama law, Samford employees who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, are required to report the matter immediately to the Alabama Department of Human Resources – Child Protective Services: (334) 242-9500. If an employee makes such a report, he or she must also immediately share the information with the Samford Department of Public Safety so that the University can ensure timely compliance with this law and enhance the protection of children. Samford will promptly report all suspected child abuse and neglect, including sexual assault, to law enforcement and/or to the Alabama Department of Public Health – Child Protective Services. For the purposes of this reporting obligation, a child is any individual under the age of 18, and the suspected abuse may involve physical, sexual, or other forms of abuse, neglect or exploitation, regardless of the identity of the suspected perpetrator. The duty to report is triggered by reasonable suspicion or belief. There is no requirement that an employee have actual evidence of abuse, nor is it the responsibility of any employee, student, or volunteer to investigate suspected child abuse. This is the role of Child Protective Services and other law enforcement authorities, who are trained to make such inquiries. A report should be made as follows:

- If a child is in immediate danger, call the police (9-1-1)
- If there is no immediate danger to a child, call the Samford Department of Public Safety (205) 726-2020
- If an employee is unable to reach the Department of Public Safety, he or she should report as soon as possible the suspected abuse to the Title IX Coordinator.

E. Reports to Law Enforcement. At the complainant's request, the University will assist the complainant in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue the criminal process. A person may also choose to report Sexual Misconduct to local law enforcement through one of the following reporting options:

- 9-1-1 (for emergencies)
- Samford Department of Public Safety (205) 726-2020
- City of Homewood Police Department (205) 332-6200
- Jefferson County Sheriff's Office (205) 325-5700 (for incidents in unincorporated areas of Jefferson County, Alabama)

F. Amnesty for Drug or Alcohol Violations. Samford intends to remove any barriers to reporting acts of Sexual Misconduct. It is therefore appropriate that anyone who has been the subject of Sexual Misconduct to report the conduct and that witnesses share what they know about the alleged incident.

To encourage reporting, people who report or who are subject to Sexual Misconduct may not be subject to disciplinary action for a related violation of a Samford policy involving alcohol or drugs, including their personal consumption of alcohol or drugs at or near the time of the incident, provided that such violations did not and do not place the health or safety of any other person at risk.

G. Obligation to be Truthful and Act in Good Faith. Information reported about alleged Sexual Misconduct should be true and accurate, since a charge of Sexual Misconduct may have severe consequences. A person who makes a report that is later determined to have been intentionally false or made maliciously without regard for the truth, or who intentionally gives false information during an investigation or live hearing, may be subject to disciplinary action under the Samford Honor Code (for undergraduate students), applicable conduct codes for students in graduate and professional schools and programs, or the appropriate faculty or staff disciplinary policy (for employees). Discipline for students who make a false report may include, but are not limited to: anger intervention assessment and counseling; mental health counseling; restriction from some or all Samford property, programs or activities; community service; work assignments; written assignments; research assignments; fines; written warnings; suspension of privileges; no contact orders; parental notification; probation; residence hall expulsion; residence hall restriction; residence hall suspension; restitution; suspension from the University; expulsion from the University; and withholding a degree. Employees who make a false report may be disciplined by, among other things: anger intervention assessment and counseling; mental health counseling; restriction from some or all Samford property, programs or activities; community service; written warnings; no contact orders; suspension of employment without pay; and termination of employment. State criminal statutes and civil defamation laws may also be implicated by false reports. This does not apply to reports of Sexual Misconduct made in good faith, even if the facts alleged in the report are not substantiated by an investigation and/or review decision. An allegation of false reporting cannot be investigated or heard until the underlying allegations of Sexual Misconduct are resolved.

H. Emergency Removal. Samford reserves the right to remove a student respondent, in whole or in part, from the University's education program or activity on an emergency basis. Prior to removing a student respondent on an emergency basis, the University will undertake an individualized safety and risk analysis and will determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Misconduct justifies removal. If a student respondent is removed on an emergency basis, the University will provide the student respondent with notice and an opportunity to challenge the decision immediately following the removal.

I. Administrative Leave. The University reserves the right to place a non-student employee respondent on administrative leave during the pendency of the complaint resolution process.

VIII. GENERAL PROVISIONS FOR COMPLAINT RESOLUTION PROCESS

A. Equitable Process. When the University receives a formal complaint of an alleged incident of Sexual Misconduct, it will promptly and equitably respond to the formal complaint in accordance with the provisions and procedures set forth in this Policy. The University will provide a fair and impartial complaint resolution process. A fair process is one that treats the parties equitably, provides the complainant an opportunity to file a formal complaint alleging a violation of this Policy and an

opportunity to present evidence of the allegations prior to a decision on responsibility, and provides the respondent notice of the allegations and an opportunity to respond to and present evidence related to those allegations prior to a decision on responsibility, and provides both parties an opportunity to challenge the credibility of the other party and any witnesses prior to a decision on responsibility. In cases involving allegations of Sexual Misconduct that are not Title IX Sexual Harassment, the ability to challenge credibility is accomplished through the parties' ability to suggest questions to be asked of the other party and witnesses during the investigation, through the Written Response Statements in response to the Investigation Report, through the Written Rebuttal Statements in response to the other party's Written Response Statement as discussed in *Article IX - Procedures for Sexual Misconduct Complaint Resolution*, and by examination at a live hearing.

B. Collecting and Evaluation of Evidence. The complaint resolution process will require an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness. The burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University and not on the parties. The University will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. The University will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or para-professional acting in the professional's or para-professional's capacity or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so for a complaint resolution process.

C. Particularized Procedures. This Policy provides different procedures depending on the particular circumstances of a case, including the type of Sexual Misconduct that is alleged. Upon receiving a formal complaint, the Title IX Coordinator will make a preliminary determination of the procedures that will apply to the complaint resolution process. The procedures in the formal process for all cases of Sexual Misconduct are the same through the investigation phase. Prior to providing access to information at the end of the investigation phase, the Title IX Coordinator will make a final determination as to the procedures that will govern the access to information phase and the adjudication phase.

D. Procedures for Alleged Non-Title IX Sexual Harassment. If a formal complaint includes both an allegation of Title IX Sexual Harassment and an allegation of Sexual Misconduct that does not meet the definition of Title IX Sexual Harassment, the University reserves the right to process the allegations in the same complaint resolution process or to separate the allegations into separate complaint resolution processes.

E. Trained Officials. Each complaint resolution process will be conducted by individuals, including coordinators, investigators, Title IX Hearing Panel members, Hearing Panel members, Appeal Panel members, and facilitators of an informal resolution process, who do not have a conflict of interest or bias for or against complainants or respondents generally, or for or against the individual complainant or respondent. These individuals will receive annual training on a variety of subjects including, but not limited to, the following:

- (i) the definition of Title IX Sexual Harassment;
- (ii) the scope of Samford's education program or activity;
- (iii) how to conduct an investigation and complaint resolution process, including hearings, appeals, and informal resolution processes, as applicable;
- (iv) how to serve impartially, including by avoiding prejudgment of the facts at interest, conflicts of interest, and bias;
- (v) issues related to Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation; and
- (vi) how to conduct an investigation and decision-making process that protects the safety of all and promotes accountability. Investigators will also receive training on issues of relevance to create an Investigation Report that fairly summarizes relevant evidence.

Title IX Hearing Panel members will receive training on any technology to be used at a live hearing and issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. The training shall be free of bias such as sex stereotypes or generalizations, it will promote impartial investigations and adjudications, and will include the following topics, as applicable: relevant evidence and how it should be used; proper techniques for questioning witnesses; basic rules for conducting proceedings; avoiding actual or perceived conflicts of interest; and the University's policies and procedures.

F. Equal Rights of the Complainant and Respondent. In all Sexual Misconduct complaint resolution processes under this Policy, the complainant and respondent are entitled to the following:

- Be treated with respect, sensitivity, and dignity;
- Appropriate support from the University;
- Privacy to the extent possible based on applicable law and University policy;
- Information regarding all applicable policies and procedures;
- The right to participate or decline to participate in the complaint resolution process, with the acknowledgement that not participating, either totally or in part, may not prevent the process from proceeding with the information available;
- Equitable procedures that provide both parties with a prompt, and impartial complaint resolution process conducted by officials who receive annual training on conduct prohibited by this Policy;
- Notice of the allegations and defenses and an opportunity to respond;
- Written notice of the date, time, location, participants, and purpose of all hearings and other meetings at which the party's participation is invited or expected, with sufficient time for the party to prepare to participate;
- Timely notice of meetings that are part of the complaint resolution process at which the complainant or respondent may be present;

- An equal opportunity to identify relevant witnesses and other evidence and to suggest possible topics to be covered with witnesses during the formal complaint resolution process;
- For the complainant, not to be questioned or have evidence considered regarding the complainant's prior sexual conduct with anyone other than the respondent, unless such questions or evidence are to prove consent or that someone other than the respondent committed the alleged Sexual Misconduct;
- The right to be free from retaliation;
- The right to appeal the written determination and/or sanctions in certain circumstances, as discussed in *Article X - Appeals*;
- The right to notification, in writing, of the resolution, including the outcome of any appeal; and
- For the complainant, the right to report the incident to law enforcement at any time or to decline to do so.

G. Additional Rights in Cases Involving Allegations of Title IX Sexual Harassment. In cases involving allegations of Title IX Sexual Harassment, the following additional rights will be afforded to the complainant and the respondent:

- The parties have the right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of an advisor for either the complainant or respondent in any meeting related to the complaint resolution process. *See Section VIII.I - Advisors* for additional information and requirements regarding the conduct, selection or appointment of advisors.
- The parties will be provided an equal opportunity to inspect and review a copy of any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, as set forth in *Section IX.J - Access to Information in Cases Involving Allegations of Title IX Sexual Harassment*.
- The parties will be provided a copy of the preliminary Investigation Report for their review and written response, as set forth in *Section IX.J - Access to Information in Cases Involving Allegations of Title IX Sexual Harassment*.
- The complaint resolution process will include a live hearing, at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions, as set forth in *Section IX.L - Adjudication*.

H. Additional Rights in Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking Occurring Outside of the Education Program or Activity or Against a Person Outside of the United States. In cases involving allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking occurring outside of the education program or activity or against a person outside of the United States, the following additional rights will be afforded to the complainant and the respondent:

- The parties have the right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of advisor for either the complainant or respondent in any meeting related to the complaint resolution process. *See Section VIII.I - Advisors* for additional information and requirements regarding the conduct of advisors.
- The complainant and respondent will be provided timely and equal access to any information that will be used during informal and formal disciplinary meetings during the adjudication phase of the complaint resolution process, as set forth in *Section IX.K - Access to Information in Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking Occurring Outside of the Education Program or Activity or Against a Person Outside of the United States*.

I. Advisors. The complainant and the respondent in a complaint resolution process (both the informal and formal resolution processes) involving allegations of (i) Title IX Sexual Harassment; or (ii) Sexual Assault, Dating Violence, Domestic Violence, and Stalking occurring outside of the University's education program or activity or against a person outside of the United States, have the right to be accompanied to meetings by one advisor of their choice, who may be, but is not required to be, an attorney. Any fee or other compensation charged by or payable to an advisor shall be the sole responsibility of the party selecting the advisor. University employees who serve as an advisor shall not charge any fee for such services.

1. Selection of Advisors. Generally, the advisor selected by the complainant or respondent should be free of conflicts of interest in the resolution process and, if a member of the University community, the advisor should be free of conflicts in his or her position in the community. An individual has the right to decline a request to serve as an advisor in the University's complaint resolution process. Parties must promptly notify the Title IX Coordinator who they have selected as their advisor. The University will notify a party to a complaint resolution process if another party involved in the complaint resolution process has obtained an advisor. The notice shall indicate if the other party's advisor is an attorney. The Title IX Coordinator will maintain a list of University employees who have received training to serve as an advisor.

2. Purpose of Advisors. The purpose of the advisor is to support an individual during the complaint resolution process. An advisor is permitted to accompany the individual to interviews or other meetings or proceedings during the complaint resolution process. In selecting an advisor, each party should consider the potential advisor's availability to attend interviews and meetings which may occur in-person. As a general matter, the University will not delay its proceedings to accommodate the schedules of advisors.

3. Role of Advisors. If a party selects an attorney as an advisor, the advisor's participation in the complaint resolution process is in the role of an advisor and not as an attorney representing a party. The advisor will have access to highly confidential information and is prohibited from sharing information obtained as an advisor during the complaint resolution process with anyone, including other individuals who may be part of an attorney-client relationship with the party. Advisors may confer with their advisee, but, with the exception of live hearings for cases involving allegations of Title IX Sexual Harassment (see paragraph 4 below), advisors may not actively participate in the complaint resolution process. The advisor may accompany the complainant or respondent to all

meetings and proceedings relating to the complaint resolution process. The advisor may not appear in lieu of the complainant or respondent or speak on the behalf of an advisee in either in-person or written communications to the University. The advisor may not communicate directly with the investigator(s), Title IX Hearing Panel members, appeal panel members, the Title IX Coordinator, or any other school official involved in the complaint resolution process and may not interrupt or otherwise delay the complaint resolution process.

4. Allegations of Title IX Sexual Harassment. In complaint resolution processes involving allegations of Title IX Sexual Harassment:

- At the live hearing, advisors will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions. Additional information about an advisor's role at the live hearing is included in *Section IX.L.1 – Hearing of Cases Involving Allegations of Title IX Sexual Harassment*.
- Advisors will receive a copy of all directly-related evidence and the investigation report, as set forth in *Article IX – Procedures for Sexual Misconduct Complaint Resolution*.

5. Allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking Occurring Outside of the University's Education Program or Activity or Against a Person Outside of the United States. In complaint resolution processes involving allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking occurring outside of the University's education program or activity or against a person outside of the United States, advisors may have access to information as is described further below in *Section IX.K - Access to Information in Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking Occurring Outside of the Education Program or Activity or Against a Person Outside of the United States*.

6. Advisors Agreements. Advisors for either party are required to sign an Advisor Agreement acknowledging receipt and understanding of these requirements, containing such terms and conditions as the University may require. Failure to comply with these requirements, including violations of confidentiality, or other forms of interference with the complaint resolution process by the advisor may result in disqualification of an advisor. The University reserves the right to dismiss an advisor.

J. Presumption of Non-Responsibility. In all matters governed by this Policy, the presumption is that the respondent is not responsible for a Policy violation. The respondent is presumed not responsible until a determination regarding responsibility is made at the conclusion of the complaint resolution process. The respondent will be deemed responsible for a Policy violation only if the appointed Title IX Hearing Panel or Hearing Panel concludes that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent more likely than not engaged in Sexual Misconduct.

K. Requests for Reasonable Accommodations. The Title IX Coordinator will work with the University Office of Disability Resources to consider requests for disability accommodations to help students and employees report Sexual Misconduct, participate in the investigation and adjudication process, and in providing supportive measures. For example, special arrangements can be made for

individuals with disabilities in preparing a written complaint or in extending certain deadlines set forth in this Policy, so long as the accommodation does not provide a preferential advantage for one party over the other.

L. Non-Participation. Either party may decline, at any time, to provide information or participate further in the complaint resolution process. If, at any time during the complaint resolution process, a party decides not to participate, the University may still proceed with the complaint resolution process.

1. If Complainant Declines to Participate. If at any time the complainant declines to participate in the process, the University's ability to meaningfully investigate and adjudicate a complaint may be limited. In such cases, the University will proceed with the complaint resolution process, if reasonably possible to do so without the complainant's participation, and make a determination based upon the information available. A complainant's silence in response to a respondent's denials or defenses will not necessarily be viewed as an admission of the denials or defenses, but may leave the respondent's denials or defenses undisputed. If a complainant decides not to participate or chooses to stop participating at a phase of the process, the complainant will still be given the option to participate during additional phases of the process.

2. If Respondent Declines to Participate. The respondent has the right to decline to participate in the complaint resolution process. In such cases, the University will proceed with the complaint resolution process and will make a determination based upon the information available. A respondent's silence in response to a complainant's allegation will not necessarily be viewed as an admission of the allegation, but may leave the complainant's allegations undisputed. If a respondent decides not to participate or chooses to stop participating at a phase of the process, the respondent will still be given the option to participate during additional phases of the process.

M. Conflicts of Interest. If a complainant or respondent has any concern that any individual acting for the University under this Policy has a conflict of interest or bias, for or against complainants or respondents generally, or for or against the individual complainant or respondent, such concern should be reported in writing to the Title IX Coordinator. A concern regarding a conflict of interest or bias should be delivered to the Title IX Coordinator within five (5) calendar days after receiving notice of such person's involvement in the process. The Title IX Coordinator will review the concerns and take appropriate steps to ensure that no conflicts of interest or bias exist on the part of anyone investigating or resolving a complaint under this Policy. Any concern of a conflict of interest or bias regarding the Title IX Coordinator must be submitted in writing to Senior Associate Vice President for Business and Financial Affairs. If the Title IX Coordinator has a conflict of interest with respect to a complaint, the Senior Associate Vice President for Business and Financial Affairs shall appoint another person to oversee adherence to this Policy with respect to the complaint at issue. That a party simply knows an individual acting for the University under this Policy has or has had some limited interaction with such individual generally will not be deemed a disqualifying conflict of interest or bias in most instances. However, the University encourages the parties to promptly bring any concern of conflict of interest or bias to the Title IX Coordinator's attention for consideration.

N. Time Frames for Resolution. Samford is committed to the prompt and equitable resolution of allegations of Sexual Misconduct. As is discussed in various provisions of this Policy, different procedures apply to cases involving allegations of Title IX Sexual Harassment than to other cases of

alleged Sexual Misconduct. The time frames for each phase of the different procedures are as follows:

1. Cases Involving Allegations of Title IX Sexual Harassment. Time frames for each phase of the complaint resolution process for formal complaints involving allegations of Title IX Sexual Harassment will generally be as follows:

- Review of formal complaint and notice of allegations to the parties: ten (10) calendar days
- Investigation: forty-five (45) calendar days
- Review of directly-related evidence and investigator consideration of evidence response statements: ten (10) calendar days
- Review of preliminary Investigation Report and written responses and rebuttals, if applicable: ten (10) calendar days
- Live Hearing and Notice of Determination: twenty-one (21) calendar days
- Appeal: twenty (20) calendar days

2. Cases Involving Other Allegations of Sexual Misconduct. Time frames for each phase of the complaint resolution process for formal complaints involving allegations of any other form of Sexual Misconduct will generally be as follows:

- Review of formal complaint and notice of allegations to the parties: ten (10) calendar days
- Investigation: forty-five (45) calendar days
- Review of preliminary Investigation Report and written responses and rebuttals, if applicable: ten (10) calendar days
- Adjudication: twenty-one (21) calendar days
- Appeal: twenty (20) calendar days

3. Transition Days. In any Sexual Misconduct complaint resolution process, the process may include additional days between the various phases as the University transitions from one phase to another. The parties will be notified when each listed phase begins and when it ends. If any transition period will last longer than five (5) calendar days, the parties will be notified of the delay and the reason for it. By way of example, if an investigation phase concluded on July 31, the review of the preliminary Investigation Report would generally begin no later than August 5, unless the parties are notified otherwise.

4. Extensions. Circumstances may arise that require the extension of time frames based on the complexity of the allegations, the number of witnesses involved, the availability of the parties involved, the availability of witnesses, the effect of a concurrent criminal investigation, unsuccessful attempts at informal resolution, any intervening school break, the need for language assistance or accommodation of disabilities, or other unforeseen circumstances. To the extent additional time is needed during any of the phases of the process discussed above and further below, the University will notify all parties of the delay and the reasons for it. When a time frame for a specific phase of the process, as set forth below, is less than five (5) calendar days, the University may, in its discretion, use business days to calculate the time frame deadline. Efforts will be made to complete the process in a timely manner balancing principles of thoroughness, fundamental fairness, and promptness.

5. Reports to Law Enforcement. In cases where an alleged incident has been reported to both Samford and law enforcement, the University will not delay its complaint resolution process in order to wait for the conclusion of a criminal investigation or proceeding. The University will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation. As such, the University may need to delay temporarily an investigation under this Policy while law enforcement is in the process of gathering evidence. This process sometimes takes seven (7) to ten (10) days, but may be longer depending upon the particular circumstances. Once law enforcement has completed its gathering of evidence, the University will promptly resume and complete its investigation and resolution procedures.

O. Application of the Policy. When the University receives a formal complaint of a violation of this Policy, it will generally apply the complaint resolution procedures from the Policy that were in effect at the time that the report or complaint is made and generally will apply the Sexual Misconduct definition from the Policy that was in effect at the time the alleged misconduct occurred. For cases involving allegations of Title IX Sexual Harassment, the University will apply the definitions from the Policy that were in effect at the time the formal complaint is made to determine what procedures apply and the definitions from the policy that were in effect at the time the alleged misconduct occurred to determine whether a policy violation occurred.

P. Reservation of Flexibility. Although the University will endeavor to abide by all of the times frames set forth in this Policy, the circumstances of each incident of alleged Sexual Misconduct may require that the schedules, processes and procedures included in this Policy, to the extent not prohibited by applicable law, be modified to provide for a complaint resolution process that is equitable for both the complainant and the respondent.

IX. PROCEDURES FOR SEXUAL MISCONDUCT COMPLAINT RESOLUTION.

The University will use the process described below to investigate and adjudicate, in a prompt and equitable process, formal complaints of Sexual Misconduct brought to the Title IX Coordinator. As discussed above in *Article VIII - General Provisions for Complaint Resolution Process*, different complaint resolution procedures will be employed depending on the particular circumstances of a case, including the type of Sexual Misconduct that is alleged.

A. Initial Meeting Between Complainant and Title IX Coordinator. In most cases, the first step of the complaint resolution process is a preliminary meeting between the complainant and the Title IX Coordinator. The purpose of the preliminary meeting is to allow the Title IX Coordinator to gain a basic understanding of the nature and circumstances of the report or formal complaint; it is not intended to be an investigation interview. During the initial meeting with the complainant, the Title IX Coordinator will:

- Assess the nature and circumstances of the allegation;
- Address immediate needs of the complainant and the campus, in consultation with appropriate campus officials;
- Notify the complainant of the right to contact law enforcement and seek medical treatment;
- Notify the complainant of the importance of preservation of evidence;
- Provide the complainant with information about on-campus and off-campus resources;

- Notify the complainant of available supportive measures with or without filing a formal complaint;
- Provide the complainant with an explanation of the procedural options, including how to file a formal complaint and the complaint resolution process;
- Advise the complainant of the right to have an advisor of choice, if applicable under this Policy;
- Discuss the complainant's expressed preference for the manner of resolution and any barriers to process; and
- Explain the University's policy prohibiting Retaliation and Interference with Process.

B. Assessment of Continuing or Future Harm. All reports and formal complaints of Sexual Misconduct will be reviewed by the Title IX Coordinator to determine the risk of harm to individuals or to the campus community. Steps will be taken to address these risks when necessary in consultation with the Samford Department of Public Safety.

C. Conduct Not Governed by this Policy. If the Title IX Coordinator determines that the report or formal complaint, even if substantiated, would not be a violation of this Policy, the Title IX Coordinator may dismiss the matter or refer it to another applicable disciplinary procedure. The parties will be notified of that determination and the complainant will be informed of other procedures for resolving the complaint and of other resources that may be available to the complainant.

D. Formal Complaints. The filing of a formal complaint typically begins the complaint resolution process under this Policy. In most cases, formal complaints are made and signed by the complainant. However, in some cases, the University may move forward with a complaint resolution process even if the complainant chooses not to sign, make or move forward with a formal complaint. Generally, the Title IX Coordinator will make a determination of whether the University will move forward with a complaint resolution process when the complainant has not filed a formal complaint. If the University decides that it has an obligation to move forward with a complaint resolution process, the Title IX Coordinator will sign the formal complaint and the University will notify the complainant before proceeding. The Title IX Coordinator, by signing the formal complaint, does not make the Title IX Coordinator a party to the complaint resolution process or adverse to the respondent. Formal complaints of Sexual Misconduct should be made to the Title IX Coordinator:

Lisa Overton
 Title IX Coordinator and Student Conduct Coordinator
 UC 352D
lwoverto@samford.edu
 (205) 726-2764

E. Initial Assessment and Written Notice. When the Title IX Coordinator receives a formal complaint, the Title IX Coordinator will assess the allegation(s) to determine if the formal complaint states an allegation of Sexual Misconduct. The Title IX Coordinator will then make a preliminary determination of the procedures that will apply to the complaint resolution process. If the formal complaint alleges Sexual Misconduct, the Title IX Coordinator will provide a written notice of allegations to the parties who are known. The written notice will include, without limitation, the following:

1. Notice of the University's complaint resolution process, including the informal resolution process;
2. Notice of the allegations, including the identities of the parties involved in the incident(s), if known, the conduct allegedly constituting Sexual Misconduct, and the date and location of the alleged incident, if known;
3. A statement that the respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility is made at the conclusion of the complaint resolution process;
4. Notice that the parties have the right to an advisor of choice, if applicable under this Policy, who may be, but is not required to be, an attorney;
5. Notice that the parties have the right to inspect and review evidence, as applicable under this Policy;
6. Notice of Policy provisions that prohibit knowingly making false statements or knowingly submitting false information during the complaint resolution process; and
7. If the University decides to investigate allegations about the complainant or respondent that are not included in the notice provided, the notice will be updated to provide notice of the additional allegations to the parties whose identities are known.

F. Initial Meeting Between Respondent and Title IX Coordinator. When the Title IX Coordinator receives a formal complaint of Sexual Misconduct, the Title IX Coordinator will attempt to schedule an initial meeting with the respondent. Prior to or during the initial meeting, the Title IX Coordinator will:

1. Notify the respondent of the complaint and alleged Policy violations;
2. Provide the respondent an explanation of the complaint resolution process, including the informal resolution process;
3. Notify the respondent of the importance of preservation of evidence;
4. Provide the respondent with information about on-campus and off-campus resources;
5. Notify the respondent of any supportive measures that have been put in place that directly relate to the respondent (i.e., no contact directive);
6. Notify the respondent of available supportive measures;
7. Advise the respondent of the right to have an advisor of choice, if applicable under this policy, who may be, but is not required to be, an attorney; and
8. Explain the University's policy prohibiting Retaliation and Interference with Process.

The initial review of the formal complaint by the Title IX Coordinator and initial notice of the allegations to the parties, as described in items A through F of this Section will customarily take no more than ten (10) calendar days.

G. Consolidation of Formal Complaints. The University may elect to consolidate formal complaints into one complaint resolution process as to allegations of Sexual Misconduct against more than one respondent, by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of Sexual Misconduct arise out of the same facts or circumstances.

H. Informal Resolution Process. Following a formal complaint, at any time prior to reaching a determination regarding responsibility, the University may facilitate an informal resolution process.

In cases involving allegations of Sexual Assault or more serious types of Sexual Misconduct, informal resolution may not be appropriate. In addition, in cases involving allegations that an employee engaged in Title IX Sexual Harassment against a student, informal resolution is not appropriate. If the complainant, the respondent, and the University all agree to pursue an informal resolution, the Title IX Coordinator will initiate an informal process to facilitate a resolution that is agreeable to all parties. The informal resolution process shall be governed by the following:

- Neither the Title IX Coordinator nor any facilitator will be an advocate for either the complainant or the respondent in the informal resolution process, but rather will aid in the resolution of formal complaints in a non-adversarial manner. The University will provide a facilitator who is free from conflicts of interest or bias and has received special training as a facilitator.
- The University will only conduct such fact-gathering as is useful to resolve the formal complaint and as is necessary to protect the interests of the parties, the University, and the University community.
- The University will not compel a complainant or respondent to engage in the informal resolution process, to directly confront the other party, or to participate in any particular form of informal resolution.
- Participation in informal resolution is voluntary, and the complainant and respondent have the option to discontinue the informal process at any time prior to reaching an agreed upon resolution and request a formal resolution process. In addition, the University also always has the discretion to discontinue the informal process and move forward with a formal resolution process. If at any point during the informal resolution process prior to reaching an agreed upon resolution, the complainant or respondent or the University wishes to cease the informal resolution process and to proceed through the formal resolution process, the informal resolution process will stop and the formal resolution process outlined below will be invoked.
- Prior to engaging in an informal resolution process, the University will provide the parties with a written notice disclosing: the allegations, the requirements of the informal resolution process, including the circumstances under which the informal resolution process precludes the parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared. In addition, the University will obtain the parties' voluntary, written consent to the informal resolution process.
- Any informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the University to stop, remedy, and prevent Policy violations. In its effort to stop, remedy, and prevent Policy violations, the University will take prompt and corrective action through the imposition of individual and community remedies designed to maximize the complainant's access to the educational and extracurricular activities of the University. Examples of potential remedies are provided in

the supportive measures section of the Policy above. The recommended resolution may also include other institutional responses or requirements imposed on the respondent.

- The informal resolution process ends when a resolution has been reached or when the complainant, the respondent, or the University terminates the process. A successful informal resolution results in a binding agreement between the parties. If the parties to the formal complaint and the University agree in writing to the terms and conditions of a recommended resolution within five (5) calendar days of the Title IX Coordinator or other facilitator presenting the recommended resolution to the parties, the case will be resolved without further process under this procedure. If all parties to the formal complaint and the University do not agree in writing to the terms and conditions of the recommended resolution within five (5) calendar days of the Title IX Coordinator or other facilitator presenting the recommended resolution to the parties, the formal complaint will be referred to the formal resolution process.
- The terms of a written resolution that is agreed to by the complainant, the respondent and the University may include the consequences for the complainant and the respondent should either party fail to comply with the terms of the agreed terms and conditions.
- The informal resolution process generally will take no more than fifteen (15) calendar days from the date that the complainant, the respondent and the University agree to pursue an informal resolution, although, in some cases, more time may be required.
- Appeals are not allowed in cases where the parties have agreed to a voluntary alternative resolution of the matter.

I. Formal Resolution Process. If the formal complaint is not processed or resolved through the voluntary informal resolution process discussed above, the formal complaint will be processed according to the formal resolution process outlined below, even if the respondent admits responsibility for a violation of this Policy.

1. Designation of Investigator. The Title IX Coordinator will designate one or more investigators to conduct a prompt and equitable investigation. The University reserves the right to appoint any trained investigator who is free of conflict of interest or bias. The parties will receive written notice of the investigator(s) appointed. If any party has a concern that the investigator(s) has/have a conflict of interest or bias, the party should report the concern in writing as indicated in *Section VIII.M - Conflicts of Interest*.

2. The Investigation. The investigator(s) will conduct the investigation in a manner appropriate to the circumstances of the case, which will typically include interviews with the complainant, the respondent, and witnesses. These interviews may be audio and/or video recorded, but such recording is not required. The complainant and respondent will have the opportunity to advise the investigator(s) of any witnesses they believe should be interviewed, other evidence they believe should be reviewed by the investigator(s), and questions they would like the investigator(s) to consider asking the other party and any witnesses, including questions challenging credibility. The investigator(s) has/have discretion, in consultation with the Title IX Coordinator, to assess the relevancy of any proposed witnesses, evidence, questions, and to determine which interviews to

conduct, including the discretion to conduct interviews of individuals not identified by the parties. The investigator(s) may also determine whether to ask some or all of the questions suggested by the parties. The interviews will be supplemented by the gathering of any physical, documentary, electronic or other evidence, as appropriate and available. The complainant and respondent will be given equal opportunity to present witnesses they believe should be interviewed, and other inculpatory and exculpatory evidence, as part of the investigation. In cases involving allegations of Title IX Sexual Harassment, any witness that a party wishes to call at a live hearing must be suggested as part of the investigation process, prior to the issuing of the Investigation Report.

3. Close of Evidence Date. The parties will be informed of a close of evidence date. The parties must submit any and all information and evidence they would like considered as part of the investigation by the close of evidence date. After the close of evidence date, the parties will not be permitted to submit new or additional evidence that existed prior to the close of evidence date, unless the investigator(s), in consultation with the Title IX Coordinator, determine(s) otherwise for cause.

4. Preparation of the Investigation Report. At the conclusion of the investigation, the investigator(s) generally will prepare an investigation report (the "Investigation Report") that fairly summarizes the relevant evidence. The Investigation Report may consist of any relevant information, documents, and other evidence that will be provided to the Title IX Hearing Panel/adjudicators. At the investigator's discretion, such information may include, as applicable: the formal complaint, the notice of allegations, any other evidence obtained during the investigation, and the investigator's report of the investigation. The Investigation Report will be forwarded to the Title IX Coordinator. The Title IX Coordinator will review the Investigation Report and has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information added, removed, or redacted from the Investigation Report.

5. Duration of an Investigation. The University will strive to complete the investigation within forty-five (45) calendar days from the date the formal complaint and notice of allegations are provided to the investigator, but this time frame may be extended depending on the circumstances of each case, including the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses involved, the effect of a concurrent criminal investigation, any intervening school break, or other circumstance. In cases involving allegations of Title IX Sexual Harassment, the University will strive to complete the initial investigation in this 45-day time frame, but the final investigation report will not be completed until after the review of directly related evidence.

J. Access to Information in Cases Involving Allegations of Title IX Sexual Harassment. The procedures in the formal process for all cases of Sexual Misconduct are the same through the investigation phase. Prior to providing access to information, the Title IX Coordinator will make a final determination as to the procedures that will apply to the access to information phase and the adjudication phase. The following governs access to information in cases involving allegations of Title IX Sexual Harassment.

1. Review of Directly Related Evidence. For complaints involving allegations of Title IX Sexual Harassment, the parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint,

including evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and inculpatory and exculpatory evidence whether obtained from a party or other source.

- (a) **The Evidence Response Statement.** The Title IX Coordinator or investigator will send such evidence to each party and each party's advisor in electronic format or hard copy. The parties will have a ten (10) calendar day period to review the evidence and prepare a written response to the evidence (the "Evidence Response Statement"). Each party's Evidence Response Statement may not exceed two thousand (2,000) words in length. The Evidence Response Statement must be submitted to the Title IX Coordinator within the ten (10) calendar day period. The Evidence Response Statement may be used as an opportunity to clarify information contained in the directly related evidence, to present the party's viewpoint about whether the evidence directly related to the allegations is relevant and therefore whether it should be included in the Investigation Report, and to identify evidence previously provided to the investigator that was not included in the directly related evidence that the party believes is directly related and relevant. While the parties may be assisted by their advisors in preparation of the Evidence Response Statement, the Evidence Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Evidence Response Statement. The parties and parties' advisors may use the evidence reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the evidence with any other individual. Prior to being provided the evidence obtained as part of the investigation that is directly related to the allegations, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.
- (b) **Review of Evidence Response Statements by Title IX Coordinator.** The Title IX Coordinator will review the parties' Evidence Response Statements and may remove or redact any portions of the parties' Evidence Response Statements that exceed the word limit of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent or information subject to a legal privilege without a waiver).
- (c) **Review of Evidence Response Statements by Investigator.** The investigator will consider the parties' Evidence Response Statements prior to completion of the Investigation Report. All the evidence made available for the parties' review will be available during the live hearing.

2. Review of the Investigation Report. For complaints involving allegations of Title IX Sexual Harassment, the Title IX Coordinator or investigator will send the Investigation Report to each party and each party's advisor in electronic format or hard copy at least ten (10) calendar days prior to the live hearing.

- (a) **The Written Response Statement.** The parties will have a five (5) calendar day period to review the Investigation Report and prepare a written response to the report (the "Written Response Statement"). Each party's Written Response Statement may not exceed three thousand (3,000) words in length. The Written Response Statement must be submitted to the

Title IX Coordinator within the five (5) calendar day period described above. The Written Response Statement may be used as an opportunity to clarify points in the Investigation Report or identify information previously given to the investigator(s) that is not included in the Investigation Report which the party believes should have been included and raise other concerns regarding the evidence. While the parties may be assisted by their advisors in preparation of the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Response Statement. The parties and parties' advisors may use the Investigation Report only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the Investigation Report with any other individual. Prior to being provided the Investigation Report, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

- (b) **Review of the Written Response Statement by the Title IX Coordinator.** The Title IX Coordinator will review the parties' Written Response Statements. Based on the statements, the Title IX Coordinator has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information removed or redacted from the Investigation Report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' Written Response Statements that exceed the word limits of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

K. Access to Information in Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking Occurring Outside of the Education Program or Activity or Against a Person Outside of the United States. The procedures in the formal process for all cases of Sexual Misconduct are the same through the investigation phase. Prior to providing access to information, the Title IX Coordinator will make a final determination as to the procedures that will apply to the access to information phase and the adjudication phase. The following governs access to information in cases involving allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking occurring outside of an education program or activity or against a person outside of the United States.

1. The Investigation Report. A preliminary version of the Investigation Report will be prepared by the investigator and made available for review by the complainant and respondent. The Title IX Coordinator will provide a five (5) calendar day period for the complainant and respondent to have access to review the preliminary Investigation Report and prepare a response. The parties' access to the preliminary Investigation Report generally will be provided during normal business hours in a designated on campus location. During their review of the preliminary Investigation Report, the parties may create typed or handwritten notes. The preliminary version of the Investigation Report cannot be copied, photographed, or removed from that location. Audio transcriptions of the preliminary Investigation Report are also prohibited.

2. Submitting the Written Response Statements. Both parties will have the opportunity to provide a written response to the preliminary Investigation Report (the "Written Response Statement"). To do so, the party must submit a Written Response Statement, which may not exceed two thousand (2,000)

words in length, to the Title IX Coordinator. The Written Response Statement must be submitted by the conclusion of such five (5) calendar day period. The Written Response Statement may be used as an opportunity to clarify points in the Investigation Report or identify information previously given to the investigator(s) that is not included in the Investigation Report which the party believes should have been included, identify questions a party believes the other party has not yet answered or evidence the other party has not explained, raise other concerns regarding the evidence, and to challenge the credibility of the other party and witnesses. While the parties may be assisted by their advisors in preparation of the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Response Statement.

3. Submitting the Written Rebuttal Statements. The parties will have an opportunity to review the Written Response Statement submitted by the other party and, if desired, may submit a rebuttal statement ("Written Rebuttal Statement") not to exceed one thousand (1,000) words. The Title IX Coordinator will provide a two (2) calendar day period for the complainant and respondent to have access to review the other party's Written Response Statement and submit a Written Rebuttal Statement. The parties' access to the Written Response Statement generally will be provided during normal business hours in a designated on campus location. The Written Response Statement cannot be removed from that location, nor can duplications be made or pictures taken of the contents. The Written Rebuttal Statement may only be used to respond to arguments made in the other party's Written Response Statement and to challenge the credibility of the other party and any witnesses. While the parties may be assisted by their advisors in preparation of the Written Rebuttal Statement, the Written Rebuttal Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Rebuttal Statement.

4. Reviewing the Written Rebuttal Statements. The parties will have an opportunity to review the Written Rebuttal Statement submitted by the other party. The Title IX Coordinator will provide a two (2) calendar day period for the complainant and respondent to have access to review the other party's written rebuttal statement. The parties' access to the Written Rebuttal Statement generally will be provided during normal business hours in a designated on campus location. During their review of the Written Rebuttal Statement, the parties may create typed or handwritten notes. The Written Rebuttal Statement cannot be copied, photographed, or removed from that location. Audio transcriptions of the Written Rebuttal Statement are also prohibited. While the parties have the opportunity to review the Written Rebuttal Statement of the other party, no further responses are permitted by either party.

5. Limited Use of Materials. The parties and parties' advisors may use the Investigation Report and written statements of the other party reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the report and written statements with any other individual. Prior to being provided the report and written statements, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

6. Review by Title IX Coordinator. The Title IX Coordinator will review the Written Response Statements and Written Rebuttal Statements. Based on the statements, the Title IX Coordinator has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have

information added to or redacted from the Investigation Report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' written statements that exceed the word limits of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

L. Adjudication. Upon completion of the investigation, the Title IX Coordinator will compile the adjudication file which will be shared with the members of the Hearing Panel. In cases involving allegations of (1) Title IX Sexual Harassment or (2) Sexual Assault, Domestic Violence, Dating Violence, or Stalking *occurring outside of* the University's education program or activity or against a person *outside of* the United States, the parties will be given access to any information that is included in the adjudication file to the extent that it includes additional information that the parties did not review as part of the process described above in paragraphs J and K concerning Access to Information. In cases involving allegations of Title IX Sexual Harassment, the written Notice of Determination will generally be received within twenty-five (25) calendar days from the date the live hearing concludes. In cases involving allegations of other forms of Sexual Misconduct, the written Notice of Determination will generally be received within twenty-five (25) calendar days from the date the Hearing Panel receives the Adjudication File. In some cases, more time may be required.

1. Hearing of Cases Involving Allegations of Title IX Sexual Harassment. Upon completion of the investigation in cases involving allegations of Title IX Sexual Harassment, the matter will be submitted to a Title IX Hearing Panel that will conduct a prompt, equitable and live hearing and make a determination regarding responsibility and, if appropriate, sanctions.

- (a) **Appointment of the Hearing Panel.** The Title IX Coordinator will designate a panel of three (3) adjudicators to serve as the Hearing Panel. One member of the Hearing Panel will serve as the Hearing Panel Chair. Generally, the Hearing Panel shall be chosen from a pool of qualified faculty and staff members. The University reserves the right to appoint any trained individuals who are without conflict or bias to a Hearing Panel. The Hearing Panel will not include the Title IX Coordinator or the investigator from the same matter. If any party has a concern that a member of the Hearing Panel has a conflict of interest or bias, the party should report the concern in writing as indicated in *Section VII.N - Conflicts of Interest*.
- (b) **Presumption and Burden of Proof.** The presumption is that the respondent is not responsible for a Policy violation. The respondent will be deemed responsible for a Policy violation only if (i) the Hearing Panel concludes that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent engaged in Sexual Misconduct or (ii) the respondent admits responsibility for a Policy violation. If the respondent admits responsibility for a Policy violation or the Hearing Panel determines that the respondent is responsible for a Policy violation, the Title IX Hearing Panel will then determine what sanctions and remedies are warranted.
- (c) **Questioning the Other Party and Witnesses.** At the live hearing, each party's advisor will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such questions will be conducted directly, orally, and in real time by the party's advisor and will never be conducted by a party personally. Only relevant cross-examination and other questions may be asked of a party or

witness. Before a complainant, respondent, or witness answers a question at the hearing, the Hearing Panel shall first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

- (d) **Questions Regarding Prior Sexual Conduct.** Questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant in the formal complaint, 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. All evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint will be made available at the hearing.
- (e) **Refusal to Answer Questions.** If a party or witness does not attend the hearing or is not willing to answer a relevant question from either the Hearing Panel or the other party’s advisor, the Hearing Panel may nevertheless consider the weight, if any, to be given to any relevant statement of that party or witness in reaching a determination regarding responsibility.² The Hearing Panel, however, will not draw an inference concerning the determination of responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions.
- (f) **Live Hearing Logistics.** The hearing will generally be held by video-conference with the parties, witnesses, and Hearing Panel located in separate locations and technology enabling the Hearing Panel and parties to simultaneously see and hear the party or the witness answering questions. The University reserves the right to determine that a hearing will instead be conducted with all participants, including the parties, witnesses, and the Hearing Panel physically present in the same location. In the event that the live hearing is held with the participants in the same location, at the request of either party, the University will provide for the parties to be located in separate rooms with technology enabling the Hearing Panel and parties to simultaneously see and hear the party or witness answering questions.
- (g) **Record of the Hearing.** The University will create an audio or audiovisual recording, or transcript, of any live hearing and, upon request, will make it available to the parties for inspection and review. The parties, their advisors, and witnesses are prohibited from making an audio or video recording or a transcript of all or any portion of the live hearing.
- (h) **University Appointed Advisors.** If a party does not have an advisor present at the live hearing, the University will provide an advisor to the party, without fee or charge to that party, to conduct cross-examination on behalf of that party. If a party will not have an advisor present at the hearing, the party must inform the Title IX Coordinator at least three (3)

² This provision is effective as to any determination regarding responsibility rendered by a Hearing Panel after August 24, 2021. It modifies a prior versions of the Policy that prohibited reliance on statements when a party or witness refused to answer questions on cross examination. The prior language was based upon a regulatory requirement of the U.S. Department of Education (“DOE”) that has since been vacated by a federal district court and is no longer enforced by the DOE Office of Civil Rights. See Suzanne B. Goldberg, Acting Assistant Secretary for Civil Rights, U.S. Department of Education, “Letter to Students, Educators, and Other Stakeholders re *Victim Rights Center et al. v. Cardona*,” p.1 (August 24, 2021).

calendar days prior to the live hearing so that the University may appoint an advisor for the hearing. The appointed advisor's role will be limited to relaying the party's questions to be asked of other parties and witnesses. The appointed advisor shall not perform any function beyond relaying the party's desired questions. The University reserves the right to appoint any individual as the University deems appropriate to act as an advisor at a live hearing. The University's appointment of an advisor is final and a party who refuses to work with an appointed advisor at the live hearing will forfeit his or her right to conduct cross-examination or other questioning at the hearing.

2. Cases Involving Allegations of Other Sexual Misconduct. Upon completion of the investigation in matters involving allegations of Sexual Misconduct that are not Title IX Sexual Harassment, the Title IX Coordinator will designate appropriate adjudicators to complete a prompt and equitable adjudication.

- (a) **Appointment of the Hearing Panel.** Typically, a panel of three (3) adjudicators (the "Hearing Panel") will be appointed to each case. Generally, the Hearing Panel members shall be chosen by the Title IX Coordinator from a pool of qualified faculty and staff, but the University reserves the right to appoint any trained Hearing Panel members who are free from conflict of interest or bias. If any party has a concern that a Hearing Panel member has a conflict of interest or bias, the party should report the concern in writing as indicated in *Section VII.N - Conflicts of Interest*.
- (b) **Review of the Evidence.** The Hearing Panel will review the Investigation Report and any Written Response Statements and Written Rebuttal Statements provided by the complainant and respondent after the parties' review of the preliminary Investigation Report. The Hearing Panel may, in its discretion, seek additional information from the investigator(s), the parties, or another individual, or request additional investigation by the investigator(s). In cases involving allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking (that occurred *outside of* the education program or activity or against a person *outside of* the United States), if such information is shared with the Hearing Panel, the parties will be notified and provided access to that information. A hearing Panel may, but is not required, to convene a live hearing to receive testimony and other information. Any such live hearing shall be substantially conducted in accordance with the procedures set forth in the immediately preceding *Section IX.L.1(f) and (g) - Hearing of Cases Involving Allegations of Title IX Sexual Harassment*.
- (c) **Presumption and Burden of Proof.** The presumption is that the respondent is not responsible for a Policy violation. The respondent will be deemed responsible for a Policy violation only if (i) the Hearing Panel concludes that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent engaged in Sexual Misconduct or (ii) the respondent admits responsibility for a Policy violation. If the Hearing Panel determines that the respondent is responsible for a Policy violation, it will then determine what sanctions and remedies are warranted.
- (d) **Discretionary Education and Training.** When a respondent is found not responsible for a Policy violation, but nevertheless is found to have engaged in inappropriate conduct - for example, inappropriate remarks actions that do not rise to the level of a violation of this

Policy - the University may, in its discretion, require the respondent to receive appropriate education and/or training. The University may also recommend counseling or other support services for the respondent.

3. The Decision-Making Process. The presumption is that the respondent is not responsible for a Policy violation. The respondent will be deemed responsible for a Policy violation only if the Hearing Panel concludes that there is sufficient evidence, by a “preponderance of evidence,” to support a finding that the respondent is responsible for a Policy violation. If a respondent is determined to be responsible for a Policy violation, the Hearing Panel will then determine what sanctions and remedies are warranted. When a respondent is found not responsible for a Policy violation, but nevertheless is found to have engaged in inappropriate conduct—for example, inappropriate remarks or actions that do not rise to the level of a violation of this Policy—the University may, in its discretion, require the respondent to receive appropriate education and/or training. The University may also recommend counseling or other support services for the respondent.

4. Sanctions and Remedies. The Hearing Panel will impose sanctions and remedies as necessary to end the misconduct, prevent its recurrence, and address its effects. The University reserves the right to take whatever measures it deems necessary in response to an allegation of Sexual Misconduct in order to protect the rights and personal safety of the complainant, students, faculty, staff, and other University community members. Not all forms of Sexual Misconduct will be deemed to be equally serious offenses, and the University reserves the right to impose different sanctions depending on the severity of the offense. The University may also impose different sanctions if the respondent has been found responsible for a violation of University policy previously. The Title IX Coordinator may, in his or her discretion, provide the Hearing Panel with information regarding any previous violations of this Policy or other University policies by the respondent. In cases involving allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking (that occurred outside of the education program or activity or against a person outside of the United States), if such information is shared with the Hearing Panel, the parties will be notified and be provide access to that information. Individuals who are found responsible for violations of this Policy may be sanctioned as appropriate for students, employees, visitors, or others, including, but not limited to the sanctions described below. Any concern about a violation of an imposed sanction should be reported to the Title IX Coordinator. Each of these sanctions and other sanctions may be imposed alone or in combination for a respondent found responsible for Sexual Misconduct:

- (a) **Student Respondent Sanctions.** If a student respondent is determined to be responsible for a violation of this Policy, a range of sanctions may be imposed. Those sanctions include, but are not limited to: anger intervention assessment and counseling; participation in and completion of an abuse intervention program, that may include mental health counseling; restriction from some or all Samford property, programs or activities; community service; work assignments; written assignments; research assignments; fines; written warnings; suspension of privileges; no contact orders; parental notification; probation; residence hall expulsion; residence hall restriction; residence hall suspension; restitution; substance abuse intervention, education and treatment; training on Sexual Misconduct and appropriate interpersonal relationships; suspension from the university; expulsion from the university; and temporary or permanent withholding of a degree.

- (b) **Employee Respondent Sanctions.** If an employee respondent (faculty or staff) is determined to be responsible for a violation of this Policy, a range of sanctions that may be imposed. Those sanctions include, but are not limited to: anger intervention assessment and counseling; participation in and completion of an abuse intervention program, that may include mental health counseling; restriction from some or all Samford property, programs or activities; community service; written warnings; no contact orders; restitution; substance abuse intervention, education and treatment; training on Sexual Misconduct and appropriate interpersonal relationships; suspension of employment without pay; and termination of employment.
- (c) **Other Respondent Sanctions.** Sexual Misconduct may be committed by persons who may have some association with Samford, such as a vendor, applicant, camp participant, delivery person, alumnus or visitor. All complaints against persons who are not students, faculty staff or other employees will be investigated by the Title IX Coordinator or the Title IX Coordinator's designee. Remedies shall be determined by the Title IX Coordinator, in consultation with the academic dean or head of the department responsible for or most closely associated with the person against whom the complaint is made. If the respondent has some business relationship with the University, the sanction may include revision or termination of such business relationship. If the Title IX Coordinator and the dean or head of the department do not agree, the remedy will be determined by the Title IX Coordinator in consultation with the Provost and the Vice President for Business and Financial Affairs.
- (d) **Campus Organization Sanctions.** When an investigation reveals that a campus organization (such as a student club, athletic team, campus academic department, or staff/faculty committee) has committed or promoted behavior involving Sexual Misconduct, the organization may be sanctioned. Sanctions to the organization may include, but are not limited to, loss of University privileges (including, but not limited to, prohibition on the organization's participation in certain activities and the use of University facilities), educational requirements for organization members, additional oversight of organization activities, temporary loss of funding and loss of recognition by the University, and permanent loss of organization recognition, in addition to individual members of the organization who are determined responsible for a Policy violation being subject to the sanctions listed above. All campus organizations and departments are responsible for the actions of their respective members when they are acting on behalf of the organization or department.

5. Remedies for the Complainant. Remedies for the complainant are designed to restore or preserve equal access to the University's education program or activity and restore the complainant's safety and well-being. Remedies may, but need not be disciplinary or punitive, and may impose a burden on the respondent. The Title IX Coordinator is responsible for the selection and effective implementation of any remedies, which may be long-term or permanent. The Title IX Coordinator will consider the appropriateness of remedies on an ongoing basis to assure the safety and well-being of the parties throughout the process. Long-term remedies may include extending or making permanent any Supportive Measures or implementing additional measures tailored to achieve the goals of this Policy. Many of the remedies and supports that a complainant might need after a finding of responsibility will have already been provided as Supportive Measures on an ongoing basis to assure the safety and well-being of the parties throughout the process.

6. Notice of Determination. The complainant and respondent will simultaneously receive a written notice of the outcome of the formal complaint (the “Notice of Determination”). Prior to being provided the Notice of Determination, the parties and parties’ advisors will be required to sign a non-disclosure agreement. The parties and parties’ advisors are prohibited from disseminating or otherwise sharing the Notice of Determination with any other individual, except as permitted in the non-disclosure agreement. For formal complaints involving (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, or Stalking occurring *outside of* an education program or activity or against a person *outside the* United States, the Notice of Determination shall include the following:

- (a) The allegations potentially constituting Sexual Misconduct;
- (b) A description of the procedural steps taken from the receipt of the formal complaint through the determination (including any notifications to the parties, interviews with the parties and witnesses, site visits, methods used to gather other evidence, and hearings held);
- (c) Findings of fact supporting the determination;
- (d) Conclusions regarding the application of the University’s policy to the facts, and the determination regarding responsibility as to each allegation;
- (e) Any imposition of sanctions;
- (f) The rationales for the determination and sanctions (including how the evidence was weighed, how the information supports the result, and the standard of evidence applied);
- (g) Whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant;
- (h) Any other steps the University has taken to eliminate the conduct and prevent its recurrence; and
- (i) Information about the procedures and permissible bases for appeal, and when the result becomes final.

For all other complaints of Sexual Misconduct, the Notice of Determination shall include the determination of the Title IX Hearing Panel or the Hearing Panel (together, the “Panels,” or singly, a “Panel”), as appropriate. The determination of a Panel may be appealed as provided in *Article X - Appeals*. In the event that no appeal is filed within the time periods prescribed in *Article X - Appeals*, the decision of the Panel will be final and the sanctions, if any, will be effective.

M. Dismissal of Formal Complaint Prior to Adjudication.

1. Mandatory Dismissal. If the allegations in a formal complaint are initially included in the notice of allegations as allegations of Title IX Sexual Harassment, but facts are gathered during the course of the complaint resolution process indicate that the alleged conduct does not meet the definition of Title IX Sexual Harassment under this Policy, the University will dismiss the formal complaint as to those allegations. Even if a formal complaint or any allegations of Title IX Sexual Harassment are

dismissed, the University reserves the right to move forward with a complaint resolution process using the other Sexual Misconduct definitions and the other procedures in this Policy, as applicable.

2. Discretionary Dismissal. In cases involving allegations of any Sexual Misconduct, the University may, at its discretion, dismiss the case prior to adjudication in certain circumstances. Circumstances that may lead to dismissal prior to adjudication, include, but are not limited to: (i) the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; (ii) the respondent is no longer enrolled or employed by the University; or (iii) specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

3. Notice of Dismissal. If the University dismisses a formal complaint, the University will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties. A dismissal of a formal complaint may be appealed as provided below.

X. APPEALS

The parties may appeal a decision to dismiss a formal complaint or any allegations therein, as discussed above in *Section IX.M - Dismissal of Formal Complaint Prior to Adjudication*. The parties may also appeal the decision of a Panel regarding responsibility or no responsibility for a violation of this Policy.

A. Grounds for Appeal. The grounds for appeals are limited to the following: (1) a procedural irregularity that affected the outcome of the matter; (2) 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; and (3) the Title IX Coordinator, investigator(s), or a Panel member had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

B. Submitting an Appeal. A party may request an appeal by submitting a written appeal statement (the "Appeal Statement"), not to exceed one thousand five hundred (1,500) words, challenging the outcome of the complaint resolution process. The Appeal Statement must explain which of the above grounds the party is invoking for the appeal and the Appeal Statement must be received by the Title IX Coordinator within seven (7) calendar days following the date that the Notice of Determination was sent to the complainant and respondent. While the parties may be assisted by their advisors in preparation of an appeal, the Appeal Statement must be submitted by the party requesting the appeal, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. Failure to file a timely Appeal Statement constitutes a waiver of any right to an appeal.

C. Review by the Title IX Coordinator. The Title IX Coordinator will review the Appeal Statement to determine whether it states a permissible ground for appeal, such that the appeal will be considered. The Title IX Coordinator may remove or redact any portions of the Appeal Statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution proceeding (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

D. Response to an Appeal. If the Title IX Coordinator determines that the Appeal Statement sets forth a permissible ground for appeal, the non-appealing party will be notified of the appeal (the “Notice of Appeal”) by the Title IX Coordinator and provided an opportunity to review the Appeal Statement and submit a written response in support of the outcome (the “Appeal Response”). An Appeal Response in support of the outcome described in the Notice of Determination or other Panel decision must not exceed one thousand five hundred (1,500) words and must be submitted to the Title IX Coordinator within seven (7) calendar days of receiving the Notice of Appeal. While a non-appealing party may be assisted by his or her advisor in preparation of the Appeal Response, the Appeal Response must be submitted by the non-appealing party, must be the non-appealing party’s own statement, and may not be used to submit the statements of others on the non-appealing party’s behalf. The Title IX Coordinator will review the Appeal Response and may remove or redact any portions of the Appeal Response that exceed the word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution proceeding (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant’s prior sexual history if an exception does not apply).

E. Compiling the Appeal File. The Title IX Coordinator generally will compile information concerning the case (the “Appeal File”), which may consist of any information, documents, or other evidence that is provided to the Appeal Panel. Such information shall include the Appeal Statement, the Appeal Response, the Notice of Determination, the Adjudication File in its entirety, any previously undiscovered evidence (if discovery of new evidence is a ground for the appeal), and any other information determined to be necessary for the Appeal Panel’s decision, at the Title IX Coordinator’s discretion.

F. Reviewing the Appeal File. For complaints involving allegations of (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside of* the education program or activity or against a person *outside of* the United States, the Appeal File will be made available for review by the complainant and respondent. The Title IX Coordinator will provide a five (5) calendar day period for the complainant and respondent to have access to review the Appeal File and such access generally will be provided during normal business hours in a designated on-campus location. The Appeal File cannot be removed from that location, nor can copies be made or pictures taken of the contents. The parties and parties’ advisors may use the Appeal File and any additional information reviewed during the consideration of the appeal (see below), only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the Appeal File or additional information with any other individual. Prior to being provided access to the Appeal File or any additional information, the parties and parties’ advisors will be required to sign a non-disclosure agreement agreeing to such terms.

G. The Appeal Panel. The parties shall receive written notice of the appeal panel appointed to rule on the appeal (the “Appeal Panel”). Generally, the Appeal Panel will consist of three (3) adjudicators chosen from a pool of qualified faculty and staff members who are listed annually on the Title IX page of the University website, but the University reserves the right to appoint any trained Panel members who are free from conflict of interest or bias. If any party has a concern that an Appeal Panel member has a conflict of interest or bias, the party should report the concern in writing as indicated in *Section VIII.N - Conflicts of Interest*. The Appeal Panel members may not be one of the Panel members, the investigator, or the Title IX Coordinator on the same matter.

H. Consideration of an Appeal. The Appeal Panel will not rehear the case, but will review the Appeal File and consider whether it is more likely than not that one of the above-listed grounds for appeal have been satisfied. If at least two (2) of the members of the Appeal Panel determine there is sufficient evidence to conclude that it is more likely than not that one of the above grounds for appeal is satisfied, the matter may be remanded for further investigation, further deliberations by the Panel, and/or an additional live hearing, as determined by the Appeal Panel. When the matter is remanded, the Appeal Panel will determine whether the matter should be remanded to the original Panel or whether a new Panel should review the matter. The Appeal Panel may not change the Panel's determination of whether the respondent was responsible or not responsible for a Policy violation. Only the Panel reviewing the matter on remand from an appeal may change the determination of the original Panel of whether the respondent was responsible or not responsible for a Policy violation. If the reasons for remand relate to the investigation or warrant additional investigation, the Appeal Panel will determine whether the matter should be remanded to the previous investigator(s) or whether a new investigator(s) should be appointed.

I. Process for Remanded Matters. If a matter is remanded by an Appeal Panel, the investigator and/or Panel shall utilize the same process as required for all complaint processes under this Policy. The determination made on remand will be appealable under the procedures discussed in this Section.

J. Process for Affirmed Matters. If the Appeal Panel determines that there is insufficient evidence to conclude that it is more likely than not that one or more grounds for appeal have been satisfied, the Appeal Panel will dismiss the appeal. This decision is final and is not appealable. If the Appeal Panel dismisses the appeal, any sanctions determined by the Panel will be effective on the date the Appeal Panel's decision is provided to the parties.

K. Written Decision of Appeal Panel. The Title IX Coordinator will simultaneously issue to the parties a written decision of the Appeal Panel describing the result of the appeal and the Appeal Panel's rationale for the result. The University will strive to complete the appeal within twenty (20) calendar days following the Appeal Panel's receipt of the Appeal File from the Title IX Coordinator; however, in some cases, more time may be required.

L. Exclusive Appeals Process. Appeals arising out of alleged violations of this Policy must be made under this appeal process and are not eligible for consideration under any other faculty, staff or student grievance policies or processes.

XI. RECORDKEEPING RELATING TO SEXUAL MISCONDUCT

A. Record Retention Generally. The Title IX Coordinator is responsible for maintaining the official University records of Sexual Misconduct reports and formal complaints. When a formal complaint is pending, each official having a role in the response and resolution process is responsible for handling records appropriate to their role. When the process is complete, the official records relating to the formal complaint will be provided to the Title IX Coordinator, who will maintain such records in accordance with the University's record retention requirements and applicable law. Records related to Sexual Misconduct reports and formal complaints will be treated as confidential and shared only on a need-to-know basis, as required by law, or to conduct a complaint resolution process.

B. Retention of Certain Records. Notwithstanding the generality of the preceding paragraph A or any University record retention or destruction policy, the University shall maintain, for seven (7) years from the conclusion of a matter, all records concerning any of the following: each Title IX Sexual Harassment investigation (including any determination regarding responsibility, recording/transcript of the hearing, disciplinary sanctions imposed, and remedies provided); any appeal and its result; any informal resolution and results; all training materials for the University's Title IX personnel; actions taken in response to a report or formal complaint (including supportive measures); the basis for any conclusion that the response of the University was not deliberately indifferent (including if no supportive measures were provided – why that was not clearly unreasonable in light of the known circumstances); and documentation of measures taken by the University intended to restore or preserve equal access to the education program or activity.

XII. PROHIBITED RELATIONSHIPS BY PERSONS IN AUTHORITY

A. Prohibited Relationships. The employee (faculty and staff) to student relationship is one of trust. A University employee has the professional responsibilities to serve as a mentor, educator, and evaluator for students. Employee-student romantic and/or sexual attention, interaction, or relationships, even mutually consenting ones, interfere with a student's unfettered pursuit of learning and the integrity of the academic and workplace environment. Consensual relationships are defined in the university Consensual Relationship Policy as a romantic and/or sexual relationship to which both parties have given their consent. As between University employees and undergraduate students, consensual relationships are prohibited. University employees are prohibited from engaging in consensual relationships with graduate students with whom such employee has an academic or supervisory relationship. It is a violation of the Consensual Relationship Policy for an employee to pursue or attempt to initiate a consensual relationship with a student if such a consensual relationship would be prohibited by the Consensual Relationship Policy.

B. Disclosure of Certain Consensual Relationships. If an ongoing consensual relationship began when both parties were undergraduate or graduate students and one of the parties thereafter becomes a University employee, such a consensual relationship should be disclosed by the employee at the time of employment, but is not prohibited unless the employee is in a position to directly impact the academic or professional status or development of the student, either currently or afterwards. Such an employee may not be defended or indemnified by the University if difficulties in the relationship arise, including, student claims of Sexual Misconduct against Samford or the employee.

C. Employees Must Read and be Familiar with Consensual Relationship Policy. Consensual relationships are addressed in the Consensual Relationship Policy designated in the Faculty Policy Handbook as Policy C3.5 and in the Staff Policy Handbook as Policy 6.20. All University employees must read and be familiar with that policy. A violation of the Consensual Relationship Policy may subject an employee to disciplinary action, up to and including termination of employment. Questions by faculty about the Consensual Relationship Policy should be directed to the Senior Associate Provost. Other employees should make their inquiry to the Director of Human Resources.

XIII. POLICY REVIEW; AMENDMENTS

A. Annual Review. The University, through a working group that will include the Title IX Coordinator, the General Counsel, the Deputy Title IX Coordinators, the Provost and Vice President

for Academic Affairs, the Vice President for Business and Financial Affairs, the Vice President of Student Affairs and Enrollment Management, and the Director of Athletics, will review and propose updates to this Policy, as appropriate, no less than annually. The University will evaluate, among other things, any changes in legal requirements and existing University resources.

B. Amendments. Amendments to Article I.A of this Policy must be approved by the University Board of Trustees. Other amendments of this Policy, including changes in procedures, may be made by a majority vote the working group described in the preceding paragraph A when the change will not modify the Policy set forth in Article I.A of this Policy, as determined by the University General Counsel or other legal counsel advising the University. Non-substantive amendments, such as, but not limited to, changes of the names of specific individuals, addresses, email addresses, telephone numbers, emergency and community resources, technical corrections, or typographical errors may be made from time to time by the Title IX Coordinator with the approval of the General Counsel.

Original Effective Date: August 14, 2020

First Revision Effective Date: August 23, 2021

Second Revision Effective Date: January 10, 2022

XIV. RESOURCES.

Below is a non-exclusive list of available resources:

Sexual Assault, Dating/ Domestic Violence, and Stalking
Rape Response (24-Hour Assistance)
(205) 323-7273 or (800) 656-HOPE

University Counseling Services
(205) 726-4083

National Suicide Hotline
(800) 273-8255

Samford Department of Human Resources
(205) 726-2809

Samford Office of Diversity and Intercultural Initiatives
(205) 726-2725

University Health Services
(205) 726-2835

St. Vincent's Hospital Emergency Department
(205) 212-6001

Brookwood Baptist Medical Center Emergency Department
(205) 877-1000

Samford Department of Public Safety
(205) 726-2020

Samford Office of Disability Resources
(205) 726-4078

City of Homewood Police Department
(205)332-6200 (non-emergency)

Jefferson County Sheriff Office
(205) 325-1450

Samford Student Conduct Coordinator and Title IX Coordinator
Lisa Overton
(205) 726-2764

Samford Title IX Deputy Coordinator
Ms. Michelle Durban
(205) 726-4562

Samford Title IX Deputy Coordinator
Mr. Joel Windham
(205) 726-2837

Samford Title IX Deputy Coordinator
Dr. Monique Witherspoon
(205) 726-4456

University Minister
Rev. Bobby Gatlin
(205) 726-4538

To submit a complaint with the US Department of Education Office of Civil Rights, visit the OCR webpage: ed.gov/OCR