

Title IX Policy (50.4/70.2.4)

Approval Authority: Cabinet
Responsible Executive: Vice President for Enrollment Management and Student Affairs
Responsible Offices: The Division of Enrollment Management and Student Affairs and the Division of Human Resources

Effective Date: August 14, 2020¹

I. GENERAL POLICY STATEMENT:

Stevens Institute of Technology (“Stevens” or the “University”) is committed to equality of opportunity and creating a campus climate that supports, nurtures, and rewards educational and career advancement on the basis of ability and performance. Accordingly, it is the policy of the University not to discriminate on the basis of sex, gender identity or expression, or affectional or sexual orientation. Stevens is further committed to maintaining a safe and nondiscriminatory learning environment that is free of gender-based and sexual misconduct, including Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking as further defined below, “Title IX Misconduct”). All defined terms used in this Policy are defined in Section V.

This Policy has been drafted to comply with the requirements of Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. §§ 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106, as amended by 85 FR 30026 (May 19, 2020). Title IX prohibits discrimination on the basis of sex in the University’s educational programs or activities, including admissions and employment. This Policy has also been drafted to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by relevant provisions of the Violence Against Women Reauthorization Act of 2013 (VAWA), and other applicable federal and state law.

Retaliation against anyone involved in making a report, participating in the report or investigation process, or otherwise providing information regarding allegations of Title IX Misconduct is prohibited by this Policy and will not be tolerated. Any retaliation occurring at any time during or after the complaint process should be reported and will be investigated by the University under the same processes and standards outlined in this Policy. Anyone found to have engaged in retaliation shall be subject to discipline, including potential dismissal from University employment or matriculation.

All members of the Stevens community² are responsible for compliance with this Policy and are encouraged to immediately report Title IX Misconduct to the Title IX Coordinator or Deputy Title IX Coordinator. All members of the Stevens community are required to cooperate with and participate in Title IX investigations and proceedings under this Policy to provide truthful

¹This policy replaces the Policy on Gender-Based and Sexual Misconduct which was originally effective November 19, 2013 and revised through August 14, 2020. This Policy was approved by the Cabinet on August 4, 2020.

²For the purposes of this Policy, the Stevens community or campus community is a broad term that refers to all employees, students, visitors, volunteers, contractors and others who spend time on campus or who participate in the University’s Education Program or Activity.

information, if requested by the Title IX Coordinator or others involved with such investigation or proceedings.

II. SCOPE

This Policy applies to all students, faculty and staff at Stevens, as well as third parties (visitors, volunteers, contractors and others who spend time on campus or who participate in the University's Education Program or Activities). It applies to Title IX Misconduct that occurs in the United States and within the University's Education Program and Activities.

Gender-based and sexual misconduct, including Sexual Assault, Sexual Harassment, Domestic Violence, Dating Violence and Stalking, that occurs outside of the United States or outside of the University's Education Program or Activities are addressed in Stevens' Student Code of Conduct for student Respondents and the Policy on Discrimination, Harassment and Bias Incident for employee Respondents.

Sexual harassment as defined in Title VII of the Civil Rights Act of 1964, is addressed in the Policy on Discrimination Harassment and Bias Incidents.

Stevens will review and respond under this Policy to reports of Title IX misconduct against individuals who are not students or employees (e.g., contractors, vendors, or other visitors to Stevens' campus) if such Misconduct occurred in connection with the University's Education Program and Activities. Consistent with its disciplinary authority over and relationship to the Respondent, Stevens will take action to remedy the misconduct and provide reasonably available and appropriate Supportive Measures to the Complainant. Where Stevens does not have disciplinary authority over the Respondent, Stevens will assist the Complainant in identifying external reporting options. While Stevens' ability to take action against a person who is neither a student nor an employee may be limited, responsive actions or sanctions will be considered and, if appropriate, imposed on such person (e.g., ban from campus, notifying the Respondent's employer of the misconduct). In addition, where appropriate, Stevens will take steps to prevent the recurrence of any Title IX Misconduct and to correct the effects on the Complainant and others.

When the Title IX Coordinator receives a report of Title IX Misconduct, Stevens will respond to reported misconduct by treating Complainants and Respondents equitably, defined in the Title IX regulations as offering Supportive Measures to a Complainant and following a resolution (grievance) process that complies with Title IX regulations, before imposing any disciplinary sanctions.

A Complainant has the option to report or decline to report incidents of misconduct to local law enforcement authorities and the University will assist a Complainant in contacting law enforcement if requested. The University has an independent duty to promptly and equitably respond to a report of Title IX Misconduct, notwithstanding the existence of any pending criminal investigation.

III. TITLE IX COORDINATOR

The University has established a "Title IX Coordinator" role with centralized oversight responsibility for Title IX matters at Stevens, including the coordination of the University's response to reports of Title IX Misconduct. Xhijola Ruci is the Title IX Coordinator and has ultimate responsibility for Title IX matters generally and primary responsibility for overseeing complaints and reports relating

to Stevens' students. Maria Ouckama is the Deputy Title IX Coordinator and will be the primary person responsible for overseeing complaints and reports relating to employees. Ms. Ruci and Ms. Ouckama are also responsible for the coordination of educational programs for students, faculty, and staff to promote awareness and prevention of violations of this Policy.

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IV. APPLICATION OF OTHER POLICIES

This Policy supersedes all other student and employee policies with respect to Title IX Misconduct. This Policy will apply to any report received by the University after the effective date of this Policy, regardless of when the misconduct is alleged to have occurred.

As noted above, Title IX Misconduct that occurs outside of the United States or outside of the University's Education Program or Activities, and other forms of sexual harassment will be addressed under the Stevens' Student Code of Conduct for student Respondents and the Policy on Discrimination, Harassment and Bias Incident for employee Respondents.

The University has a Non- Fraternization Policy, which prohibits amorous or sexual relationships between Stevens' employees and any student under their supervision (graduate or undergraduate), as well as any amorous or sexual relationship between an employee and an undergraduate student, regardless of whether a supervisory relationship exists. Stevens also strongly discourages employees from engaging in amorous or sexual relationships with graduate students even where there is no supervisory relationship. This policy is available at

https://www.stevens.edu/sites/stevens.edu/files/files/UPL/NonFraternization_Policy_19jan2016p.pdf

In the event that a report involves an allegation of Title IX Misconduct covered by this Policy and conduct covered by other University policies, the Title IX Coordinator will determine whether the entire matter may be reviewed under this Policy or will be bifurcated, in each case in a manner that does not delay the investigation and resolution.

V. DEFINITIONS:

Complainant: An individual who is alleged to have been the subject of conduct that could constitute Title IX Misconduct.

Confidential Resource: An individual who maintains a legally-protected or privileged relationship with a patient or client, including professional mental health counselors, medical professionals, rape crisis counselors, and ordained clergy. On campus, Confidential Resources include the counselors at Student Counseling and Disability Services or any physician, nurse, physician assistant or nurse assistant at the Student Health Center or otherwise employed or engaged by the University (in the context of a doctor-patient relationship).

Education Program or Activity(ies): All of the University's operations, including locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the conduct occurs, and any building owned or controlled by a student organization that is officially recognized by the University (e.g., a fraternity or sorority recognized by the University).

Formal Complaint: A document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Misconduct against a Respondent and requesting that Stevens investigate the allegation of Title IX Misconduct. At the time of filing of a Formal Complaint, a Complainant must be participating in or attempting to participate in a University Education Program or Activity. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. The Formal Complaint must contain the Complainant's physical or digital signature, or otherwise indicate that the Complainant is filling the Formal Complaint.

Hearing Officer: A fair and impartial decision-maker responsible for making a determination whether the Respondent engaged in conduct that violated this Policy. The Hearing Officer may be a campus administrator or an external professional. The Hearing Officer will be impartial and free from conflict of interest or bias.

Investigator: A neutral and objective individual who is trained to conduct a prompt, thorough, fair and impartial investigation. The Investigator may be a campus administrator or an external professional. The Investigator will be impartial and free from conflict of interest or bias.

Respondent: An individual who has been accused of Title IX Misconduct.

Responsible Employees: The following employees of Stevens shall be considered Responsible Employees:

- (1) each member of Stevens' Campus Police;
- (2) the Title IX Coordinator and the Deputy Title IX Coordinator;

(3) the Provost and Vice President for Academic Affairs, the Vice President for Enrollment Management and Student Affairs, and the Vice President for Human Resources;

(4) the Dean of Students;

(5) the Assistant Vice President for Student Affairs; and

(5) the Associate Provost for Academic Innovation and Faculty Affairs.

Sanctioning Officer: A fair and impartial decision-maker responsible for determining the sanction following a finding of responsibility by a Hearing Officer. The Sanctioning Officer will be impartial and free from conflict of interest or bias.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the University's Education Program or Activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the education environment, or deter sexual harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Title IX Misconduct: An umbrella term that includes Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation. Title IX Misconduct can be committed by individuals of any sex and can occur between individuals of the same sex or different sexes. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships. Title IX Misconduct is prohibited regardless of the sexual orientation, gender, gender identity, or gender expression of the parties. Title IX Misconduct occurring over electronic communications and social media are prohibited by the Policy whether or not they utilize Stevens' electronic equipment, servers, or e-mail resources. Title IX Misconduct which violates this Policy includes the behaviors described below:

1. **Sexual Harassment:** Sexual harassment is conduct on the basis of sex that satisfies one or more of the following:
 - a. A Stevens employee conditioning the provision of an aid, benefit, or service of the University on an individual's participating in unwelcome sexual conduct; or
 - b. Unwelcome conduct of a sexual nature determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Stevens' Education Program or Activities;
 - c. Sexual Assault, Dating Violence, Domestic Violence, Stalking or Retaliation, in each case as defined below.

2. **Sexual Assault:** Sexual assault occurs when a person has or attempts to have sexual contact with another person without consent or where the person cannot consent because of age or temporary or permanent mental incapacity (see below for definitions of consent and incapacitation). Sexual Assault also includes having or attempting to have sexual contact between persons who are related to each other within the degrees where marriage is prohibited by law, and statutory sexual assault (in each case, as prohibited by New Jersey state law based on the age of the parties). Sexual contact includes:
 - a. sexual intercourse (anal, oral or vaginal), including penetration with a body part (e.g., penis, finger, hand or tongue) or an object, or requiring another to penetrate themselves with a body part or an object, however slight; or
 - b. sexual touching of private body parts, including, but not limited to, contact with the breasts, buttocks, groin, genitals or other intimate part of a person's body for the purpose of sexual gratification; or
 - c. *attempts to commit sexual assault.*
3. **Dating Violence:** includes any act of violence committed by a person:
 - a. Who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
 - b. Where the existence of such a relationship shall be determined based on consideration of the following factors:
 - i. The length of the relationship;
 - ii. The type of relationship; and
 - iii. The frequency of interaction between the persons involved in the relationship.
4. **Domestic Violence:** includes any act of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under New Jersey state law, or by any other person against an adult or minor Complainant who is protected from that person's acts under New Jersey state law.
5. **Stalking:** Stalking occurs when a person engages in a course of conduct (as further defined below) directed at a specific person under circumstances that would cause a reasonable person to fear for their own safety or the safety of others or suffer substantial emotional distress.

Course of conduct means two or more instances including but not limited to unwelcome acts in which an individual 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. Substantial emotional distress means significant mental suffering or anguish.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

6. **Retaliation:** Any adverse action, intimidation, threat, coercion or discrimination against an individual for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the individual has made a report or Formal Complaint of Title IX Misconduct, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding or hearing under this Policy. Retaliation can be committed by any individual or group of individuals.

7. Related Definitions

- a. **Consent:** The voluntary, uncoerced agreement, through words and/or actions, freely given, which a reasonable person would interpret as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly chooses to participate. Indications that consent is not present include: when physical force is used or there is a reasonable belief of the threat of physical force; when coercion is present; or when a person is incapable of making an intentional decision to participate in a sexual act, which could include instances in which the person is in a state of incapacitation or where the person is incapable of giving consent due to age, intellectual limitations, or other disability. Important points regarding consent include:
 1. Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.
 2. Consent is not implicit in a person's manner of dress.
 3. Accepting a meal, a gift, or an invitation for a date does not imply or constitute consent.
 4. Consent to engage in sexual activity must exist from the beginning to end of each instance of sexual activity and for each form of sexual contact. Either party may withdraw or modify consent at any time. Withdrawal of consent must be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.
 5. Consent to one act does not constitute consent to another act.
 6. Consent to an act with one person does not constitute consent to an act with any other person.

7. Consent on a prior occasion does not constitute consent on a subsequent occasion.
8. The existence of a prior or current relationship does not, in itself, constitute consent.
9. An individual who is incapacitated is unable to give consent to sexual activity.
10. In the State of New Jersey, the age of majority is 18. Under state law, consent cannot be given by minors under the age of 13, and can only be given by a minor under the age of 16 if the other party is less than four years older than the minor.

- b. **Incapacitation:** Incapacitation is the state in which a person's perception or judgment is so impaired that they lack the cognitive capacity to make or act on conscious decisions. It is the inability (temporarily or permanently) to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Engaging in sexual activity with an individual who is incapacitated (and therefore unable to consent), where a person knows or ought reasonably to have understood that the individual is incapacitated, constitutes sexual assault. In evaluating whether consent was present when there is an allegation of incapacitation, an Investigator will consider whether a Respondent should have been aware of the Complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent's position.

The use of drugs or alcohol (voluntarily or involuntarily) can cause incapacitation, however, the mere consumption of alcohol or other drugs, without objective indicia of incapacitation, is insufficient to establish incapacitation. The impact of alcohol and other drugs varies from person to person; warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, or emotional volatility. Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's decision-making ability, awareness of consequences, ability to make informed judgments, and capacity to appreciate the nature and the quality of the act.

In general, sexual contact while under the influence of alcohol or other drugs is risky behavior. It is especially important that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other person's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity. Either party may raise evidence of their own incapacitation; however, being intoxicated or impaired by drugs or alcohol is never an excuse for misconduct and does not diminish one's responsibility to obtain informed and freely given consent.

- c. **Force:** Force is the use or threat of physical violence or intimidation to overcome a person's freedom of will to choose whether or not to participate in sexual activity. For the use of force to be demonstrated, there is no requirement that a

Complainant resist the sexual advance or request. However, resistance by the Complainant will be viewed as a clear demonstration of the absence of consent.

- d. **Coercion:** Coercion is the improper use of pressure to compel another person to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats and blackmail. Examples of coercion include threatening to disclose personal information such as the other party's sexual orientation, gender identity or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity.

VI. STATEMENT REGARDING PRIVACY AND CONFIDENTIALITY:

The University is committed to protecting the privacy of all individuals involved in a report of misconduct under this Policy consistent with the need for a thorough review by the University of the allegation. Except (i) as otherwise permitted by law, (ii) as required to conduct an investigation or hearing under this Policy or (iii) as required in a judicial proceeding, the University will not share the identity of any individual who has made a report or filed a Formal Complaint of Title IX Misconduct, any individual who has been reported to be the perpetrator of sex discrimination, or any witness. The University will also maintain as confidential any Supportive Measures provided to a Complainant, to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures. All employees who are involved in the University's Title IX response, including the Title IX Coordinator, Investigators and adjudicators, receive specific training and guidance about safeguarding private information, including the protections set forth in Title IX, the Clery Act and the Family Educational Rights and Privacy Act ("FERPA").

Privacy and confidentiality have distinct meanings under this Policy.

A. Privacy

Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those individuals who "need to know" in order to assist in the active review, investigation or resolution of the report. While not bound by legal confidentiality, these individuals will be instructed by the University to be discreet and respect the privacy of all individuals involved in the process to the extent possible.

B. Confidentiality

Confidentiality refers to the statutory protections applicable to individuals who disclose information to Confidential Resources (professional mental health counselors, medical professionals, rape crisis counselors, and ordained clergy). Information shared by an individual with a Confidential Resource cannot be revealed to any other individual without the permission of the individual. Confidential Resources will maintain confidentiality unless: there is an imminent risk of harm to the individual or others; suspected abuse of a minor under the age of 18; or as otherwise permitted or required by law.

Individuals who wish to seek confidential assistance may do so by speaking with a Confidential Resource.

C. Release of Information by the University under the Clery Act

Pursuant to the Clery Act, the University includes statistics about Clery Act crimes in its daily crime log and Annual Security Report and provides those statistics to the United States Department of Education. If a report of Title IX Misconduct discloses a serious or continuing threat to the campus community, the University will issue a timely notification to the community to protect the health and safety of the community as required by the Clery Act. In all of these instances, the information is reported in a manner that does not include personally identifying information about the Complainant or persons involved in an incident unless identification of a Respondent is necessary to include as part of the timely notification. The University may also share non-personally identifying information about reports received in aggregate form, including data about outcomes and sanctions.

VII. RESOURCES

The University is committed to treating all members of the community with dignity, care and respect. Any individual affected by behaviors prohibited by this Policy, whether as a Complainant, a Respondent or witness, will have access to support and assistance through the University. The University recognizes that deciding whether to make a report and choosing how to proceed can be difficult decisions. The University encourages any individual who has questions or concerns to seek the support of campus and community resources, including Confidential Resources. These professionals can provide information about available resources and procedural options and assistance to either party in addressing a matter covered by this Policy.

1. Emergency Response:

- a. Stevens Campus Police have resources available to help students and employees. Campus Police are located at the south entrance to campus in the Kidde Building. The emergency number is 201-216-3911.
- b. The Hoboken Police Department is located at 106 Hudson Street in Hoboken and can be reached by dialing 911 in an emergency.

2. Student Health and Emotional Well-Being (Confidential Resources):

- a. *Student Health Services:* Stevens has an on-campus Office of Student Health Services located at the north end of campus in the Student Wellness Center. The Student Wellness Center also facilitates connecting students with off-campus medical providers. Additional information about such medical services is available on the Wellness Center webpage: <http://www.stevens.edu/sit/health>. Physicians, physician assistants, nurses and nurse practitioners are Confidential Resources when acting within a health care provider-patient relationship.
- b. *Counseling and Psychological Services:* Stevens has an office of Counseling and Psychological Services, located in the Student Wellness Center, which provides on-campus personal counseling services to students. This office also facilitates connecting students with off-campus therapists. Additional information about counseling services is available on the following webpage:

<http://www.stevens.edu/sit/counseling>. Counselors are a Confidential Resource when acting within a counselor-client relationship.

- c. The *Hoboken University Medical Center* is located at 308 Willow Avenue in Hoboken and can provide urgent medical services. Physicians, nurses, physician assistants and nurse assistants are a Confidential Resource when acting within a health-care provider-patient relationship.
- d. *External Abuse Resources and Hotline Services*: The Student Wellness Center and Counselling and Psychological Services webpages provide links to various confidential abuse resources and hotline services, including the Hudson County Rape Crisis Center Hotline, the Hudson County Sex Crime Unit and domestic violence hotlines. See also additional resources listed on www.stevens.edu/titleix

3. Employee Health and Emotional Well-Being (Confidential Resources):

- a. The *Hoboken University Medical Center* is located at 308 Willow Avenue in Hoboken and can provide urgent medical services. Physicians, physician assistants, nurses and nurse practitioners are a Confidential Resource when acting within a health-care provider-patient relationship.
- b. *Employee Assistance Program* (“EAP”): CIGNA’s “Life Assistance Program” is available to Stevens’ employees and consists of a variety of counseling and support services, as well as other resources and referral services. All services are available 24 hours a day, 365 days per year. The Program may be reached at 1-800-538-3543 or via the web at www.cignabehavioral.com/cgi. (The EAP is a confidential resource.)

4. Title IX Coordinator

In addition to the Confidential Resources listed above, the University’s Title IX Coordinator and Deputy Title IX Coordinator are trained to support individuals affected by Title IX Misconduct. While not bound by legal confidentiality, these resources will maintain the privacy of an individual’s information within the limited circle of those involved in the Title IX resolution process to the extent possible. The Title IX Coordinator and Deputy Title IX Coordinator have the authority to offer and implement reasonably available Supportive Measures for students and employees. For general inquiries about the application of Title IX or to make a report, request Supportive Measures, or file a Formal Complaint, please feel free to contact either Ms. Ruci or Ms. Ouckama.

For reports and formal complaints related to students:

Xhiljola Ruci

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For reports and formal complaints related to employees:

Maria Ouckama

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5. Assistance With Administrative and Legal Concerns

Where a student has questions about how changes to enrollment status may impact financial aid, immigration status, or other administrative matters, the Title IX Coordinator can connect the student to the appropriate resources on campus. For example, a Complainant or Respondent may wish to take a reduced course load or a leave of absence. Stevens has staff members who can explain, for example, how financial aid and loan repayment terms or immigration authorizations may be affected. Concerns about such issues should not be a barrier to reporting misconduct or seeking Supportive Measures. The Title IX Coordinator can also provide referrals to victim advocacy or legal assistance options in the community.

VIII. REPORTING AND RELATED CONSIDERATIONS:

1. Reporting Considerations:

- a. *Timeframe for Reporting:* Complainants and others are encouraged to report Title IX Misconduct covered by this Policy as soon as possible in order to maximize the University's ability to respond effectively. The University does not, however, limit the timeframe for reporting. If the Respondent is no longer a student or employee at the time of the report, the University will still seek to provide reasonably available Supportive Measures, assist the Complainant in identifying external reporting options, and take steps to address any ongoing effects of the conduct.
- b. *Rules Violations Should Not Deter Reporting:* Stevens' primary concern is safety. Complainants and witnesses should report incidents covered by this Policy regardless of whether rules violations may have been involved. Use of alcohol or other drugs never makes a Complainant at fault for experiencing sexual violence and should not deter reporting by Complainants, bystanders, or other knowledgeable parties. To encourage reporting, an individual who reports misconduct or participates in the resolution of a report under this Policy, either as a Complainant or a witness, will not be subject to disciplinary action by the University for their own personal consumption of alcohol or other drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The University may, however,

initiate an educational discussion or pursue other educational remedies regarding alcohol or drug use.

- c. *Statement Against Retaliation:* Retaliation is a violation of University policy. The University recognizes that retaliation can take many forms, may be committed by or against an individual or a group, and that a Respondent or witness may also be the subject of retaliation by another individual, including the Complainant. Retaliation against anyone involved in filing a good faith report, participating in the report or investigation process, or otherwise providing information regarding allegations of misconduct is prohibited by this Policy and will not be tolerated. Any retaliation occurring at any time during or after the complaint process should be reported and will be investigated by the University under the same processes and standards outlined in this Policy. Anyone found to have engaged in retaliation shall be subject to discipline, including potential dismissal from University employment or expulsion.
- d. *Obligation to Cooperate and Provide Truthful Information:* All Stevens community members are expected to cooperate in any Title IX investigation and provide truthful information in any report or proceeding under this Policy. Failure to cooperate or submitting or providing false or misleading information, whether in bad faith or with a view to personal gain or intentional harm to another in connection with an allegation of misconduct, are prohibited and subject to disciplinary action. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.
- e. *Reports Involving Minors:* Under New Jersey law, every person is a mandatory reporter of child abuse. Any member of the Stevens community who has reasonable cause to suspect abuse of a minor under the age of 18 must make a report to the Title IX Coordinator, Deputy Title IX Coordinator or Campus Police, who will facilitate a report to local law enforcement and the New Jersey Department of Children and Families.
- f. *Preservation of Evidence:* A Complainant is advised to seek immediate medical treatment and preserve physical evidence following an incident of Title IX Misconduct even if they have not decided whether they wish to pursue any action under this Policy or a criminal action. This will help to ensure that a Complainant receives proper care and preserves their opportunity to support a disciplinary or criminal action at a later time. Stevens' medical personnel, Campus Police and the Hoboken University Medical Center can assist Complainants in preserving evidence.

2. Reporting at Stevens

A Complainant or anyone else who is aware of the occurrence of an incident covered by this Policy is encouraged to report the incident as soon as possible to the Stevens' Title IX Coordinator(s) and/or to Stevens' Campus Police.

- a. *Obligation to Report by Responsible Employees:* Individuals who are defined as Responsible Employees and are informed of an allegation of Title IX Misconduct are, in each case, required to immediately inform the Title IX Coordinator or Deputy Title IX Coordinator.
- b. *Campus Reporting Options:* Any individual may make a report of Title IX Misconduct under this Policy regardless of affiliation with the University and regardless of whether or not the person reporting is the person alleged to have experienced the Title IX Misconduct. Reports can be made in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator(s), or by any other means that results in the Title IX Coordinator(s) receiving the person's verbal or written report. Reports to the University can be made as follow:

- i. *Title IX Coordinator*

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E-mail: Maria.Ouckama@stevens.edu

- ii. *Stevens Campus Police*

Reports can also be made directly to Stevens' Campus Police. Campus Police will promptly share all reports with the Title IX Coordinator. Campus Police can be reached at 201-216-5105 or at police headquarters located at the south entrance to campus in the Kidde Building. The emergency number is 201-216-3911.

- iii. *Anonymous Reporting*

Anonymous reports or requests for resources may be made through the University's EthicsPoint Compliance Hotline at 855-277-4065 or online through <https://secure.ethicspoint.com/domain/media/en/gui/31028/index.html>.

EthicsPoint allows the University to request information from a reporter and provide updates to the reporter on an anonymous basis. Reports made via EthicsPoint will be forwarded to the Title IX Coordinator. EthicsPoint is not an emergency service. For emergency service, reporters should call Stevens' Campus Police or local law enforcement authorities.

c. *Bystander Intervention*: The University encourages bystanders to step in and offer assistance where they feel that it is safe for them to do so. Some effective options for bystander intervention may include: (1) indirect or direct intervention when safe to do so, (2) enlisting the assistance of friends, (3) contacting law enforcement, and/or (4) seeking assistance from a person in authority. Other effective options might include: (A) dissuading a person from getting in a car or going off alone with someone who is belligerent or too forward in their physical contact (especially if either person is intoxicated or otherwise impaired), (B) removing a person from a risky situation by inviting them to another location, and (C) remaining with a person until the potential aggressor has left or the person is in a safe place. As discussed above, concern about potential rules violations should not deter reporting by bystanders or others.

3. Reporting to Local Law Enforcement

A Complainant has the option to report or decline to report an incident to the appropriate local law enforcement authorities and the University will assist the Complainant in contacting law enforcement if requested. A Complainant who wishes to report an incident to local law enforcement may seek assistance from the Title IX Coordinator, Deputy Title IX Coordinator, or Campus Police. In cases involving potential criminal conduct, Stevens will determine, consistent with its obligations under federal, state, and local law, whether appropriate law enforcement or other authorities should be notified.

4. Inquiries or Complaints about the Application of Title IX

Inquiries or complaints about the application of Title IX may be directed to Stevens' Title IX Coordinator, Deputy Title IX Coordinator, and/or to the United States Department of Education's Office for Civil Rights.

New York Office for Civil Rights
U.S. Department of Education 32 Old Slip, 26th Floor
New York, NY 10005-2500
Telephone: 646-428-3900 Email: OCR.NewYork@ed.gov

5. Intersection with Other Laws and Law Enforcement

All Stevens community members have a responsibility to adhere to University policies and local, state and federal law. Behavior that violates this Policy may also violate the laws of the locality in which the incident occurred.

a. *Law Enforcement Investigation Does Not Relieve University's Title IX Obligations*: A criminal investigation into an allegation of misconduct does not relieve or substitute for the University's duty to conduct its own prompt and

equitable review of a complaint. Accordingly, the University will not wait for the conclusion of a criminal investigation or proceeding to begin its own investigation and resolution of an alleged violation. Furthermore, because the standards for criminal proceedings differ from those used in University disciplinary actions, conduct that may not be subject to criminal action may still be addressed through the University's disciplinary process. A finding of "not guilty" in a criminal matter does not necessarily preclude a finding of responsibility for violating this Policy. At the request of law enforcement, Stevens may agree to defer its fact-gathering until after the initial stages of a criminal investigation. Stevens will nevertheless communicate with the Complainant and Respondent regarding Title IX resources and procedural options, and the implementation of Supportive Measures to ensure safety and well-being. Stevens will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation.

- b. *New Jersey Law:* The New Jersey Law Against Discrimination prohibits discrimination on the basis of sex, gender identity or expression, and affectional or sexual orientation. In addition, sexual and/or dating/domestic violence is a crime. Sexual offenses are described in the New Jersey Criminal Code and may be found at Title 2C, Chapter 14. Assault and stalking may be found at Title 2C, Chapter 12. New Jersey's Prevention of Domestic Violence Act (which also covers dating violence) is available at Title 2C, Chapter 25.
- c. *Study Abroad:* Students who are studying abroad should be aware that they are subject to the laws of the host country and policies of the host institution which will define what constitutes sexual violence or other offenses in that jurisdiction. In addition, students who are reported to have committed sexual harassment or violence may be subject to discipline under Stevens' Student Code of Conduct.

IX. INITIAL ASSESSMENT

1. Response to a Report of Title IX Misconduct

Any person may report Title IX Misconduct to the Title IX Coordinator. When the Title IX Coordinator receives a report alleging Title IX Misconduct, the Title IX Coordinator or Deputy Title IX Coordinator will conduct an initial assessment, and will promptly contact the Complainant to discuss the availability of Supportive Measures with or without the filing of a Formal Complaint, explain to the Complainant the process for filing a Formal Complaint, and consider the Complainant's wishes with respect to Supportive Measures.

2. Intake and Outreach

The initial assessment typically includes an initial intake meeting with the Complainant or person making the report to understand the nature and circumstances of the report and to provide the Complainant with information about this Policy and resources, including local law enforcement resources and procedural options, and possible Supportive Measures. The Title IX Coordinator will seek to gather information to determine whether the Policy applies to the report and, if so, whether an informal or formal resolution process or the imposition of Supportive Measures is the appropriate

response under the Policy based on the Complainant's wishes, the nature of the conduct, and the University's Title IX obligations.

In addition to the in-person meeting, Stevens will provide the Complainant with written information about resources, procedural options, and Supportive Measures. This written information shall include a notification about how a student or employee can request disability-based accommodations (e.g., academic adjustments, and/or auxiliary aids) to support them in the investigation and hearing (under Section 504 of the Rehabilitation Act and/or the Americans with Disabilities Act and corresponding provisions of state law).

3. Overview of Initial Assessment

As part of the initial assessment of the facts, which may occur in one or more meetings, Stevens will:

- a. Discuss with the Complainant the availability of Supportive Measures and consider the Complainant's wishes with respect to Supportive Measures;
- b. Assess the nature and circumstances of the report;
- c. Address the immediate physical safety and emotional well-being of the Complainant and other campus community members;
- d. Discuss the Complainant's expressed preference for the manner of resolution and any barriers to proceeding;
- e. Notify the Complainant of the right to contact or decline to contact law enforcement and, if requested, assist them with notifying law enforcement;
- f. Notify the Complainant of the availability of medical and counseling resources to address physical and mental health concerns and to preserve evidence;
- g. Notify the Complainant of the importance of preservation of evidence;
- h. Enter the report into Stevens' Daily Crime Log, if required by the Clery Act;
- i. Assess the reported conduct for the need for a timely warning under the Clery Act;
- j. Provide the Complainant with information about on- and off-campus resources;
- k. Provide the Complainant with a copy of this Policy and an explanation of the procedural options and the process for filing a Formal Complaint;
- l. Inform the Complainant that they may seek an advisor of their choosing to assist them throughout the investigation and resolution of the report, that the advisor may accompany them to any meeting or proceeding in connection with the process, and that if the matter proceeds under the formal resolution process and either party does not have an advisor, Stevens will provide an advisor, without fee or charge, to conduct questioning on behalf of the party at the hearing;

- m. Assess the report for evidence of a pattern or other similar conduct by the Respondent; and
- n. Explain Stevens' policy prohibiting retaliation.

The Title IX Coordinator and/or Deputy Title IX Coordinator will conduct the initial assessment and may consult with other University administrators as needed.³

4. Supportive Measures

Support Measures are available to the parties at any point in the process and regardless of whether a Formal Complaint has been filed. The Title IX Office will consider a number of factors in determining which Supportive Measures to take, including the needs of the student seeking Supportive Measures; the severity or pervasiveness of the alleged conduct; any continuing effects on the Complainant; whether the Complainant and the Respondent share the same residence hall, academic course(s), or job location(s); and whether judicial measures have been taken to protect the Complainant (e.g., a protective order). Stevens will work in good faith to implement the requirements of judicially issued protective and similar orders, to the extent that doing so is within its authority.

The Title IX Coordinator is responsible for administering the implementation of Supportive Measures and coordinating resources with the appropriate offices on campus. Stevens will maintain the confidentiality of any Supportive Measures provided under this Policy to the extent practicable and will promptly address any violation of a Supportive Measure by a party. The Title IX Coordinator will document each report or request for assistance, including requests for Supportive Measures.

5. Scope and Manner of Resolution

The Title IX Coordinator will consider the nature of the report, the safety of the individuals involved and the campus community, as well as the Complainant's expressed preference for the manner of resolution in determining the appropriate course of action to resolve the report in a manner that is consistent with the goals of Title IX and this Policy.

During the initial assessment, a Complainant may request Supportive Measures only, or may file a Formal Complaint. After the filing of a Formal Complaint, the Complainant may decide to pursue a formal resolution process or, instead, seek informal resolution. Regardless of whether a formal or informal resolution process is initiated, a Complainant is always entitled to receive reasonably available Supportive Measures.

When a Complainant files a Formal Complaint, the Title IX Coordinator will be responsible for determining whether the reported conduct falls within the scope of the Policy. If so, Stevens must move forward with a formal resolution of the Formal Complaint, as described below. If not, Stevens is required to dismiss the Formal Complaint and proceed with resolving the complaint under the

³In the event any individual with a responsibility identified in this Policy is a witness or has a conflict of interest that would compromise that individual's objectivity in discharging that responsibility, Stevens will appoint a designee.

Student Code of Conduct or the Policy on Discrimination Harassment and Bias Incidents, if applicable.

If the Complainant declines to file a Formal Complaint, the Title IX Coordinator may still determine that it is appropriate to file a Formal Complaint.

Stevens will seek to complete the initial assessment as promptly as possible, typically within ten (10) business days. There may be circumstances, however, where the initial assessment takes longer based on the availability of the Complainant or other necessary information, the need to gather additional information, requests of law enforcement, or other factors outside of Stevens control. Stevens also recognizes that a Complainant may engage in delayed decision-making, which may impact the timing of the conclusion of the initial assessment.

At the conclusion of the initial assessment, the Complainant will receive a written notice of Stevens' determination as to whether and how the report will proceed.

X. REMOVAL PENDING RESOLUTION

1. Student Respondents

Stevens may remove a student Respondent on an emergency basis from Stevens' property or employment, housing, education or research programs or activities. Before imposing an emergency removal, Stevens will undertake an individualized analysis of safety and risk for the campus community to determine whether the Respondent's presence in the program or activity poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Misconduct.

The Title IX Coordinator will promptly provide the Respondent with written notice of any removal and an opportunity to challenge the removal. During any challenge, the Respondent will remain off-campus and must comply with the notice of removal. That notice shall include a statement that the use of any information the Respondent chooses to provide may subsequently be used in implementing any aspect of this Policy, including the investigation and adjudication. The Respondent will have 72 hours to submit a written challenge to the Title IX Coordinator. The Respondent will have an opportunity to present relevant evidence challenging the safety and risk analysis, which will be promptly reviewed by the Vice President for Enrollment Management and Student Affairs to evaluate the information in support of the individualized safety and risk analysis and any additional information provided by the Respondent. The decision maker will submit a final decision in writing to the Respondent within 3 business days. The Title IX Coordinator will notify the Complainant and Respondent in writing of the outcome of the challenge.

2. Employee Respondents

Stevens may place a non-student employee Respondent on administrative leave, with or without pay as determined by the Division of Human Resources, during the pendency of the formal resolution process.

XI. FORMAL COMPLAINT

The formal resolution process (i.e., an investigation, hearing and appeal process) is initiated by the filing of a Formal Complaint. The Formal Complaint may be submitted to the Title IX Coordinator in person, by mail, or by electronic mail, using the Formal Complaint form. The Complainant may also contact the Title IX Coordinator directly for assistance in making a Formal Complaint. At the time of filing the Formal Complaint, the Complainant must be participating in or attempting to participate in the University's Education Program or Activities.

Stevens may consolidate Formal Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Title IX Misconduct arise out of the same facts or circumstances.

The Title IX Coordinator also has the discretion to file a Formal Complaint. In evaluating the appropriate manner of resolution, including whether the Title IX Coordinator will file a Formal Complaint in the absence of a Formal Complaint by the Complainant, the Title IX Coordinator will consider the following factors:

1. whether the Complainant has requested anonymity;
2. whether the Complainant wants to participate in an investigation;
3. the severity and impact of the alleged misconduct and whether the misconduct was committed with a weapon;
4. the respective ages of the parties and whether the Complainant is a minor under the age of 18;
5. whether the Respondent has admitted to the misconduct;
6. whether the Respondent has a history of committing such misconduct or whether there have been other complaints about the same Respondent or the extent of prior remedial methods taken with the Respondent;
7. whether the Respondent is alleged to have threatened further misconduct;
8. whether the misconduct was committed by multiple perpetrators or whether the report reveals a pattern of misconduct (e.g., at a given location or by a particular group); and
9. the existence of independent evidence that may be available without the participation of the Complainant.

Stevens will take all reasonable steps to respond to the report consistent with a Complainant's requested course of action, but its ability to do so may be limited based on the considerations outlined above. Where the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator or designee will inform the Complainant about the chosen course of action.

XII. RESPONSE TO A FORMAL COMPLAINT

1. Formal or Informal Resolution Process

Upon filing of a Formal Complaint that falls within the scope of this Policy, the matter will be resolved either through the formal or informal resolution process outlined below. The University must pursue an investigation of a Formal Complaint, unless the parties agree to pursue informal resolution, which will only be pursued with the written, voluntary consent of both the Complainant and Respondent.

2. Mandatory Dismissal

The Title IX Coordinator will evaluate reasonably available information to make the following determinations:

- a. Did the reported conduct occur within the University's Education Program or Activity; this question considers:
 1. Did Stevens have substantial control over the Respondent; and
 2. Did Stevens have substantial control over the context in which the conduct is reported to have occurred; or
 3. Did the conduct occur in a building owned or controlled by a student organization that is officially recognized by Stevens;
- b. Did the reported conduct occur in the United States; and,
- c. Would the facts set forth by the report, if substantiated, constitute Title IX Misconduct.

Where the Title IX Coordinator determines that the answer to these three questions is "yes," and a Formal Complaint is filed by either the Complainant or the Title IX Coordinator, Stevens will follow the formal resolution process required by the Title IX regulations. Where the Title IX Coordinator determines that the answer to any of these three questions is "no," the Title IX Coordinator will dismiss the allegations in the Formal Complaint and refer the conduct to the appropriate University official for assessment under other potentially applicable policies, including the Student Code of Conduct and the Policy on Discrimination, Harassment and Bias Incidents.

3. Discretionary Dismissal

The Title IX Coordinator may dismiss the Formal Complaint or any allegations therein if: (a) the Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegation therein; (b) the Respondent is no longer enrolled or employed by Stevens; or (c) specific circumstances prevent Stevens from gathering sufficient evidence to reach a determination on the Formal Complaint.

4. Notice of Dismissal

If the Title IX Coordinator dismisses all of the allegations in the Formal Complaint with respect to Title IX Misconduct, the Title IX Coordinator may determine that sufficient cause exists to move

forward with the resolution of any remaining allegations in accordance with other Stevens' policies. If some or all of the allegations in the Formal Complaint have been dismissed, the parties will receive written information about how to appeal the dismissal of the Formal Complaint.

The decision about whether to dismiss a Formal Complaint, in whole or in part, may be made at any time in the process and will be communicated to all parties in writing. Either party may appeal the decision to dismiss the Formal Complaint.

XIII. RESOLUTION PROCESS

1. Notice of Allegation

After a Formal Complaint is filed, the Title IX Coordinator will notify the Complainant and the Respondent, in writing, of the following:

1. notice of the process for formal and informal resolution;
2. sufficient details regarding:
 - a. the identities of the Complainant and the Respondent, if known;
 - b. the date, time (if known), location, and nature of the reported conduct;
3. the reported policy violation(s);
4. the name of the Investigator;
5. information about the parties' respective rights and responsibilities;
6. the prohibition against retaliation;
7. the importance of preserving any potentially relevant evidence in any format;
8. how to challenge participation by the Investigator on the basis of a conflict of interest or bias;
9. a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the formal resolution process;
10. that the parties are entitled to an advisor of their choice, which may be an attorney advisor, and the advisor is permitted to review the evidence gathered in the investigation and conduct cross-examination of the other party and witnesses;
11. that Stevens requires honest and truthful participation in a University investigation under Section 11 of the Student Code of Conduct; and
12. a copy of this Policy.

If the investigation reveals the existence of additional or different potential violations of this Policy, including a violation of a Supportive Measure, the Title IX Office will issue a supplemental notice of allegation.

2. Informal Resolution

Stevens may resolve reports through informal resolution, as appropriate based on the circumstances. Informal resolution is available only once a Formal Complaint has been filed (prior to a determination of responsibility), and if the Complainant, the Respondent, and Stevens voluntarily consent to the process in writing. Informal resolution is not available in cases in which an employee is alleged to have sexually harassed a student. In all cases, the Title IX Coordinator will have discretion to determine whether or not informal resolution is appropriate under the circumstances.

An informal resolution will include involvement of a facilitator (who may be the Title IX Coordinator), as deemed appropriate by Stevens.

Informal resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent; and/or indirect action by the Title IX Coordinator. Any person who facilitates an informal resolution will be trained and free from conflicts of interest or bias for or against either party.

If the parties are interested in pursuing informal resolution, the Title IX Coordinator (or a designee) will send written notices to the parties describing:

1. The allegations at issue;
2. The requirements of the informal resolution;
3. The circumstances under which the parties are precluded from resuming a formal resolution arising from the same allegations;
4. The right to end the informal resolution process at any time prior to resolution and resume the Formal Complaint process;
5. The consequences of participating in the informal resolution, including records and communications created or maintained as part of the informal resolution process may be viewed by the parties, or later used or considered in a Formal Complaint process, including at a hearing.

All parties will be required to sign the written notice agreeing to the informal resolution process before it may proceed.

If a resolution is reached between the parties, the matter will be considered closed, and the parties will be precluded from filing another complaint arising from the same conduct or set of facts. Prior to reaching a resolution, any party may withdraw from the informal resolution process and resume the formal resolution process. Stevens will strive to complete an informal resolution within thirty (30) days of the parties' written agreement to participate in the process.

3. Formal Resolution Process

a. Expectations of Parties⁴

During the investigation and resolution process, both the Complainant and Respondent will have equitable access to process, which includes:

- i. the opportunity to receive a written notice of investigation;
- ii. to participate in the investigation;

⁴ Complainants have additional rights outlined in the Sexual Assault Victim's Bill of Rights available at: https://www.njleg.state.nj.us/2018/Bills/S1000/875_11.HTM

- iii. to review and present information and evidence;
- iv. to be accompanied by an advisor of their choice to any meeting;
- v. to timely and equal access to all information gathered that is directly related to the allegations in the Formal Complaint, as well as the information contained in the investigation report which will be used in the proceedings;
- vi. to timely written notice of meetings at which their presence will be requested or required, including the purpose of the meeting and participants, with sufficient time to prepare;
- vii. to notice of the hearing;
- viii. to question the other party during the hearing through the party's advisor;
- ix. to simultaneous written notice of the outcome, sanction, and rationale;
- x. and to appeal the outcome.

b. Obligation to Participate by University Employees

The University expects all members of the faculty and staff to cooperate fully in the investigation of complaints. Any faculty or staff member who is the subject of, a potential witness regarding, or the recipient of a report of misconduct covered by this Policy and refuses to cooperate in an investigation is subject to discipline up to and including termination of employment.

c. Assignment of Investigator

The Title IX Coordinator will appoint one or more Investigators to investigate the allegations in the Formal Complaint. The role of the Investigator will be to gather information through interviews of the Complainant, Respondent, and witnesses, and the collection of documents, and synthesize the information in a report that will be provided to the Complainant, Respondent, and the Hearing Officer.

d. Information Gathering

1. *Generally:* During an investigation, the Investigator will meet separately with the Complainant, Respondent, and relevant witnesses. The Investigator will also gather documents, photographs, communications between the parties, and other electronic records as appropriate. The Investigator may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the Investigator may consult medical, forensic, technological, or other experts or publications when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation. The Investigator may also consider information publicly available from social media or

other online sources that comes to the attention of the Investigator. The Title IX Office does not actively monitor social media or online sources, however, and as with all potentially relevant information, the Complainant, Respondent, or witness should bring online information to the attention of the Investigator.

2. *Witnesses:* Witnesses are individuals who may have information related to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the incident, the disclosure, or related matters. Witnesses may also be offered by a party or by Stevens to provide subject matter expert information. Witnesses may include individuals outside the University community.
3. *Privileged Records:* The Investigator 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. If a person voluntarily chooses to share medical or counseling records with the Investigator, they must sign a written consent that acknowledges that relevant information from the medical or counseling records must be shared with the other party to ensure the other party has notice of that information and an opportunity to respond.
4. *Obligation on the University:* The Investigator may receive any information presented by the parties, but the Investigator, not the parties, is responsible for gathering relevant evidence. The Complainant and Respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications, and other evidence, if available. The parties are encouraged to provide all relevant information as promptly as possible to facilitate prompt resolution. In the event that a party declines to voluntarily provide material information or delays in doing so, the University's ability to conduct a prompt, thorough, and equitable investigation may be impacted. Stevens will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
5. *Timeline:* The Investigator will seek to complete the fact gathering stage of the investigation within sixty (60) business days of the issuance of the notice of investigation. As detailed later in this Policy, The Title IX Coordinator and Investigator may grant temporary delays of the investigation or the limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action.
6. *New or Evolving Evidence:* During the course of the investigation, the parties should bring any new or evolving evidence, such as harassing or retaliatory conduct, to the attention of the Investigator or Title IX

Coordinator. The Investigator may consider such information in the investigation and will also share any information about retaliation or violation of the terms of a Supportive Measure with the Title IX Coordinator for further action.

e. **Evidence Review**

At the conclusion of the fact-gathering stage, prior to the completion of the investigation report, the Investigator will make information gathered in the investigation available for review by the parties and their advisors. 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 the evidence which will not be relying upon in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The Investigator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have ten (10) business days to submit a written response, which the Investigator will consider prior to completion of the investigative report.

f. **Determinations of Relevancy:**

1. *Relevancy Generally:* The Investigator will review all information identified or provided by the parties and will determine the relevance of the information developed or received during the investigation. Relevant information is information that tends to make a material fact at issue more or less probable. The following forms of evidence are considered irrelevant:
 - a. *Privileged Records:* A party's medical, counseling, or legal records are not relevant and may not be included in the investigation report or hearing, unless the party gives their voluntary, written consent to do so. In those instances, the relevant information from the records must be shared with the other party.
 - b. *Prior Sexual History of a Complainant:* A Complainant's prior sexual history is generally not relevant, except in two circumstances.
 - i. To show consent. Where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent alleges the conduct was consensual, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of this Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.
 - ii. To show someone other than Respondent engaged in the conduct.

- c. *Prior or Subsequent Conduct by a Respondent:* In gathering information, the Investigator may also consider other reports of, or findings of responsibility for, prior or subsequent conduct by the Respondent to the extent such information is relevant and available. Such information may be relevant to prove motive, intent, absence of mistake, pattern or another material fact. For example, where there is evidence of a pattern or conduct similar in nature by the Respondent, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant and probative to the determination of responsibility and/or assigning of a sanction. Where there is a prior finding of responsibility for a similar act of misconduct, there is a presumption of relevance and the finding may be considered in making a determination as to responsibility and/or assigning of a sanction.

Any party seeking to introduce information about prior sexual history or pattern evidence should bring this information to the attention of the Investigator at the earliest opportunity.

g. Investigation Report

The Investigator will produce a written investigation report that fairly summarizes the relevant information and facts, both inculpatory and exculpatory, gathered during the investigation. As noted above, the Investigator has the discretion to determine the relevance of any witness or other evidence. The investigation report will include the Investigator's assessment of credibility and recommended finding on responsibility, but the Hearing Officer has the ultimate and independent decision-making authority on credibility and responsibility.

The Title IX Coordinator will provide the investigation report, along with a written notice of hearing, to the parties, their advisors, and the Hearing Officer, in an electronic format or hard copy format ten (10) days prior to the scheduled hearing. Each of the Complainant and Respondent may submit a written response to the investigation report within five (5) business days.

h. Dismissal of Formal Complaint

After reviewing the investigation report, the Title IX Coordinator will review the matter to determine whether it should be dismissed under the Title IX regulations, as outlined in Section VII.

i. Acceptance of Responsibility

At any point during the investigation, the Respondent may elect to accept responsibility for some or all of the Policy violations at issue. Where there is an acceptance of responsibility as to some but not all of the charges, the investigation will continue to conclusion. Where there is an acceptance of responsibility as to all of the potential Policy violations, the Investigator will complete an investigation

report of all information gathered to date and refer the matter for sanctioning as described below.

j. Notice of Hearing

The Title IX Coordinator or designee will provide the Complainant and Respondent with a written notice of hearing at least five (5) days prior to the hearing. The notice of hearing will include:

1. the specific policy violations that will be the subject of the hearing;
2. the date time, and location of the hearing;
3. the name of the Hearing Officer;
4. how to challenge participation of the Hearing Officer on the basis of conflict of interest or bias;
5. the right to have an advisor present at the hearing and conduct cross-examination on the party's behalf;
6. that Stevens will provide an advisor, without fee or charge, to conduct cross-examination on behalf of the party at the hearing if the party does not have an advisor present for the hearing;
7. how to request that witnesses be present at the hearing; and,
8. information about the hearing format.

k. Impact and Mitigation Statements

Prior to the start of the hearing, the Complainant may submit a written statement describing the impact of the Title IX Misconduct on the Complainant. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions(s) imposed, if any. In the event of a finding of responsibility, the Title IX Coordinator will provide any such statement(s) to the Sanctioning Officer. Each party has the opportunity to view the other party's statement.

l. Standard of Review

The standard of review that the University will use when reviewing a Formal Complaint and making related determinations is the standard of preponderance of the evidence. This means that the University will decide whether it is more likely than not, based upon the information provided in the investigation report (only including statements that are subject to cross-examination) and at the hearing, that the Respondent is responsible for the alleged violation(s).

m. **Hearing Officer**

The Title IX Coordinator will assign the matter to a trained Hearing Officer who is free from a conflict of interest or bias. The Hearing Officer will oversee a live hearing, determine whether questions asked by the parties' advisors are relevant (as described above), evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and make a full and fair determination as to responsibility.

n. **Live Hearing**

1. **Hearing Format**

The Hearing Officer has the discretion to determine the format for the hearing and its deliberations. Typically, the parties will have an opportunity to provide an opening statement to the Hearing Officer. Each party will then have an opportunity to address the Hearing Officer and respond to questions by the Hearing Officer or, as described below, by the other party's advisor. The Hearing Officer will also hear from relevant witnesses, including the Investigator.

Each party will have the opportunity to question the other party, the witnesses, and the Investigator through their advisor directly, orally, and in real time. Only relevant questions may be asked of a party or witness. Before a Complainant, Respondent, or witness responds to a question, Hearing Officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant, as defined in this Policy.

After all parties and witnesses have been heard, each party will have an opportunity to provide a closing statement. At the conclusion of the hearing, the Hearing Officer will deliberate in private to determine whether there is sufficient evidence, by a preponderance of the evidence, that the Respondent engaged in conduct that violated this Policy.

2. **Evidence Considered at the Hearing**

At the Hearing, the parties may address any information in the investigative report and supplemental statements submitted in response to the investigative report. Stevens will make all evidence provided in the evidence review described above available to the parties at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

If a party or witness does not submit to questioning by the other party's advisor at the hearing, the Hearing Officer may not rely on any statement of that party or witness in reaching a determination regarding responsibility. The Hearing Officer may not draw any inference from the decision of a party or witness not to participate at the hearing.

3. Provision of Advisor

If a party does not have an advisor present at the hearing, Stevens will provide an advisor, free of charge, who may be, but is not required to be, an attorney, for questioning on behalf of that party.

4. Location of Hearing

The hearing will be live and the participants must be able to simultaneously see and hear each other. Hearings may be conducted with all parties present in the same geographic or virtual location, or at the request of either party, the hearing can occur with the parties located in separate rooms (or virtual rooms) with technology enabling the Hearing Officer and parties to simultaneously see and hear the party or the witness answering questions.

5. Record of Hearing

The hearing will be audio-recorded and Stevens will make the recording available to the parties for review. Neither the parties, nor any participants or observers, will be permitted to make any audio or video recordings.

6. Determination by the Hearing Officer

After the Hearing Officer has concluded its review of the investigation report and any additional information provided during the hearing, the Hearing Officer shall render a determination whether the evidence presented establishes, by a preponderance of the evidence, that the Respondent engaged in Title IX Misconduct in violation of this Policy. The Hearing Officer may reach credibility determinations, but may not base credibility determinations on a person's status as a Complainant, Respondent or witness.

7. Written Notice of Outcome

The Hearing Officer will prepare a written decision and rationale, including a finding of responsibility or non-responsibility, and a rationale. The Title IX Coordinator will issue the written notice of outcome to the Complainant and Respondent within ten (10) business days (or longer for good cause) following the conclusion of the Hearing. The notice of outcome will include:

- a. Identification of the allegations potentially constituting Title IX 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, as applicable;
- c. Findings of fact supporting the determination;
- d. Conclusions regarding the application of the Policy to the facts; and

- e. A statement of, and rationale for, the result as to each alleged Policy violation, including a determination regarding responsibility.

For findings of non-responsibility, the Title IX Coordinator will issue the notice of outcome to the parties simultaneously, along with the procedures and permissible bases for the Complainant and Respondent to appeal the outcome.

For findings of responsibility, the Title IX Coordinator will issue the written notice of outcome to the Complainant, Respondent and Sanctioning Officer.

8. **Determination of Sanction**

The Sanctioning Officer is responsible for reviewing the written notice of outcome, the investigation report, any mitigation or impact statements submitted by the parties, and all other submissions from the parties, and determining the appropriate sanction. For student Respondents, the Sanctioning Officer is the Assistant Vice President for Student Affairs. For employee Respondents, the Sanctioning Officer is the Vice Provost for Academic Innovation and Faculty Affairs.

Sanctions imposed upon students can include a range of sanctions including, warning, censure, education, counseling, disciplinary probation, loss of privileges, suspension or expulsion from a residence hall or Greek housing, suspension or expulsion from University premises, and/or suspension or expulsion from the University's academic programs. Any of these forms of sanction may be supplemented with additional required actions to be taken by the Respondent. Sanctions imposed on employees can include a range of sanctions including, warning, censure, education, counseling, disciplinary probation, paid or unpaid suspension of employment, demotion, or termination of employment. The imposition of sanctions will take effect immediately and will not be stayed pending the resolution of any appeal.

In determining sanction, the Sanctioning Officer will consider the following factors:

- the nature and severity of the conduct;
- the impact of the conduct on the Complainant;
- the impact or implications of the conduct on the community or Stevens;
- prior misconduct for which the Respondent has been found responsible, including the Respondent's relevant prior discipline history, both at Stevens and elsewhere (if available), including criminal convictions;
- whether the Respondent has accepted responsibility for the conduct;
- maintenance of a safe and respectful environment conducive to learning, including whether there is a continued hostile environment on campus caused by the Respondent's conduct;
- presence or absence of bias as a motivation for the Respondent's conduct;
- protection of the Stevens community requiring extended protective measures or other sanctions; and
- any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

- o. The Sanctioning Officer will draft a sanctioning determination that will include the findings, sanction(s) and the rationale for each sanction and will forward it to the Title IX Coordinator within ten (10) business days of the conclusion of the Hearing (or longer for good cause) for simultaneous distribution to the parties. **Remedies**

The Sanctioning Officer will also determine whether to provide additional remedies to the Complainant to restore and preserve the Complainant's equal access to the University's Education Program and Activity(ies). Examples of such remedies may include the provision of counseling opportunities, academic services, escort services, and/or training for members of the Stevens community, as well as making modifications to class scheduling and/or housing assignments. Requests for changes to academic, living, transportation, or working situations, or other protective measures or accommodations should be made to the Title IX Coordinator or Deputy Title IX Coordinator. The Title IX Coordinator is responsible for implementation of remedies for the Complainant.

p. **Appeals**

- 1. **Appeal Grounds:** Each party has the right to appeal a dismissal of the Formal Complaint, a final determination of responsibility and/or the resulting sanction(s) based on the following limited grounds:

- (a) Procedural irregularity that affected the outcome of the matter and/or sanction(s);
- (b) New evidence, not reasonably available at the time of the hearing regarding responsibility or dismissal of the Formal Complaint, that could affect the outcome of the matter;⁵
- (c) The Title IX Coordinator, Investigator(s), or Hearing Officer or Sanctioning Officer 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.

A concise written request for appeal must be submitted to the Title IX Coordinator within five (5) business days following delivery of the notice of the outcome. Each party may respond in writing to any appeal submitted by the other party. Written requests for appeal submitted by one party will be shared with the other party.

2. **Appeal Procedures**

- a. *For Student and Employee Respondents:* Appeals are reviewed by designated Appellate Authorities, depending on the status of the

⁵The time frame for filing an appeal based on newly discovered information may be extended at the discretion of the Title IX Coordinator where the evidence could not reasonably have been discovered within the timeframe and a compelling justification exists for its consideration.

Respondent. Appeals for Students Respondents are reviewed by the Vice President for Enrollment Management and Student Affairs. Appeals for Employee Respondents are reviewed by the Vice President for Human Resources. Either party may challenge the Appellate Authority on the basis of conflict of interest or bias.

Upon receipt of the appeal:

1. The Appellate Authority will review the investigation report and notice of outcome, and may elect to meet with the parties.
 2. Within fifteen (15) working days of receipt of the appeal, the Appellate Authority will render a decision using the preponderance of the evidence standard and will simultaneously inform the parties of the decision in writing.
 3. The options available to the Appellate Authority are to: (A) affirm the findings, disciplinary decision and/or the sanction(s); (B) modify the findings, disciplinary decision and/or sanction(s); or (C) in the event of significant new evidence, order a new adjudication process based on the totality of the evidence.
 4. The decision by the Appellate Authority is final. No further appeals are available.
- b. *Tenured and Tenure-Track Faculty* who have received a proposed sanction of dismissal or suspension without pay are entitled to request that the charges be reviewed according to the procedures set forth in Section 3.9 of the Faculty Handbook. This additional review process is not for the purpose of re-evaluating whether the misconduct occurred but rather for determining whether the finding of misconduct justifies the discipline imposed.
- c. *Bargaining Unit Employees* may resort to the grievance procedures of the applicable collective bargaining agreement. This additional review process is not for the purpose of re-evaluating whether the misconduct occurred but rather for determining whether the finding of misconduct justifies the discipline imposed.

XIV. RECORDS

The Title IX Coordinator will create, and maintain the following records for a period of seven years:

- a. Records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint;
- b. The records of each Title IX Misconduct investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript created, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant;

- c. Records of any appeal and the result therefrom;
- d. Records of any informal resolution and the result therefrom; and
- e. All materials used to train Title IX Coordinators, Investigators, Hearing Officers, Sanctioning Officers and any person who facilitates an informal resolution process.

A complaint which is resolved by the Title IX Coordinator or Deputy Title IX Coordinator's initial assessment or informal resolution will not be part of a student's conduct file or academic record or employee's personnel file, unless specifically agreed to in the written terms of the informal resolution. Affirmative findings of responsibility in matters resolved through formal resolution will be part of a student's conduct record or employee's personnel file. Such records may be used in reviewing any further conduct or in developing sanctions. The University reserves the right to include any records regarding complaints against non-student employees in the employee's personnel file.

XV. TRAINING, PREVENTION AND EDUCATION

The University provides training to students and employees to ensure they understand this Policy and the topics and issues related to maintaining an education and employment environment free from harassment and discrimination. The University is committed to the prevention of Title IX Misconduct through regular and ongoing education and awareness programs. Incoming students and new employees receive primary prevention and awareness programming as part of their orientation, and returning students and current employees receive ongoing training and related education.

Additionally, the University will ensure that the Title IX Coordinator, any Investigator, any Hearing Officer, any Sanctioning Officer, any Appeal Authority, and any person designated to facilitate an informal resolution process receive training as required by the Clery Act and the Title IX regulations. Any materials used to train any such persons must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints of Title IX Misconduct. Stevens will make these training materials publicly available on its website.