



# TITLE IX SEXUAL MISCONDUCT POLICY AND GRIEVANCE PROCEDURES

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# TITLE IX SEXUAL MISCONDUCT POLICY

AD-CO-PO-001

## Policy Scope

This Title IX Sexual Misconduct Policy (“the Policy”) applies to all university faculty, staff, students, and third parties within the university’s control, including applicants for admission or employment.

## Policy

Our Lady of the Lake University (OLLU) is a Catholic institution, sponsored by the Congregation of Divine Providence. The staff and faculty at OLLU place a high commitment to the core values of community, integrity, trust, and service, and it is our policy to provide an educational experience and workplace free of sexual misconduct. OLLU prohibits sexual misconduct, which includes sex and gender-based discrimination, sexual harassment, and violence, including acts of sexual assault, dating violence, domestic violence, and stalking, which may also constitute crimes. OLLU has a responsibility to address sexual misconduct in accordance with several federal laws including, but not limited to, Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act, the Violence Against Women Act, the Clery Act and the Campus Save Act as well as Texas state laws, including Ch 51 of the Texas Education Code.

University programs and activities that receive federal funding must comply with all federal and state laws. No individual shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity operated by the university. These programs and activities may include, but are not limited to admissions, recruitment, financial aid, academic programs, student services, counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, housing and employment.

OLLU not only complies with all state and federal statutes, regulations, executive orders, and federal government contracts/programs, but it has also instituted comprehensive education and primary prevention programs as well as grievance procedures which strive to ensure integrity and trust when complaints regarding sexual misconduct, including sexual harassment, sexual assault, dating violence, domestic violence and stalking emerge.

Victims of sexual misconduct, including sexual harassment, sexual assault, dating violence, domestic violence, or stalking have a right to report the incident to OLLU and to receive a prompt and equitable resolution of the report. Victims of a crime have a right to choose whether to report the crime to law enforcement, to be assisted by OLLU in reporting the crime to law enforcement or to decline to report the crime to law enforcement. Nevertheless, it is important that a victim go to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident. Preserving evidence may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order.

We believe that all human beings are inherently sacred and deserve dignity and respect and every community member is expected to be respectful in all interactions as part of the learning experience.

### Statement on Religious Exemption

Title IX and its implementing regulation at 34 C.F.R. § 106.12 provides that Title IX does not apply to an educational institution controlled by a religious organization to the extent that application of Title IX would be inconsistent with the controlling organization's religious tenets.

OLLU has identified specific provisions of the law that conflict with specific tenets of the Congregation of Divine Providence. Title IX and its implementation at 34 C.F.R. § 106.45 (governing the grievance process for formal complaints of sexual harassment) requires advisors to conduct cross-examination of parties and witnesses during a live hearing. It also requires that if a party or witness does not submit to cross-examination, the decision-maker may not consider the information previously provided in reaching a determination regarding responsibility.<sup>1</sup> Additionally, this section prohibits utilizing an informal resolution process to resolve allegations that an employee sexually harassed a student.

We believe that all human beings are inherently sacred and deserve dignity and respect and every community member is expected to be respectful in all interactions as part of the learning experience.

Requiring OLLU to comply with 34 C.F.R. § 106.45 would be contrary to and inconsistent with the following tenants of our Catholic Social Teaching. The cornerstone of Catholic social teaching is the defense of human dignity. Every person has innate and infinite dignity imparted by God. All action in and by society may be judged as just or unjust, good or sinful, based on whether or not they uphold this fundamental dignity intrinsic to every

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<sup>1</sup> The U.S. Department of Education explained in an [August 24, 2021 letter](#) to students, educators, and other stakeholders, the Department will no longer enforce the part of 34 C.F.R. § 106.45(b)(6)(i) regarding the prohibition against statements not subject to cross-examination. Although postsecondary institutions are no longer subject to this part of the provision, the university will continue to address this section in the Statement on Religious Exemption until this part is repealed.

human life. Sexual harassment is a violation of human dignity and having a victim share their story at a hearing cannot only retraumatize a victim but, it is also a violation of the human dignity of the person.

The principle of subsidiarity; what individuals can accomplish by their own initiative and efforts should not be taken from them by a higher authority. OLLU is very equipped in that we have professionals on staff and have implemented specific procedures related to the grievance process to efficiently and effectively ensure that all the parties involved will be treated with dignity and respect throughout process.

As a Catholic university sponsored by the Sisters of Divine Providence, OLLU has incorporated specific procedures related to the grievance process to ensure the Title IX Sexual Misconduct Policy and Grievance Procedures are consistent with the religious tenants articulated above.

## Glossary

**Actual Knowledge** – when an “Official with Authority,” such as the Title IX Coordinator, receives notice of alleged misconduct that meets the definition of “sexual harassment” under the Title IX regulations, as described below, the university has “actual knowledge” and must respond appropriately.

**Advisor** – a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process and to advise the party on that process, as necessary.

**Appeals Panel** – a panel of members selected from the University Grievance Committee (UGC) responsible for rendering appeal decisions. The role of the appeals panel is to review the process by which an original decision was reached and render an appellate decision, consistent with the grounds for appeal.

**Complainant** – an individual who has experienced the alleged sexual harassment. The Complainant may be referred to as victim/survivor, and is considered a Complainant regardless of whether they choose to file a formal complaint of sexual harassment under Title IX.

**Complaint** – an oral or written report of an alleged violation of this regulation. A complaint may be filed by a complainant, any OLLU employee or student, or a third party. The complaint does not have to meet the definition of a “formal complaint” (see below).

**Confidential** – communication that cannot legally be disclosed to another person without the consent of the individual who originally provided the information, except under very limited circumstances such as allegations of elderly, disabled or child abuse; an imminent threat of injury or to the life of any person; or as required by law.

**Confidential Employee** – a designated employee who may receive complaints and maintain confidentiality. OLLU Confidential Employees include the university chaplain, OLLUCares confidential advisors, and OLLU counseling services providers, but only when they are acting in their official professional capacity. Confidential Employees are required to provide general non-identifying information for statistical purposes, as required to comply with the Clery Act and Texas law, and must report to the Title IX Coordinator any type of sex-based incident made known to them, but may not include any information that would violate that person’s expectation of privacy. Exceptions to confidentiality/privacy include reports of child abuse, abuse or neglect of disabled or elderly persons, and when a party poses an imminent danger to themselves or others, or as required by law.

**Day** – a business day when OLLU is in normal operation, which is typically Monday – Friday, except university holidays or closures.

**Decision Panel** – a panel of members selected from the Title IX Decision Committee (TDC) who have decision-making and sanctioning authority within OLLU’s formal grievance process. This may not include a person with a

clear conflict of interest or personal bias. The role of the designated administrator is to determine whether or not allegations of misconduct rise to the level of a violation of this regulation based on the evidence provided and utilizing the preponderance of the evidence standard.

**Education program or activity** – locations, events, or circumstances where OLLU exercises substantial control over both the Respondent and the context in which the sexual misconduct occurs and also includes any building owned or controlled by a student organization that is officially recognized by OLLU.

**Employee** – all personnel employed by OLLU including faculty, staff and students who receive compensation in either a full- or part-time capacity. Employees who are also students would have their status in the grievance process determined by the context of the allegations; these individuals are subject to grievance processes, as well as student conduct and employment standards.

**Final determination** – conclusion by the preponderance of evidence that the alleged conduct occurred and whether it did or did not violate policy.

**Formal complaint** – document or electronic submission (such as by electronic mail or through an online form provided for this purpose) signed by a Complainant, or signed by the Title IX Coordinator, alleging sexual harassment against a Respondent and requesting that OLLU investigate the allegation(s). The formal complaint must contain the Complainant's physical or digital signature, or otherwise indicate that the Complainant is the person filing the formal complaint. Alternatively, a Title IX Coordinator may sign a formal complaint but is not a Complainant or otherwise a party to the formal complaint.

**Formal grievance process** is a method of formal resolution designated by OLLU to address conduct that falls within the policies included below, and which complies with the requirements of 34 CFR Part 106.45, and in accordance with 34 C.F.R. § 106.12.

**Informal resolution** – when the parties agree to informally resolve the matter through a negotiated resolution or restorative justice resolution. Informal resolutions may or may not involve the establishment of findings of fact and the application of sanctions.

**Investigator** – the person or persons charged by OLLU with gathering facts about an alleged violation of the Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

**Mandated Reporter** means an employee of OLLU who, in the course and scope of their employment, witnesses or receives information regarding the occurrence of an incident that they reasonably believe constitutes sexual harassment, sexual assault, dating violence or stalking against an OLLU student or OLLU employee has a mandatory duty by law to promptly report the incident to the Title IX Coordinator.<sup>2</sup>

**Misconduct** – an action or actions that violate published behavioral standards.

**Objectively offensive** – behavior determined by a reasonable person to be offensive.

**Offensive** – actions that cause unreasonable harm or distress to another individual or group of people.

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<sup>2</sup> Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy.

**Notice** means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

**Official with Authority (OWA)** – an employee of OLLU explicitly vested with the responsibility to implement corrective measures on behalf of OLLU, such as the Title IX Coordinator.

**Parties** – the Complainant(s) and Respondent(s), collectively.

**Preponderance of the evidence** – what is more likely than not to be true, based on the totality of the available evidence. The preponderance of the evidence is the standard of evidence used for all determinations made under the Policy.

**Private** – that which affects, characterizes, or belongs to an individual person, as opposed to the general public. With respect to this regulation, private means restricting information to those with a reasonable need to know.

**Reasonable person** – a comparative standard on one person’s assessment of an action, actions, or situation compared with how most persons might act or react based on similar circumstances. This standard considers the identities of an individual as well as the context of the actions being evaluated.

**Remedies** – post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to OLLU’s educational program.

**Reporter** – an individual who observed or was made aware of an alleged violation and who provides an initial oral or written account of an alleged violation of this regulation. This may be the Complainant or a third party.

**Respondent** – an individual who has been accused of the alleged sexual harassment or misconduct.

**Resolution** – the result of an informal or formal grievance process.

**Sanction** – a consequence imposed by OLLU on a Respondent who is found to have violated the Policy.

**Student** – an individual enrolled or someone who has accepted an offer of admission or, if not currently enrolled, otherwise has a continuing relationship with OLLU; for example, someone enrolled in a future semester. Students who are also employees would have their status in the grievance process determined by the context of the allegations; these individuals are subject to grievance processes as well as student conduct and employment standards.

**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 OLLU’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or OLLU’s educational or work 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 or workplace, and other similar measures.

**Title IX Coordinator** – an OWA employee designated by OLLU to ensure compliance with Title IX and authorized to coordinate OLLU’s efforts to comply with its responsibilities under the Title IX of the Education Amendments of 1972 Act. References to the Coordinator throughout the Policy may also include Title IX Deputy Coordinators for specific tasks.



## Prohibited Conduct: Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking

The U.S. Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Texas regard sexual harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

Additionally, sexual harassment, including other sexual misconduct offenses, may also violate the [OLLU Nondiscrimination Policy](#) when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

### Title IX Sexual Misconduct Policy Definitions

OCR further defines sexual harassment as an umbrella category, and includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. Allegations of such sexual harassment incidents will be addressed by the Title IX Office through the Title IX Sexual Misconduct Grievance Procedures ("the Procedures").

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual harassment, as an umbrella category, includes the actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

**Sexual harassment** – a form of sex discrimination. Unwelcome conduct on the basis of sex (of a sexual nature or otherwise): (1) by an employee of the member who conditions the provision of an aid, benefit, or service of the member on an individual's participation in that unwelcome sexual conduct<sup>3</sup>; (2) determined by a reasonable person to be so severe<sup>4</sup> and pervasive<sup>5</sup> and objectively offensive<sup>6</sup> that it effectively denies a person equal access to the member's education program or activity; or (3) sexual assault or dating violence, domestic violence, or stalking based on sex.

**Sexual assault**<sup>7</sup> – an offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI's Uniform Crime Reporting system. A sex offense is any sexual act directed against another person, without

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<sup>3</sup> Quid pro quo sexual harassment means "this" for "that"; i.e., unwelcome sexual advances, requests for sexual favors or other verbal, nonverbal or physical conduct of a sexual nature, the submission to or rejection of which may result in an adverse educational or employment action.

<sup>4</sup> Severe: of sufficient seriousness to interfere with the rights, privileges, and legal activities of an individual, as well as actions that would be deemed by a reasonable person to be extreme or life threatening.

<sup>5</sup> Pervasive: conduct existing in or spreading over a large area of an activity or program over a period of time.

<sup>6</sup> Objectively offensive: behavior determined by a reasonable person to be offensive. Offensive: actions that cause unreasonable harm or distress to another individual or group of people.

<sup>7</sup> See the Texas definitions of:

- Sexual assault, [Tex. Penal Code § 22.011](#)
- Indecent assault, [Tex. Penal Code § 22.012](#)
- Aggravated sexual assault, [Tex. Penal Code § 22.021](#)
- Prohibited sexual conduct, [Tex. Penal Code § 25.02](#)

the consent of the victim, including instances in which the victim is incapable of giving consent. These offenses are defined as:

**Rape:** the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**Fondling:** the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

**Incest:** sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory Rape:** sexual intercourse with a person who is under the statutory age of consent.

**Dating violence**<sup>8</sup> – violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

(a) The existence of such a relationship will be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

(b) For the purposes of this definition:

(1) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(2) Dating violence does not include acts covered under the definition of domestic violence. [34 U.S.C. 12291(a)(10)]

**Domestic violence**<sup>9</sup> – a felony or misdemeanor crime of violence committed by:

(a) a current or former spouse or intimate partner of the victim;

(b) a person with whom the victim shares a child in common;

(c) a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;

(d) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or

(e) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. [34 U.S.C. 12291(a)(8)]

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<sup>8</sup> See [Tex. Fam. Code § 71.0021](#), regarding the definition of dating violence

<sup>9</sup> Domestic violence is “family violence” in Texas law; see [Tex. Fam. Code § 71.004](#). To categorize an incident as domestic violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

**Stalking**<sup>10</sup> – engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (a) fear for the person's safety or the safety of others; or
- (b) suffer substantial emotional distress.

For the purposes of this definition:

- (a) *Course of conduct* means 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.
- (b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- (c) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. [34 CFR 668.46(a)]

## Other Sexual Harassment Definitions

Allegations involving sexual harassment that do not meet the definitions provided by OCR, as described in the section above, will be referred to Student Conduct or Human Resources, and addressed through procedures elaborated in OLLU student and employee handbooks. For example:

- The EEOC defines sexual harassment as any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.
- The State of Texas defines sexual harassment as unwelcome, sex-based verbal or physical conduct that in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile or offensive work environment; or in the education context, is sufficiently severe, persistent or pervasive that the conduct interferes with a student's ability to participate in or benefit from the University's educational programs and activities.

OLLU reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct may not result in the imposition of discipline, but may be addressed through educational conversation, remedial actions, and/or other informal mechanisms.

## Force, Coercion, Consent, and Incapacitation<sup>11</sup>

As used in the offenses above, the following definitions and understandings apply:

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<sup>10</sup> See [Tex. Penal Code § 42.072](#), regarding the definition of stalking

<sup>11</sup> Consent is defined in the [Tex. Penal Code § 1.07\(11\)](#) as assent in fact, whether express or apparent. Without consent is also defined in the [Tex. Penal Code § 22.011\(b\)](#) within the definition of sexual assault. Per Texas law, a sexual assault is without the consent of the other person if: (1) the actor compels the other person to submit or participate by the use of physical force, violence, or coercion; (2) the actor compels the other person to submit or participate by threatening to use

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Consent:** To be effective, consent must be an informed, deliberate, and voluntary decision to engage in mutually acceptable sexual activity. Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

When investigating acts of sexual misconduct, OLLU will also consider the following to be true with respect to determining whether consent did or did not exist during a sex act:

- Consent to engage in a sexual activity must exist from beginning to end of each instance of sexual activity.
- Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity.

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force or violence against the other person or to cause harm to the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person’s power to appraise or control the other person’s conduct by administering any substance without the other person’s knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat; (8) the actor is a public servant who coerces the other person to submit or participate; (9) the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person’s emotional dependency on the actor; (10) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person’s emotional dependency on the clergyman in the clergyman’s professional character as spiritual adviser; (11) the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under Chapter 2, Family Code; or (12) the actor is a health care services provider who, in the course of performing an assisted reproduction procedure on the other person, uses human reproductive material from a donor knowing that the other person has not expressly consented to the use of material from that donor.

- Silence alone, without actions evidencing permission, does not demonstrate consent. Consent must be knowing and voluntary.
- To give consent, a person must be statutory age of consent in Texas, which is 17 years old.
- Assent does not constitute consent if obtained through coercion or from an individual whom the alleged offender knows or reasonably should know is incapacitated.
- The responsibility of obtaining consent rests with the person initiating the sexual activity.
- Use of alcohol and drugs does not diminish one's responsibility to obtain consent.
- Consent to engage in sexual activity may be withdrawn by any person at any time.
- Once withdrawal of consent has been expressed, the sexual activity must cease.
- Consent is automatically withdrawn by a person who is no longer capable of giving consent.
- A current or previous consensual dating or sexual relationship between the persons involved does not itself imply consent or preclude a finding of responsibility.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

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

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

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on OLLU to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

**Incapacitation:** A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates the Policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

The Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

## Consensual Relationships

Affirmative consent in the context of sexual activity is defined as a knowing, voluntary, and mutual decision among all participants to engage in the course of a mutually agreed upon sexual activity. The person giving consent must act freely, voluntarily and understand the nature of consent.

A consensual sexual relationship between a faculty or staff member and a student does not necessarily equate to sexual harassment or misconduct. The Policy, however, prohibits consensual sexual relationships between a faculty or staff member and a student whenever the faculty or staff member is in a position of professional responsibility with respect to the student, in a position to make or influence decisions, or to confer or withhold benefits relating to the student's education or employment. The description of the roles and responsibilities of the individuals, rather than job titles, will drive OLLU decision-making regarding whether an individual is or was in a position of professional responsibility with respect to a student. Therefore, graduate students and teaching assistants should take care to understand the appropriate boundaries with respect to students in classes over which they have responsibility and decision-making.

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty member and student or supervisor and employee). These relationships may, in reality, be less consensual than perceived by the individual whose position confers power or authority. Similarly, the relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Circumstances may change, and conduct that was once welcome may, at some point in the relationship, become unwelcome.

Even when both parties have initially consented to romantic or sexual involvement, the possibility of a later allegation of a relevant policy violation still exists. OLLU does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of OLLU. However, for the personal protection of members of this community, relationships in which power differentials are inherent (e.g., faculty-student, staff-student) are generally discouraged. They may also violate standards of professionalism and/or professional ethics.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or otherwise evaluative role over the other party are inherently problematic. Therefore, persons with direct supervisory or otherwise evaluative responsibilities who are involved in such relationships must bring these relationships to the timely attention of their supervisor. The existence of this type of relationship will likely result in removing the supervisory or evaluative responsibilities from the employee or shifting a party from being supervised or evaluated by someone with whom they have established a consensual relationship. When an affected relationship existed prior to adoption of the Policy, the duty to notify the appropriate supervisor still pertains.

While no relationships are prohibited by the Policy, failure to timely self-report such relationships to a supervisor as required can result in disciplinary action for an employee. The Title IX Coordinator will determine whether to refer violations of this provision to Human Resources for resolution, or to pursue resolution under this Policy, based on the circumstances of the allegation.

## Additional Sexual Misconduct Offenses

In addition to the forms of sexual harassment described in the previous section, which fall within the coverage of Title IX, OLLU additionally prohibits other forms of sexual misconduct that does not otherwise constitute sexual harassment under the Policy. The following examples of sexual misconduct will be referred to Student Conduct or Human Resources, and addressed through procedures elaborated in OLLU student and employee handbooks:

- Sexual Exploitation, defined as: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited.

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent)
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Creation, possession, or dissemination of child pornography
- Any other conduct of a sexual nature that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing a person, that does not otherwise constitute sexual harassment under the Policy

## Jurisdiction of OLLU

The Policy applies to the education program and activities of OLLU, to conduct that takes place on the campus or on property owned or controlled by OLLU, at OLLU-sponsored events, or in buildings owned or controlled by OLLU's recognized student organizations. The Respondent must be a member of OLLU's community in order for the Procedures to apply. The Complainant must be participating or attempting to participate in the university's education program or activity at the time they file the formal complaint.

The Policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to OLLU's educational program. OLLU may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial OLLU interest.

Regardless of where the conduct occurred, OLLU will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial OLLU interest includes:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational interests or mission of OLLU.

If the Respondent is unknown or is not a member of the OLLU community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of OLLU's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator or Confidential Employees.

In addition, OLLU may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from OLLU property and/or events.

All vendors serving OLLU through third-party contracts are subject to the policies and procedures of their employers or to the Policy and Procedures to which their employer has agreed to be bound by their contracts.

### Online Harassment and Misconduct

The policies of OLLU are written and interpreted broadly to include online and cyber manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on OLLU's education program and activities or use OLLU networks, technology, or equipment.

Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of OLLU's control (e.g., not on OLLU networks, websites, or between OLLU email accounts) will only be subject to the Policy when such online conduct affects a substantial OLLU interest.

### Title IX Coordinator

OLLU has designated a Title IX Coordinator to coordinate OLLU's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under the Policy.

The Title IX Coordinator manages the Title IX Office and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under the Policy and Procedures. All persons of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the President or Vice President of Administration. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the President or Vice President of Administration. Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator.

Contact information for the Title IX Coordinator and Deputy Coordinators is available in *Appendix A*.

### Reporting Title IX Sexual Misconduct

Notice of alleged policy violations, or inquiries about or concerns regarding the Policy may be made using any of the following options:



- 1) File an [online Title IX Incident Report](#), or give verbal notice to, the Title IX Coordinator at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator in *Appendix A* of the Policy. For more information on the Policy and Procedures, including reporting options, visit [www.ollusa.edu/titleix](http://www.ollusa.edu/titleix).
  - a. If a report has not yet been submitted, the Title IX Coordinator will ask the person reporting to fill out an online Title IX incident form that specifies the nature of the complaint. Any person reporting may request and receive assistance completing the form. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the reporting party to ensure that it is filed correctly.

The Title IX Coordinator or Deputy Coordinator will explain their role in resolving the complaint and will provide a description of the degrees of privacy that can be provided by campus and non-campus resources. Additionally, the Title IX Coordinator or Deputy Coordinator will explain the grievance process and the individual will be given the option of seeking an informal or formal resolution to the complaint. OLLU can, and will, take prompt steps to protect the Complainant as necessary, including providing supportive measures before the final outcome of the investigation. Students, faculty and staff have access to a variety of support services, some of which are fully confidential. Specific information, including names and contact information, for law enforcement and university support services can be found in *Appendix B*.

Counseling is available upon request for any alleged victim or alleged perpetrator of an incident of sexual misconduct. Such counseling will be provided by a counselor who does not provide counseling to any other person involved in the incident. Additionally, in the event that parties to an alleged incident of sexual misconduct are both enrolled in an academic course, such course may be dropped by either party without academic penalty as one of many available supportive measures described in the Policy below.

In the case of an allegation of sexual misconduct that is a violation of the code of conduct or policy against a student enrolled at OLLU, OLLU will take reasonable steps to protect the student and the alleged victim from retaliation and harassment during the pendency of the disciplinary process, and will provide the student and alleged victim the following:

- A prompt and equitable opportunity to present witnesses and other evidence relevant to the alleged violation;
  - Reasonable and equitable access to all evidence relevant to the alleged violation in OLLU's possession, including:
    - Any statements made by the alleged victim or by other persons;
    - Information stored electronically;
    - Written or electronic communications;
    - Social media posts;
    - Or physical evidence, redacted as necessary to comply with any applicable federal or state law regarding confidentiality.
- 2) Inquiries about Title IX may be directed to OLLU's Title IX Coordinator, to the U.S. Department of Education Assistant Secretary, or both. The Assistant Secretary can be contacted at U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Avenue S.W., Washington, D.C. 20202, or 1-800-421-3481. Complaints regarding students or employees can also be made externally to the Office for Civil Rights (OCR) <http://www.ed.gov/ocr> and complaints involving employees to the Equal Employment Opportunity Commission (EEOC) <http://www.eeoc.gov/contact/>.

## Anonymous Reports

Anonymous reports are accepted but may require more information to investigate. OLLU tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as OLLU respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows OLLU to discuss and/or provide supportive measures. Even if sanctions against a particular individual cannot be sought, anonymous reports can assist the Title IX Coordinator in identifying areas of campus concern and can lead to positive systemic changes. **NOTE: OLLU employees cannot fulfill their mandatory reporting requirements by reporting anonymously.**

## Request Not to Investigate

If an alleged victim of a reported incident of sexual misconduct requests the institution not to investigate the incident, OLLU may investigate the incident in a manner that ensures that confidentiality provisions set forth in state law are provided. See the privacy and confidentiality section of the Policy for more information. In determining whether to move forward with an investigation under these circumstances, the institution shall consider the seriousness of the alleged incident; whether the institution has received other reports of sexual misconduct committed by the alleged perpetrator; whether the alleged incident poses a risk of harm to others; and any other factors the institution deems relevant. If the determination is made to not move forward with an investigation under these circumstances, OLLU shall take any steps determined necessary to protect the health and safety of the institution's community in relation to the alleged incident; and shall inform the alleged victim requesting that the incident not be investigated of its decision.

## Mandated Reporting Requirements for Responsible Employees

Employees of OLLU who, in the course and scope of their employment, witness or receive information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence or stalking against an OLLU student or OLLU employee have a mandatory duty pursuant to state law to promptly report the incident to the Title IX Coordinator or Deputy Coordinator. Student employees such as Resident Assistants and Teaching Assistants must also comply with this requirement even if their primary role on the campus is a student.

All incidents must be reported **within 72 hours** of learning of the event with full detail to the Title IX Coordinator, including whether confidentiality has been requested by the student or employee complainant. The Title IX Coordinator will make a determination as to whether OLLU can provide a safe nondiscriminatory environment for its students while honoring the request.

Exceptions:

- Information regarding sexual misconduct disclosed to OLLU Confidential Employees (including the university chaplain, OLLUCares confidential advisors, and OLLU counseling services providers, but only when they are acting in their official professional capacity) is confidential and may be shared only with the alleged victim's consent. The provider must provide aggregate data or other non-identifying information regarding these incidents to the Title IX Coordinator.
- Incidents in which the person was an alleged victim of sexual misconduct.
- Incidents in which the person received the information due to a disclosure at a sexual misconduct public awareness event sponsored by OLLU or by a student organization affiliated with OLLU, such as "Take Back the Night" or other similar events.

The Title IX Coordinator will ask the reporting employee to fill out the online Title IX incident report form describing the nature of the incident or will assist the employee in doing so. The report must include all

information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident. After the report is filed, campus officials may require additional information to fulfill the university's obligations under Title IX or other state or federal laws.

### Reporting to Law Enforcement

Individuals may choose to report crimes to law enforcement, or may choose to report through the campus disciplinary process, may report to both, or may choose to access neither of these options.

Survivors of sexual assault, domestic violence, dating violence, or stalking, or persons who have information regarding these crimes, are strongly encouraged to immediately report the incident to the OLLU Police Department (OLLUPD), by calling 210-433-0911, or 911 for the police department within the jurisdiction of the incident. OLLUPD will report acts of sexual misconduct to the OLLU Title IX Coordinator.

It is OLLUPD's policy to conduct investigations of all sexual assault, domestic and dating violence, and stalking complaints with sensitivity, compassion, patience and respect for the victim. Investigations are conducted in accordance with guidelines established by the Texas Penal Code, Code of Criminal Procedure, and the District Attorney's Office of respective jurisdictions. All information and reports of sexual assault are kept strictly confidential in accordance with the [Texas Code of Criminal Procedures Article 57](#), victims may use a pseudonym to protect their identity. A pseudonym is a set of initials or a fictitious name chosen by the victim to be used in all public files and records concerning the sexual assault and domestic and dating violence.

Reporting a sexual misconduct incident to the OLLU Title IX Coordinator or Title IX Deputy Coordinators does not mean the victim must press charges or take the case to criminal trial or to a university disciplinary hearing. However, reporting to OLLUPD or other law enforcement agencies may have the discretion to pursue a criminal case with or without the victim's cooperation. Even if a victim is undecided about filing criminal charges, calling the police, preserving evidence, and going to the hospital will provide for their emotional and medical needs and preserve the option to file criminal charges at a later time.

### When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether OLLU proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires OLLU to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. OLLUs may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and OLLU's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When OLLU proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant.

Note that OLLU's ability to remedy and respond to notice may be limited if the Complainant does not want OLLU to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing OLLU's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow OLLU to honor that request, OLLU will offer Informal Resolution options, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by OLLU, and to have the incidents investigated and properly resolved as described in the Procedures.

### **Procedures to Follow if a Crime of Sexual Assault, Domestic Violence, Dating Violence, or Stalking Has Occurred**

It is the policy of OLLU to provide victims of sexual assault, domestic violence, dating violence, or stalking, with written information about procedures to follow if a crime has occurred.

#### **Written Notice**

Following a report of sexual harassment, sexual assault, dating violence, domestic violence, or stalking, whether the offense occurred on or off-campus, OLLU will provide the student or employee a written explanation of the student's or employee's rights and options, which include the Policy and Procedures for disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking. OLLU will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available to victims, both within the institution and in the community. The victim has the right to be notified of counseling services, both on and off campus. OLLU will provide written notification to victims about available options and assistance in the following, including how to request these changes and who to contact at the institution: academic situations, living situations, transportation situations, working situations, and protective measures. The OLLU Cares program can provide a confidential advisor to assist as a support person for the victim throughout the process. A list of OLLU and community support resources is available in *Appendix B*.

#### **Preserving Evidence**

It is important to preserve evidence that may be useful in obtaining a protection order or in proceeding with a criminal investigation should you choose to do so. The Non-Reported Sexual Assault Evidence Program allows survivors of a sexual assault to obtain a forensic medical exam and have evidence collected, without cost to the

victim, even if they do not wish to involve law enforcement personnel at the time of its collection. This will secure the evidence while giving the survivor time to consider if they want to report the assault.

Completing a forensic exam does not require a person to file a police report or report to the institution, although OLLU encourages these reports if the victim is comfortable doing so.

If possible, victims should not bathe, douche, smoke, use the toilet or clean the location where the incident occurred. Try to save items that were worn, including, sheets, or towels in a paper bag. There is a recommended 48-hour time frame in which forensic evidence can be gathered. If the victim choose to prosecute, or seek a protective order, evidence taken at this time will be vital. If the assault occurred weeks or months before, medical attention is still important. Medical exams can also address other physical needs or trauma and assess for sexually transmitted infections or pregnancy

For all types of crime, it is important to consider preserving other forms of evidence, including but not limited to text messages, emails, social media postings, photographs and/or video, notes, and gifts can all be pertinent for a report of sexual assault, dating violence, domestic violence or stalking.

### Protective Orders

Victims of sexual assault, domestic and dating violence, and stalking are eligible to apply for protective orders and/or no-contact orders or similar lawful orders issued by a criminal, civil, or tribal court. Protective Orders may prohibit the offender from committing further acts of family violence; or harassing or threatening the victim, either directly or indirectly by communicating the threat through another person. No Contact Orders are a court order or administrative order that prohibits someone from contacting another person in any way. Texas law provides for the criminal enforcement of valid protective orders issued by a Texas court and valid out of state protective orders. OLLUPD and OLLUCares can assist victims with the process. For more information on protective orders, contact OLLUPD at (210) 431-4022, OLLUCares at (210) 668-0016, or the local District Attorney's Office.

Additionally, OLLU can issue Title IX No Contact Directives, to prevent contact between two individuals. These are provided and are enforced through the Title IX Office as described in the Procedures.

### Sexual Offender Registration

Convicted sex offenders are required to register with local law enforcement in the jurisdiction where they live. That information also is provided to the Texas Department of Public Safety, which maintains a public database of names, crimes and addresses. Information concerning Sex Offender Registration information and registered sex offenders is found at the Texas Department of Public Safety web site for Sex Offender Registration at: <https://publicsite.dps.texas.gov/SexOffenderRegistry>

### Privacy and Confidentiality

Every effort is made by OLLU to preserve the privacy of reports. OLLU will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under the Policy and Procedures.

OLLU reserves the right to designate which OLLU officials have a legitimate educational interest in being informed about incidents that fall within the Policy, pursuant to FERPA.

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Division of Student Affairs, Division of Academic Affairs, Division of Administration, OLLU Police, and the Behavior Intervention Team. Information will be shared as necessary with investigators, decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy. OLLU may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

OLLU will maintain the confidentiality of the supportive measures, including accommodations or protective measures, provided that the extent of maintaining the confidentiality does not impair OLLU's ability to provide the supportive measures.

The degree to which privacy can be provided and confidentiality can be protected depends upon the professional role of the person being consulted as well as whether the individual has waived confidentiality. An individual can speak confidentially with certain persons in legally protected roles. Counselors and medical providers at the Community Counseling Service and the University Chaplain are in roles that allow them to have varying degrees of confidentiality in their communications. For example, physicians, nurses, psychologists, psychiatrists and social workers must report a sexual assault committed against a person under 18 years of age and vulnerable adults.

Unless waived in writing by the alleged victim, the identity of an alleged victim of a mandatory employee incident report is confidential and may be disclosed only to:

- Persons employed by or under contract with OLLU who are necessary to conduct an investigation of the report or any related hearings
- A law enforcement officer as necessary to conduct a criminal investigation of the report
- The person(s) alleged to have perpetrated the incident, to the extent required by other law
- Potential witnesses to the incident as necessary to conduct an investigation of the report

**Level 1- The Most Confidential Communication:** Conversations with the chaplain, medical personnel, counselors, confidential advisors, afford Complainants and Respondents the highest level of confidentiality. Conversations with the chaplain, medical personnel and counselors, confidential advisors and/or student advocates are not disclosed to anyone (unless there is a threat of physical harm to that individual or others or another mandatory reason pursuant to state or federal law exists) without the expressed or written permission of the person seeking advice.

**Level 2 - Private Communication:** OLLU Employees and the Title IX Coordinator, including Title IX Deputy Coordinators, afford Complainants and Respondents private but less confidential communication. OLLU employees have been designated as mandatory reporters of information regarding sexual misconduct of which they are aware. They will report all relevant details of which they are aware to a Title IX Deputy Coordinator, who can have a private communication with the alleged victim. While the Title IX Coordinators are able to answer questions, provide guidance, discuss options, resolve disputes, and, when necessary, refer persons to other appropriate resources, the communication is less protected than a Level 1 communication. Title IX Coordinators will make all attempts to keep an investigation as private as possible. They will also honor an alleged victim's wishes to maintain privacy to the extent that is possible depending on the circumstances alleged.

***Disciplinary action cannot be pursued without informing the Respondent of the Complainant's identity.*** It may also be determined that the allegations constitute such a serious threat to the well-being of the community that maintaining complete privacy or resolving the matter without a Formal Complaint is inappropriate or would place the campus community in danger. In such cases, the University reserves the right to pursue further action.

**NOTE:** A victim's personally identifying information will not be included in any publicly available recordkeeping, including Clery Act reporting and disclosures such as the annual security report and the daily crime log.

## Supportive Measures

OLLU will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual misconduct.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to OLLU's education program or activity, including measures designed to protect the safety of all parties, to include OLLU's workplace or educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, OLLU will inform the Complainant, in writing, that they may file a formal complaint with OLLU either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

OLLU will maintain the confidentiality of the supportive measures, including accommodations or protective measures, provided that the extent of maintaining the confidentiality does not impair OLLU's ability to provide the supportive measures. OLLU will act to ensure as minimal an academic impact on the parties as possible. OLLU will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to applicable employee assistance options
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- No Contact Orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

A list of OLLU and community support resources is available in *Appendix B*.



## Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to OLLU's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

## Promptness

All allegations are acted upon promptly by OLLU once it has received notice or a formal complaint. Complaints can take **60-90 calendar days** to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but OLLU will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in the Procedures will be delayed, OLLU will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

## Duty of Good Faith

Members of the university community have a duty of good faith when making a report of sexual misconduct.

Deliberately false and/or malicious accusations under the Policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under OLLU policy.

## Retaliation is Prohibited

Retaliation against a student or employee for bringing a complaint of sexual misconduct or participating in a sexual misconduct investigation is strictly prohibited. It is prohibited for OLLU or any member of OLLU's community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege of protected activity secured by law or 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 the Policy and Procedure.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Depending on the nature of the allegations, reports of retaliation may be referred to Student Conduct or Human Resources, and addressed through procedures elaborated in OLLU student and employee handbooks.

When reports of retaliation are made, immediate and appropriate steps to investigate or otherwise determine what has occurred will be made. OLLU will also take measures to protect the parties and ensure their safety as necessary.



Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment (i.e. collateral misconduct), for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

It is unlawful and actionable to retaliate against an individual for the purpose of interfering with any right or privilege secured by federal or Texas law. The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under the Policy and Procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

OLLU is committed to the prevention of retaliation. OLLU students, staff and faculty will be informed on an annual basis that retaliation is prohibited and officials will not only take steps to prevent retaliation, but will also take strong responsive action if it occurs.

### **Amnesty for Reporting Parties and Witnesses**

OLLU encourages the reporting of misconduct and crimes by parties and witnesses. Sometimes, Complainants or witnesses are hesitant to report to OLLU officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident.

It is in the best interests of the OLLU community that Complainants choose to report misconduct to OLLU officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, OLLU maintains a policy of offering amnesty from policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

In accordance with state law, universities may not take any disciplinary action against an enrolled student or employee who in good faith reports to the university being the victim of, or a witness to, an incident of sexual harassment, sexual assault, dating violence, or stalking for a violation by the student or employee of the university's code of conduct occurring at or near the time of the incident and reasonably related to the incident, for which suspension, expulsion, or dismissal from the university is not a possible punishment, regardless of the location at which the incident occurred or the outcome of the university's disciplinary process regarding the incident, if any. This does not apply to a student or employee who reports their own commission or assistance in the commission of sexual harassment, sexual assault, dating violence, or stalking.

OLLU may investigate to determine whether a report of an incident of sexual harassment, sexual assault, dating violence, or stalking was made in good faith. While policy violations cannot be overlooked, OLLU may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

## Freedom of Speech

OLLU supports an individual's right to freedom of speech as guaranteed by the First Amendment to the United States Constitution. The intent of the Policy is to protect students affiliated with OLLU and not to regulate protected speech. OLLU acknowledges that the higher education community is a place in which ideas are shared and sometimes ideas and concepts are unpopular or not shared by others in the academic community. The Policy does not prohibit controversial topics or speech. The policy addresses speech that infringes upon the rights of others to take part in the educational opportunities provided by OLLU.

## Academic Freedom

In the event that a student has a complaint regarding the content of an academic course, the manner in which it is being taught, or speech that takes places within the academic setting, the entire context of the complaint and any relevant academic policies will be considered to ensure that issues more appropriately characterized as "academic freedom" are not being investigated as sexual harassment. The fact that speech takes places within an academic setting is not automatically characterized as allowable pursuant to "academic freedom;" however, instructors have leeway to discuss or allow discussions regarding potentially controversial or uncomfortable topic that are relate to the subject matter being taught.

## Disabilities Accommodations in the Resolution Process

OLLU is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to OLLU's resolution process.

Anyone needing such accommodations or support should contact the Accessibility Services Office for student requests, or Human Resources for employee requests. They will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

## Sharing Information with Other Postsecondary Institutions

On request by another postsecondary institution, OLLU shall provide information relating to a determination by an institution that a student enrolled at OLLU violated the OLLU Student Code of Conduct by committing sexual misconduct. Additionally, and regardless of whether the information is requested, OLLU will make a notation of the transcript of a student who is ineligible to reenroll for a reason other than an academic or financial reason stating or indicating this fact. This notation will be made after a final determination of responsibility is made regardless of whether the decision is made before or after the withdrawal of a student from OLLU.

## Memorandum of Understanding (MOU) With Local Entities and Agencies

To facilitate effective communication and coordination regarding allegations of sexual misconduct at OLLU, the university shall enter into a MOU with one or more of the following:

- Local law enforcement agencies;
- Sexual harassment, sexual assault, dating violence, or stalking advocacy groups; and
- Hospitals or other medical resource providers.

## Revision of the Policy and Related Procedures

OLLU reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect. The Policy supersedes any previous policy(ies) addressing Title IX sexual harassment and/or sexual misconduct. In compliance with Ch 51 of the Texas Education Code, the OLLU Board of Trustees, as governing board, shall review this Policy every two years, and with approval of the governing board, revise as necessary. In the interim, the OLLU President's Council is empowered to approve any changes to this Policy so long as they do not materially alter the requirements that are set forth in Ch 51 of the Texas Education Code. The Title IX Coordinator may, upon approval of the Chief Administrator of that division, make minor routine updates (e.g. URL links, office locations and contact information, etc.) to provide necessary clarification to the appendix sections of this Policy. of this policy will not require prior approval of the governing board.

During the resolution process, the Title IX Coordinator may make minor modifications to the Procedures that do not materially jeopardize the fairness owed to any party. The Title IX Coordinator may also vary the Procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in the Policy and Procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

## Appendix A: Title IX Coordinators

OLLU has appointed a team of individuals to serve as the Title IX Coordinator and Title IX Deputy Coordinators. These individuals are tasked with ensuring responsive actions at the individual and university levels.

The Title IX Coordinator and Title IX Deputy Coordinators are available to serve all constituents at OLLU. You are not required to go to the coordinator assigned to you as you can go to whoever you feel most comfortable. The Title IX Deputy Coordinators may reach out to the Title IX Coordinator and to other Title IX Deputy Coordinators within the OLLU community for assistance and to coordinate complaint investigation and resolution as they deem necessary and appropriate. Please note that all online faculty, staff and students should submit complaints to the San Antonio Campus contacts. Reports involving the Rio Grande Valley and Houston campuses will be investigated jointly by the contact on that campus and the San Antonio campus contacts.

### The Title IX Coordinator

Nicole Monsibais, JD  
Title IX Coordinator  
Moye Hall, Room 107  
Our Lady of the Lake OLLU  
411 S.W. 24th Street  
San Antonio, Texas 78207  
210-431-6552  
[titleix@ollusa.edu](mailto:titleix@ollusa.edu)

### The Title IX Coordinator at OLLU is primarily responsible for:

- ensuring OLLU responsibilities are met, especially those related to training of students, staff, faculty and those with Title IX responsibilities
- coordinating the work of all OLLU departments that are engaged in Title IX efforts and overseeing the school's response to Title IX reports and complaints
- assigning complaints to Title IX Deputy Coordinators for investigation
- making determinations regarding emergency removal, complaint dismissal, and/or the need to assign an outside independent investigator if deemed necessary
- receiving investigation reports from the Title IX Deputy Coordinators
- facilitating interrogatories between parties
- coordinating meetings between decision-makers
- ensuring that the Title IX Team receives training
- ensuring complaints are handled through consistent practices and standards
- reviewing all complaints received to identify and address any patterns or systemic problems or potential problems
- monitoring the overall climate of OLLU for the purpose of addressing areas of concern and identifying primary prevention and education needs
- assessing a student's request for confidentiality in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students
- coordinating the implementation of corrective measures for harassment, discrimination, and/or retaliation as an Official with Authority on behalf of OLLU

## Title IX Deputy Coordinators

A current list of Title IX Deputy Coordinators is available at [www.ollusa.edu/titleix](http://www.ollusa.edu/titleix).

### The Title IX Deputy Coordinators at OLLU are primarily responsible for:

- serving as the main contact to individuals during the investigation of complaints
- assessing a student's request for confidentiality in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students
- acting as an impartial source of assistance in the informal resolution of disputes
- upon receiving complaints, investigating the incident, overseeing the investigation of the incident, or otherwise ensuring that an investigation takes place given access to school law enforcement unit investigation notes and findings as necessary for the Title IX investigation, so long as it does not compromise the criminal investigation
- identifying and implementing necessary supportive measures

## Appendix B: University and Community Support Resources

Students, faculty and staff have access to a variety of support services, some of which are fully confidential. A current list of on-campus and community resources available at <https://www.ollusa.edu/consumer-information/policies/title-ix/support-resources.html>.

**The Title IX Office can assist with providing supportive measures and identifying on-campus and community resources.**

- 210-431-6552
- [titleix@ollusa.edu](mailto:titleix@ollusa.edu)
- [www.ollusa.edu/titleix](http://www.ollusa.edu/titleix)

### Campus Resources - *Confidential*

**OLLUCares Confidential Advisors** – OLLUCares provides confidential support and assistance to survivors, including students, faculty and staff. Confidential Advisors can meet with survivors to discuss civil and criminal options; accompany survivor to meetings with law enforcement or university administration; accompany survivors to medical or mental health appointments; assist in obtaining no-contact orders; make necessary classroom and housing adjustments; access campus and community resources, including locating other services available to survivors in other areas.

- OLLUCares Line: 210-668-0016
- [ollucares@ollusa.edu](mailto:ollucares@ollusa.edu)
- <https://www.ollusa.edu/health-safety/ollu-cares/index.html>

**Office of Counseling Services** - The Office of Counseling Services provides psychological services and support for enrolled students that enhance psychological and emotional growth. The counseling department provides a limited number of psychological services to University students and their families utilizing brief therapeutic models. Services are free to students.

- 210-431-5520
- [wellnesscenter@ollusa.edu](mailto:wellnesscenter@ollusa.edu)
- <https://www.ollusa.edu/health-safety/counseling-services/>

**Community Counseling Service** - The Community Counseling Service (CCS) offers individual, couple/marital, or family counseling and psychological testing. The CCS staff is concerned with the mental health needs of San Antonio, including OLLU students. Confidential services are provided free to the OLLU community.

- 210-434-1054
- [ccs@ollusa.edu](mailto:ccs@ollusa.edu)
- <https://ccsweb.ollusa.edu/>

#### Other Wellness Services for Students - *Private*

**Accessibility Services Office** – The Accessibility Services Office provides reasonable accommodations to ensure students with disabilities can participate in and benefit from all of our campus, programs and activities. The office also provides accommodations to students with temporary impairments or health conditions, including pregnant and parenting students, which are evaluated on case-by-case basis.

- 210-431-4010
- [ada@ollusa.edu](mailto:ada@ollusa.edu)
- <https://www.ollusa.edu/academics/academic-support/accessibility-services.html>

**Health Education Resource Office** – The Health Education Resource Office (HERO) assists students with accessing medical care either through TimelyCare, available 24/7, or by helping students connect with an area health care provider and providing guidance on using insurance benefits. HERO also provides information on preventative care and health education.

- 210-431-3919
- [healthservices@ollusa.edu](mailto:healthservices@ollusa.edu)
- <https://www.ollusa.edu/health-safety/health-services/index.html>

#### Employee Assistance Options and Referrals - *Private*

**OLLU Human Resources** – Employee Benefits and Wellness Programs Manager

- 210-431-3920
- [hrteam@ollusa.edu](mailto:hrteam@ollusa.edu)
- <https://www.ollusa.edu/human-resources/index.html>

#### Law Enforcement

##### **San Antonio POLICE-FIRE-EMS**

- Dial: 911 for any emergency from any campus phone
- Dial: 210-433-0911 when calling from a cell phone or off-campus phone
- OLLUPD Non-Emergency: 210-431-4022
- San Antonio Police Department Non-Emergency: 210-207-7273
- Or by using the Blue Light Emergency Telephones located in parking lots and by Walter Center. You may also use the emergency red phones in buildings, and elevators which are marked to contact University Police.

##### **Houston POLICE-FIRE-EMS**

- Dial: 911 for any emergency from any campus phone
- Houston Police Department Non-Emergency: 713-884-3131
- OLLUPD Houston Campus Non-Emergency: 346-342-1300

##### **La Feria POLICE-FIRE-EMS**

- Dial: 911 for any emergency from any campus phone

- La Feria Police Department Non-Emergency: 956-797-3121
- OLLUPD Rio Grande Valley Campus Non-Emergency: 956-200-9762

## Appendix C: Statement of Rights of The Parties

The Parties have the right to:

- A prompt, fair, and impartial process from the initial investigation to the final result, completed within the timeframes laid out by our policy in a manner that is transparent, provides timely notice of meetings and equal access to information to both the Complainant and the Respondent, and conducted by officials without a conflict of interest or bias for either party that receive annual training on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability
- Have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of your choice
- Notification, in writing, of:
  - The result of any institutional disciplinary proceeding from your report of dating violence, domestic violence, sexual assault, or stalking
  - The institution's procedures to appeal the results
  - Any change to the results
  - When the result becomes final

## Appendix D: Primary Prevention and Awareness Programs

This policy provides much information regarding the university's policies and procedures after a sex offense has occurred. However, OLLU has a comprehensive primary prevention and awareness outreach program that is directed at all incoming students and new employees. A comprehensive list of strategies and prevention and awareness programs that comprise the OLLU outreach program is available in the office of the Title IX Coordinator. For purposes of Primary and Prevention Awareness and Outreach Programs, the following definitions are relevant:

**Primary prevention programs** - programming, initiatives and strategies intended to stop dating violence, domestic violence, sexual assault and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

**Awareness programs** - community-wide or audience-specific programming initiatives and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety and reduce perpetration.

**Ongoing prevention and awareness campaigns** - programming, initiatives and strategies that are sustained over time.

**Bystander intervention** - safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. It includes recognizing situations of potential harm; understanding institutional structures and cultural conditions to facilitate violence; overcoming barriers toward intervening; identifying safe and effective intervention options; and taking action to intervene.

**Risk reduction** - options designed to decrease perpetration and bystander inaction; increase empowerment for victims in order to promote safety; and help individuals and communities address conditions that facilitate violence.

**Victim empowerment program** – community-wide or audience-specific programming initiatives that empower victims to know that their well-being and personal safety matters.

### Safe and Positive Options for Bystander Intervention

OLLU expects all community members to take reasonable and prudent actions to prevent or stop a crime. Taking action may include direct intervention, calling law enforcement, or seeking assistance from a person in authority. Community members who choose to exercise this positive moral obligation will be supported by the University and protected from retaliation.

**Ask yourself if it's safe to intervene:** Safety is key in deciding when and how to respond to domestic and sexual violence while it is occurring. If the situation is already violent or looks like it is escalating quickly, don't directly intervene. Call 911.

**Distract:** If you've decided that you can safely intervene, you can create a distraction in an indirect and non-confrontational way. You can disrupt the situation just by talking, like striking up a conversation about anything to help keep a potentially dangerous situation from escalating. Your goal is to prevent a situation from getting worse, or better yet, buy enough time to check in with the potential victim and ask them if they are okay.

- **TIP→** Ask for directions, the time, help looking for a lost item, or anything else that you think might keep them from leaving quickly. Better yet, if you can use a distraction that will get you a moment alone with the victim, you may have a moment to check with him/her and see if he/she wants any help. "Hey, I think your car is getting towed outside. I will stay here with your friend, while you go and check it out." "Hey, do you mind if I steal my friend for a second? It's an emergency."

**Direct:** If you don't have a lot of time, you can still speak out and say what's happening isn't right and reassure the mistreated person they don't deserve these actions. If you feel comfortable approaching the victim, you could check in and simply say, "I'm concerned about what just happened. Is anything wrong?" You can also let them know that free and confidential help is available help for victims, their children & pets. Save the number of the National Hotlines in your phone in case you meet someone who needs it.

**Delegate:** If you don't feel comfortable directly talking with someone or distracting them, look for someone else who might be able to help you intervene – power in numbers can be one of the most valuable tools, or you can look for someone else who might be in a better position to get involved – i.e. tell the bouncer, find the person's friends, or call the authorities.

### Information on Risk Reduction

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk of experiencing a non- consensual sexual act.

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor "NO!" clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.



If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.

## Appendix E: Administrative Compliance Requirements

### Title IX Coordinator Quarterly Report

Not less than every three (3) months, the Title IX Coordinator shall submit a written report to the OLLU chief executive officer on the required employee reports, including information regarding the investigation of the reports, the disposition, if any, that resulted from the reports, and the reports for which the institution determined not to initiate a disciplinary process, if any. Additionally, if the Title IX Coordinator or Deputy Coordinator has reason to believe based on a required report that the safety of any person is in imminent danger as a result of the reported incident, a report to the OLLU chief executive officer shall be made immediately.

If five or more reports are made in a fall or spring semester, a report shall be submitted to the governing board and posted on the OLLU website including the following information:

- Number of mandatory reports received by employees
- Number of investigations conducted as a result of the reports
- Disposition, if any, of any disciplinary processes arising from the reports
- Number of reports for which the institution determined not to initiate a disciplinary process

### Records Retention and Disclosure

The university will retain a confidential record of sexual misconduct, dating violence, domestic violence, stalking and discrimination including the complaint and the results of the proceedings.

OLLU will maintain for a period of at least seven years records of:

- Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
- Any disciplinary sanctions imposed on the Respondent;
- Any remedies provided to the Complainant designed to restore or preserve equal access to OLLU's education program or activity;
- Any appeal and the result therefrom;
- Any Informal Resolution and the result therefrom;
- All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an Informal Resolution process. OLLU will make these training materials publicly available on OLLU's website; and
- Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - The basis for all conclusions that the response was not deliberately indifferent;
  - Any measures designed to restore or preserve equal access to OLLU's education program or activity; and
  - If no supportive measures were provided to the Complainant, document the reasons why such a

response was not clearly unreasonable in light of the known circumstances.

OLLU will also maintain any and all records in accordance with state and federal laws. The existence and contents of these records may not be publicly disclosed by the university without the written consent of the person about whom the information is sought, except as permitted by the Family Educational Rights and Privacy Act or as required by law or a valid court order. The complaint record may otherwise be used by the university for legitimate internal purposes relating exclusively to the enforcement of this policy.

A disclosure to a victim of an alleged perpetrator of the final results of the disciplinary proceeding conducted by OLLU with respect to a crime of violence or a non-forcible sex offense may be made without prior written consent of the eligible student, regardless of whether it is determined that a violation was committed. In accordance with federal law, if the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph. Other disclosures may also occur in accordance with Family Rights and Privacy Act (FERPA).

### Notification of Policy

All incoming students and new employees are required to review and acknowledge an online Title IX Sexual Misconduct Policy training orientation as part of their onboarding process. Current students and employees are required to review and acknowledge an online Title IX Sexual Misconduct Policy training on an annual basis. The Office of Human Resources distributes this policy as part of the employee handbook and the Office of Student Affairs distributes it to students as part of the student handbook. The policy is electronically distributed to the OLLU community on an annual basis and it is always available on the university portal and the public website to staff members, faculty, administration, Board of Trustees and the public. In collaboration with the Title IX Coordinator, the Office of Human Resources and the Office of Student Affairs will conduct workshops for all students, staff and faculty with the goal of providing necessary information on resources, support options and the ultimate goal of preventing incidents of this nature from occurring on campus.

### Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- VAWA crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be passed along to OLLU Police regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: student affairs/student conduct staff, university police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

## Appendix F: Training Requirements

Each peace officer employed by OLLU shall complete training on trauma informed investigation into allegations of sexual misconduct.

All proceedings related to the Policy are conducted by officials appointed to the Title IX Team including who, at a minimum, receive annual training on issues related to dating violence, domestic violence, sexual assault and stalking, as well as how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. These officials, including Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, also receive training on:

- The scope of OLLU's Title IX Sexual Misconduct Policy and Grievance Procedures
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by OLLU with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including determinations, deliberations, appeals, and Informal Resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations

The materials used to train all officials appointed to the Title IX Team are publicly posted at [www.ollusa.edu/titleix](http://www.ollusa.edu/titleix).

## Appendix G: Policy Examples

### Sexual Harassment

Some examples of possible sexual harassment include:

- A professor offers for a student to have sex or go on a date with them in exchange for a good grade. This constitutes sexual harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised, or a bad grade is threatened.
- A student repeatedly sends graphic, sexually-oriented jokes and pictures around campus via social media to hundreds of other students. Many don't find it funny and ask them to stop, but they do not.

Because of these jokes, one student avoids the sender on campus and in the residence hall in which they both live, eventually asking to move to a different building and dropping a class they had together.

- A professor engages students in class in discussions about the students' past sexual experiences, yet the conversations are not in any way germane to the subject matter of the class. The professor inquires about explicit details and demands that students answer them, though the students are clearly uncomfortable and hesitant.
- An ex-partner widely spreads false stories about their sex life with their former partner to the clear discomfort and frustration of the former partner, turning the former partner into a social pariah on campus.
- Chris has recently transitioned from male to non-binary, but primarily expresses as a female. Since their transition, Chris has noticed that their African Studies professor, Dr. Mukembo, pays them a lot more attention. Chris is sexually attracted to Professor Mukembo and believes the attraction is mutual. Chris decides to act on the attraction. One day, Chris visits Dr. Mukembo during office hours, and after a long conversation about being non-binary, Chris kisses Dr. Mukembo. Dr. Mukembo is taken aback, stops the kiss, and tells Chris not to do that. Dr. Mukembo explains to Chris that they are not interested in Chris sexually or romantically. Chris takes it hard, crying to Dr. Mukembo about how hard it is to find someone who is interested in them now based on their identity. Dr. Mukembo feels sorry for Chris and softens the blow by telling them that no matter whether they like Chris or not, faculty-student relationships are prohibited by OLLU. Chris takes this as encouragement. One night, Chris goes to a gay bar some distance from campus and sees Dr. Mukembo at the bar. Chris tries to buy Dr. Mukembo a drink and, again, tries to kiss Dr. Mukembo. Dr. Mukembo leaves the bar abruptly. The next day, Chris makes several online posts that out Dr. Mukembo as gay and raise questions about whether they are sexually involved with students. Dr. Mukembo contacts the Title IX Office and alleges that Chris is sexually harassing him.

## Stalking

- Students A and B were friends with benefits. Student A wanted a more serious relationship, which caused student B to break it off. Student A could not let go, and pursued student B relentlessly. Student B obtained a campus no-contact order. Subsequently, Student B discovered their social media accounts were being accessed, and things were being posted and messaged as if they were from them, but they were not. Whoever accessed their account posted a picture of a penis, making it look as if they had sent out a picture of themselves, though it was not their penis. This caused them considerable embarrassment and social anxiety. They changed their passwords, only to have it happen again. Seeking help from the Title IX Coordinator, Student B met with the IT department, which discovered an app on their phone and a keystroke recorder on their laptop, both of which were being used to transmit their data to a third party.
- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate it if the gift deliveries stopped. The student then started leaving notes of love and gratitude on the tutor's car, both on-campus and at home. Asked again to stop, the student stated by email, "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. If I can't have you, no one will."

## Sexual Assault

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 p.m. until 3:00 a.m., Bill uses every line he can

think of to convince Amanda to have sex with him, but she adamantly refuses. Despite her clear communications that she is not interested in doing anything sexual with him, Bill keeps at her, questions her religious convictions, and accuses her of being “a prude.” He brings up several rumors that he has heard about how she performed oral sex on a number of other guys. Finally, it seems to Bill that her resolve is weakening, and he convinces her to “jerk him off” (hand to genital contact). Amanda would have never done it but for Bill's incessant advances. He feels that he successfully seduced her and that she wanted to do it all along but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left.

- Jiang is a junior. Beth is a sophomore. Jiang comes to Beth's residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, soon become more intimate, and start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter at the age of five and avoids sexual relations as a result, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses, and begins to have intercourse with Beth, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop but cannot. Beth is stiff and unresponsive during the intercourse.
- Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his apartment, and John comes on to Kevin, initiating sexual activity. Kevin asks John if he is really up to this, and John says yes. They remove each other's clothes, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he came to again. When Kevin runs into John the next day, he thanks him for the great night. John remembers nothing and decides to make a report to the Dean.

## Retaliation

- Student-athlete A alleges sexual harassment by a coach; the coach subsequently cuts the student-athlete's playing time without a legitimate justification.
- A faculty member alleges gender inequity in pay within her department; the Department Chair then revokes his approval for her to attend a national conference, citing the faculty member's tendency to “ruffle feathers.”
- A student from Organization A participates in a sexual misconduct investigation as a witness whose testimony is damaging to the Respondent, who is also a member of Organization A; the student is subsequently removed as a member of Organization A because of their participation in the investigation.

## Appendix H: Model Policy Limited License

**ATIXA 2020 ONE POLICY, TWO PROCEDURES MODEL**  
**USE AND ADAPTATION OF THIS MODEL WITH CITATION TO ATIXA IS PERMITTED**  
**THROUGH A LIMITED LICENSE TO OUR LADY OF THE LAKE UNIVERSITY**  
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# TITLE IX SEXUAL MISCONDUCT GRIEVANCE PROCEDURES

AD-CO-PR-001

## Procedure Scope

Students, faculty, staff, and third parties within the university's control. The Respondent must be a member of OLLU's community in order for their grievance procedures to apply.

## Procedure

Title IX Sexual Misconduct Grievance Procedures ("the Procedures") will include a prompt, fair, and impartial process from the initial investigation to the final result. In a complaint involving sexual misconduct, including sexual harassment, sexual assault, dating violence, domestic violence, or stalking, if the Complainant is uninterested in pursuing a formal complaint, or if OLLU does not have the authority over the alleged Respondent, the alleged victim may still be able to receive supportive measures to assist in alleviating the effects of the sexual misconduct. An alleged victim of sexual misconduct has the right to stop the grievance process at any time; however, if the Title IX Coordinator believes there is compelling evidence that an offense may have been committed and that the alleged offense poses a health and/or safety threat to the campus community, the Title IX Coordinator may move forward to investigate and address the matter and take appropriate action to ensure the safety of the campus community even if the Complainant does not want the matter pursued.

OLLU will act on any notice of violation of the Title IX Sexual Misconduct Policy ("the Policy") that is received by the Title IX Coordinator or any other Official with Authority by applying the Procedures. Anywhere the Procedures indicates "Title IX Coordinator," OLLU may substitute a trained Title IX Deputy Coordinator or other designee as appropriate.

The Procedures below apply only to qualifying Title IX allegations of sexual harassment, including sexual assault, dating violence, domestic violence, and stalking, as defined by the Policy, involving OLLU students, staff, or faculty members and third parties within the university's control, including applicants for admission or employment. Sexual harassment allegations that do not meet the Title IX definitions, as described by the Policy, will be referred to Student Conduct or Human Resources, and addressed through procedures elaborated in OLLU student and employee handbooks.

The Procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures elaborated in the student, faculty, and employee handbooks.

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with OLLU policy. While there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their

own knowledge and evidence with others if they so choose. OLLU encourages parties to discuss this with their Advisors before doing so. See the privacy and confidentiality section of the Policy for more information.

## Notice of Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, OLLU initiates a prompt initial assessment to determine the next steps OLLU needs to take.

OLLU will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to proceed formally; and/or
- 2) An Informal Resolution; and/or
- 3) A Formal Grievance Process including an investigation and a meeting with the decision-makers.

The investigation and grievance process will determine whether or not the Policy has been violated. If so, OLLU will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

## Initial Assessment

Following receipt of notice or a complaint of an alleged violation of the Policy, the Title IX Coordinator engages in an initial assessment, which is typically one to five (5) business days in duration. References to the Title IX Coordinator throughout the Procedures may also include Title IX Deputy Coordinators for specific tasks. If circumstances require, the President, Vice President of Administration will designate another person to oversee the process below should an allegation be made about the Title IX Coordinator or the Title IX Coordinator be otherwise unavailable or unable to fulfill their duties. The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator or Deputy Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and assigns a Title IX Deputy Coordinator to work with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator notifies relevant OLLU officials on a need to know basis, which include, but are not limited to, the athletic director, coach, department chair, extra-curricular advisors, etc., that a formal complaint has been made against a student in their program.
- The Title IX Deputy Coordinator reaches out to the Complainant to offer supportive measures, if not already provided.
- The Title IX Coordinator or Deputy Coordinator ensures OLLU has the burden of proof and the burden of gathering evidence sufficient to reach a determination
  - Obtain informed consent for the release of information form for documentation from relevant providers
  - Obtain advisor contact information
- The Title IX Coordinator or Deputy Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Deputy Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.



- If a supportive and remedial response is preferred, the Title IX Deputy Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. No formal complaint is initiated, though the Complainant can elect to initiate one later, if desired.
- Complainant may elect to instead initiate an informal resolution or formal grievance process at any time by signing a formal complaint.
- If an informal resolution option is preferred, the Title IX Deputy Coordinator will meet with the Title IX Coordinator to assess whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available and may seek to determine if the Respondent is also willing to engage in informal resolution.
- If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
  - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
    - an incident, and/or
    - a pattern of alleged misconduct, and/or
    - a culture/climate issue based on the nature of the complaint.
  - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply, which resolution process is applicable, and will refer the matter accordingly. Please note that dismissing a complaint under Title IX is just procedural and does not limit OLLU’s authority to address a complaint with an appropriate process and remedies.

### Collateral Misconduct

When an initial assessment or investigation under the Policy identifies additional allegations potentially violating other university policies occurring in conjunction with the reported misconduct, the same issue(s) that would normally be handled by another responsible office (such as the Offices of Human Resources or Student Affairs) the Title IX Coordinator, with the approval of that responsible office, may direct the grievance process set forth in the Policy and Procedures will apply to all allegations.

Under such circumstances, the parties will be provided written notice containing the following information: (a) the alleged prohibited conduct, and (b) the policy(ies) under which the alleged prohibited conduct falls. Alternately, the Title IX Coordinator, with the approval of the responsible office, may direct investigators under the Policy and Procedures to investigate such other possible violations at the same time that they investigate allegations covered by the Policy, after which the responsible office will adjudicate the matter. Under such circumstances, the records from the investigation of the non-Title IX Sexual Misconduct matter shall be provided to the office responsible for adjudicating that non-Title IX Sexual Misconduct matter in accordance with applicable university policies and procedures.

### Violence Risk Assessment

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by applicable members of the Student Behavioral Intervention Team (SBIT), including University Police, for matters involving students, or by applicable members of Human Resources, University Police, the supervisor or head of division, for matters involving employees, as part of the initial assessment. At the discretion of the Title IX Coordinator, other officials may assist with a VRA, as appropriate and necessary to reach a determination. A VRA can aid in ten critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;



- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through Informal Resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer university about a Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/ Trespass order/No Contact Order is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other SBIT members. A VRA authorized by the Title IX Coordinator should occur in collaboration with SBIT, Human Resources, or appropriate threat assessment team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use an evidence-based process consisting of:

1. an appraisal of risk factors that escalate the potential for violence;
2. a determination of stabilizing influences that reduce the risk of violence;
3. a contextual analysis of violence risk by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of threat; fixation and focus on target; grievance collection; and action and time imperative for violence; and
4. the application of intervention and management approaches to reduce the risk of violence.

To assess an individual's level of violence risk, the Title IX Coordinator will initiate the violence risk assessment process through the SBIT, Human Resources, or appropriate threat assessment team. The team will assign a trained individual(s) to perform the assessment, according to the specific nature of the Title IX case.

## Emergency Removal

OLLU can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis, as described in the Violence Risk Assessment section above, has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal.

In all cases in which an emergency removal is imposed, the student and/or employee will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being

imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official OLLU records, and/or emailed to the parties' OLLU-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate.

When this meeting is not requested within three (3) days of receipt, objections to the emergency removal will be deemed waived. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

OLLU will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics. A coach or athletic administrator is precluded from placing any restrictions on a student-athlete arising from allegations related to Title IX until this section has been applied.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties. Where the Respondent is an employee, existing provisions for interim action are applicable.

### **Employee Administrative Leave**

Respondents who are employees may be placed on administrative leave during the pendency of a grievance process, as outlined in the Procedures. The Title IX Coordinator will coordinate the process with the applicable members of Human Resources, University Police, and/or the supervisor/CAO in accordance with university protocols for placing employees on administrative leave.

### **Dismissal (Mandatory and Discretionary)<sup>12</sup>**

OLLU must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

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<sup>12</sup> These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR Part 106.45.

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Policy, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by OLLU (including buildings or property controlled by recognized student organizations), and/or OLLU does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of OLLU.

OLLU may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by OLLU; or
- 3) Specific circumstances prevent OLLU from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, OLLU will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

Despite a dismissal being mandated by Title IX regulations, the university may determine that the complaint alleges conduct that may violate the Policy or other university policies. The Title IX Coordinator will provide this explanation in the notice and if necessary, coordinate referrals to other OLLU complaint/grievance processes as appropriate.

This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

## Counterclaims

OLLU is obligated to ensure that the grievance process is not abused for retaliatory purposes. OLLU permits the filing of counterclaims but uses an initial assessment, described in the Procedures, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the Procedures. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of the Policy.

## Right to an Advisor

The parties may each have an Advisor of their choice present with them for all meetings and interviews within the resolution process, if they so choose. The law permits one Advisor for each party, but witnesses are not

entitled to Advisors within the process, though they can be advised externally. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>13</sup>

### Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of OLLU community.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by decision-makers.

The Title IX Coordinator or Deputy Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from OLLU, the Advisor will be trained by OLLU and be familiar with OLLU's resolution process.

If the parties choose an Advisor from outside of those identified by OLLU, the Advisor may not have been trained by OLLU and may not be familiar with OLLU policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior meeting with the decision-makers.

### Advisors in Hearings/OLLU-Appointed Advisor

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. OLLU will appoint an Advisor, regardless of the participation or non-participation of the advised party in the meeting conducted by the decision-makers.

### Advisor's Role

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

OLLU cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, OLLU is not obligated to provide an attorney.

### Pre-Interview Meetings

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and OLLU's policies and procedures.

### Advisor Violations of OLLU Policy

Because this is an educational process, each party must always speak for themselves. All Advisors are subject to the same OLLU policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address OLLU officials in a meeting or interview

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<sup>13</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by the Policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

### Sharing Information with the Advisor

OLLU expects that the parties may wish to have OLLU share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor. Doing so may help the parties participate more meaningfully in the resolution process.

OLLU also provides a consent form that authorizes OLLU to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or Deputy Coordinator, or provide similar documentation demonstrating consent to a release of information to the Advisor before OLLU is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, OLLU will comply with that request at the discretion of the Title IX Coordinator.

### Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by OLLU. OLLU may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by OLLU's privacy expectations.

### Expectations of an Advisor

OLLU generally expects an Advisor to adjust their schedule to allow them to attend OLLU meetings when planned. OLLU is not required to reschedule a meeting if the Advisor cannot attend a meeting, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

OLLU may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

### Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to provide timely notice to the Title IX Coordinator or Deputy Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a consent form for the new Advisor must be secured.

The parties should allow up to five (5) business days for OLLU to provide new Advisor(s) access to documentation that may have been previously provided to former Advisor(s).

### Assistance in Securing an Advisor

OLLU maintains a list of OLLU-Appointed Advisors. The Title IX Coordinator or Deputy Coordinator will provide this list to the parties.

### Informal Resolution Processes

Informal Resolution can include three different approaches:

- When the parties agree to informally resolve the matter through a negotiated resolution or restorative justice resolution; or
- When the Respondent accepts responsibility for violating the Policy, and desires to accept a sanction and end the resolution process; or
- When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

To initiate Informal Resolution, a formal complaint must be submitted by the Complainant or Title IX Coordinator, as defined in the Policy. If a Respondent wishes to initiate Informal Resolution, they should contact the Title IX Coordinator or Deputy Coordinator to so indicate.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, OLLU will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by OLLU.

The Respondent may accept responsibility for all or part of the alleged policy violation(s) at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all the alleged misconduct, the formal process may be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria described in the Procedures.

OLLU will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution. OLLU will not require an Information Resolution as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with the Policy.

The Title IX Coordinator may look to the following factors to assess which form of Informal Resolution may be most successful for the parties:

- The parties' amenability to Informal Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Cleared violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;

- Skill of the restorative justice facilitator with this type of complaint;
- Complaint complexity;
- Emotional investment/intelligence of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Informal Resolution (time, staff, etc.)

The ultimate determination of whether Informal Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution are not appealable once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

### Negotiated Resolution

Restorative justice is an informal process facilitated by the Title IX Coordinator or Deputy Coordinator. A negotiated resolution is applicable when all parties and OLLU are able to agree on responsibility, sanctions, and/or remedies. The facilitator will meet with each party separately to negotiate the terms before authorizing the Informal Resolution agreement and obtaining signatures from both parties. The Title IX Coordinator implements the accepted finding that the Respondent is in violation of the Policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

### Restorative Justice Resolution

Restorative justice is an informal process facilitated by OLLU Mission and Ministry. Restorative justice views violation of policy as causing harm to people, relationships, and the community. A just response must address those harms as well as the wrongdoing. If the parties are willing, the best way to do this is to help them meet to discuss those harms and how to about bring resolution. Other approaches are available if they are unable or unwilling to meet. Sometimes those meetings lead to transformational changes in their lives.

*“Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible.”*

*-Howard Zehr, The Zehr Institute for Restorative Justice, [The Little Book of Restorative Justice](#)*

The three pillars of restorative justice:

- Harms and related needs of the Complainant first, but also of the community and the Respondent.
- Addressing the obligations of the Respondent as well as the community for the wrongs or harm.
- Engagement of those with a legitimate stake in the situation, including Complainants, Respondents and community members.

To resolve any type of wrongdoing three things must happen:

- The wrongdoing or injustice must be acknowledged.
- Equity needs to be restored.
- Future intentions need to be addressed.



All parties must consent to the use of restorative justice and sign an Informal Resolution agreement upon conclusion of the process. Depending on the terms of the agreement, the Title IX Coordinator is available to implement the accepted finding that the Respondent is in violation of the Policy and implement agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

## **Title IX Team Officials**

The Formal Grievance Process relies on a pool of administrators ("Title IX Team") to carry out the process. The OLLU officials appointed to the Title IX Team are announced in an annual distribution of the Policy to all students, parents/guardians of students, employees, prospective students, and prospective employees.

### **Title IX Team**

Officials appointed to the Title IX Team are trained annually, at a minimum, and can serve in the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To serve in a facilitation role in Informal Resolution
- To perform or assist with initial assessment
- To investigate complaints
- To coordinate meetings between parties and decision-makers (process administrator, no decision-making role)
- To serve as a decision-maker regarding the complaint
- To serve as a member of the Appeals Panel

### **Title IX Coordinators**

The Title IX Coordinator and Title IX Deputy Coordinators may conduct intake, provide supportive measures, assist or conduct initial assessment, facilitate Informal Resolutions, serve as investigator, and assist with coordinating meetings between the parties and decision-makers.

### **Advisors**

OLLU-Appointed Advisors will include OLLUCares Confidential Advisors for Complainants, a program led by the OLLU Center for Women in Church and Society. Advisors for Respondents will be appointed from a pool of OLLU employees recommended to the Title IX Coordinator by leadership from Faculty Assembly and Staff Assembly. Advisors will serve on a one-year renewable term.

### **Decision-makers**

#### **Title IX Decision Committee**

The Title IX Decision Committee (TDC) determines whether a violation of the Policy occurred, and issues appropriate sanctions or other recommendations. TDC consists of nine committee members selected throughout the university who will serve three-year renewable terms. Three members are administrators at the director-level or higher, three members are staff, and three members are faculty. The decision-making panel members will rotate but each panel must consist of one member from each employee category.

### **University Grievance Committee**



The University Grievance Committee (UGC) determines appeals. UGC consists of fourteen committee members selected from throughout the university who will serve three-year renewable terms. Six members are faculty and eight are staff members employed by the university. The appeal panel members will rotate but must consist of at least three persons to determine an appeal.

Additionally, all UGC members determine appeals related to the Student Conduct and Non-Academic Complaint and Grievance Procedures, which are overseen by the Vice President of Student Affairs, or designee.

### **Appointment of TDC and UGC Members**

Members are nominated by the chief administrative officer (CAO) of their unit. The Title IX Coordinator will provide the CAO's recommendations to the president. The president makes all final decisions regarding appointments. Vacant positions can be filled as necessary.

The parties will be provided with the names of the TDC and UGC members upon notice of investigation and allegations and will be offered an opportunity to request that a member be removed or replaced for real or perceived bias.

Individuals who are interested in serving as part of the Title IX process are encouraged to contact the Title IX Coordinator.

### **Formal Grievance Process: Notice of Investigation and Allegations**

The Title IX Coordinator or Deputy Coordinator will provide written notice of the investigation and allegations (the "NOIA") to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that OLLU presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related, and/or relevant evidence obtained during the review and comment period,
- A statement about OLLU's policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that the Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,

- Information on supportive measures, rights, and options ,
- The name(s) of the Investigator(s), and a list of TDC and UGC members, along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s), TDC or UGC members may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official OLLU records, or emailed to the parties' OLLU-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

## Investigation Procedures

### Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints a Title IX Deputy Coordinator to conduct the investigation usually within two (2) business days of determining that an investigation should proceed. The Title IX Deputy who conducted the initial intake interview with the Complainant will be the presumptive Investigator, unless a conflict of interest is asserted.

### Ensuring Impartiality

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, investigator(s), and decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Title IX Deputy Coordinator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Vice President of Administration or President.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the Respondent engaged in a policy violation(s) and evidence which supports that the Respondent did not engage in a policy violation(s). Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

OLLU operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation(s) by the preponderance of evidence.

### Investigation Timeline

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

OLLU will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

### Delays in the Investigation Process and Interactions with Law Enforcement

OLLU may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to, a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

OLLU will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. OLLU will promptly resume its investigation and resolution process as soon as feasible. During such a delay, OLLU will implement supportive measures as deemed appropriate.

The university's action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

### Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement, if necessary
  - Obtain informed consent for the release of information form for documentation from relevant providers
  - Obtain advisor contact information
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations
  - Notice should inform the parties of their right to have the assistance of an Advisor, who could be an OLLU-appointed Advisor, or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings, allow five (5) business days for feedback or summary is deemed acceptable.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary

- Allow each party the opportunity to suggest witnesses they wish the Investigator(s) to interview, and document any changes or omissions in the investigation report.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation.
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which OLLU does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- Although neither party is restricted from discussing the allegations under investigation or the ability to gather and present relevant evidence, the sharing of the draft investigation report in a manner that harms the other party or witnesses or hampers the ability of the university to provide an impartial process to all involved may be addressed through other disciplinary means, including allegations of retaliation.
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
- The Investigator(s) shares the report with the Title IX Coordinator and/or legal counsel for their review and feedback
- The Investigator will incorporate any relevant feedback, and the final report is then shared by the Title IX Coordinator with all parties and their Advisors through secure electronic transmission or hard copy ten (10) business days after the review and comment period deadline has passed.

### Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of OLLU are expected to cooperate with and participate in OLLU's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Teams, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. OLLU will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

### Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. However, state law only requires that one person provide their consent to audio and/or video record interviews. OLLU staff will inform all involved parties of any audio and/or video recording.

### Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, 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, 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.

### Interrogatories

Based on the Statement of Religious Exemption in the Policy, OLLU has provided an alternative method for parties to conduct cross-examination of the parties and witness, in the form of interrogatories. Interrogatories are written questions for any of the parties or witnesses listed in the investigation report to respond, including the Investigator. Upon receipt of the final investigation report, the parties will have three (3) business days to submit any relevant questions to the Title IX Coordinator for review and distribution to the parties.

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, 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. Additionally, any questions that violate the Policy (e.g. discriminatory or harassing in nature) will be excluded. If the Title IX Coordinator determines any of the questions violate the Policy, the party asking the question(s) will be provided with a written explanation for excluding the question; however, the decision regarding exclusion of the particular question is final. It is in the discretion of the Title IX Coordinator in such a situation to allow a replacement question.

The Title IX Coordinator will promptly distribute the interrogatories to the relevant parties and witnesses, who will have three (3) business days to send their responses to [titleix@ollusa.edu](mailto:titleix@ollusa.edu). Responses to questions are voluntary. The Title IX Coordinator will promptly distribute any responses received to the parties or provide a confirmation that no responses were received by the deadline. Once mailed, emailed, and/or received in-person, responses will be presumptively delivered.

Upon receipt of the responses, the parties will have two (2) business days to submit a limited set of follow up questions, following the guidelines outlined above. The Title IX Coordinator will promptly distribute the follow-up interrogatories to the relevant parties and witnesses, who will have three (3) business days to send their responses to [titleix@ollusa.edu](mailto:titleix@ollusa.edu). Responses to follow-up questions are voluntary. The Title IX Coordinator will promptly distribute any responses received to the parties or provide a confirmation that no responses were received by the deadline. Once mailed, emailed, and/or received in-person, responses will be presumptively delivered.

## Formal Meeting with Decision Panel

### Referral to Decision Panel

Provided that the complaint is not resolved through Informal Resolution, once the responses to the interrogatories or confirmations of non-response have been distributed to the parties, the Title IX Coordinator will refer the matter to the designated TDC members. The Title IX Coordinator will select appropriate decision-maker(s) from the TDC and consider whether any conflicts of interest were asserted by any of the parties.

The TDC members cannot request a meeting less than ten (10) business days from the conclusion of the investigation—when the final investigation report is transmitted to the parties and the decision-maker—unless all parties and the decision-maker agree to an expedited timeline.

### Decision Panel Composition

OLLU will designate a three-member panel from the TDC, at the discretion of the Title IX Coordinator. One of the three members will be appointed as Chair by the Title IX Coordinator.

The decision-makers will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the TDC throughout the resolution process in the event that a substitute is needed for any reason.

The TDC Panel may request a meeting with the Investigator, and therefore Investigators may not serve as decision-makers. Those who are serving as Advisors for any party may not serve as decision-makers in that matter.

The Title IX Coordinator may not serve as a decision-maker or Chair in the matter but may serve as an administrative facilitator if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. Any meetings between the TDC and parties will convene at a time determined by the Chair or designee.

### Evidentiary Considerations

Any evidence that the TDC Panel determine(s) is relevant and credible may be considered. The TDC Panel does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, 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, 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.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process in consultation with the Vice President of Student Affairs, Director of Human Resources, and the Vice President for Academic Affairs, or designee.

The parties may each submit a written impact statement prior to the meeting for the consideration of the TDC Panel at the sanction stage of the process when a determination of responsibility is reached.

After deliberation, the TDC Panel Chair renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

## Notice of Decision Panel Meeting Request

The TDC Panel will provide both parties with an equal opportunity to meet as part of the determination process. The Title IX Coordinator will provide any relevant information to the TDC Panel, including course schedules for students, for purposes of coordinating a meeting with the parties. In lieu of speaking to the TDC Panel, either party may provide a written document to the TDC Panel or may abstain from participating in the meeting without penalty. All information provided in the investigation report and interrogatories will be considered by the TDC panel, regardless of whether a party responded to a meeting request.

No less than ten (10) business days prior to the meeting, the Title IX Coordinator or the Chair will send a meeting request to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the meeting and a reminder that attendance is voluntary.
- Any technology that will be used to facilitate the hearing.
- If a party or parties prefer not to attend or cannot attend the meeting in person, the party should request alternative arrangements from the Title IX Coordinator or the Chair at least five (5) business days prior to arrange for the use of appropriate technology.
- A list of all those who will attend the hearing, along with a reminder that the opportunity to assert a conflict of interest to any decision-maker on the basis of demonstrated bias was provided during NOIA. If circumstances have occurred since the NOIA was provided, this must be raised with the Title IX Coordinator at least five (5) business days prior to the meeting to allow time for a substitute TDC panel member.
- Information on how the meeting will be recorded and on access to the recording for the parties after the meeting.
- Notification that the parties may have the assistance of an Advisor of their choosing at the meeting. The party must notify the Title IX Coordinator if they do not have an Advisor, and OLLU will appoint one.
- A copy of all the materials provided to the decision-maker(s) about the matter, unless they have been provided already.<sup>14</sup>
- An invitation to each party to submit to the Chair an impact statement pre-meeting that the decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the meeting, at least seven (7) business days prior to the meeting.
- Whether parties can bring mobile phones/devices into the meeting.

Meeting requests for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to the Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by OLLU and remain within the 60-90 day goal for resolution.

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<sup>14</sup> The final investigation report and interrogatories may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.



In some cases, if the Respondent is a graduating student, a hold may be placed on the diploma, official transcripts, and/or future registration until the matter is fully resolved, including any pending sanctions. A diploma/degree hold under the Policy means a student is not in good standing to graduate.

### New Evidence

The Title IX Coordinator will provide all pertinent documentary evidence, and the final investigation report, and interrogatories, if applicable to the TDC Panel and parties at least ten (10) business days prior to the meeting. If either of the parties provide new evidence to the TDC Panel, the Chair may delay the determination and instruct that the investigation needs to be re-opened to consider that evidence.

### Meeting Procedures

The TDC Panel has the authority to make determinations on all allegations of prohibited conduct defined in the Policy, including sexual harassment and sexual misconduct, and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the prohibited conduct, even though those collateral allegations may not specifically fall within the Policy.

The Complainant and Respondent are not required to attend the same meeting. The TDC Panel and Title IX Coordinator should take reasonable precautions to arrange the meeting so the parties avoid interrupting or meeting each other.

As discussed in the Advisor section of the Procedure, Advisors may offer advice and encouragement, but they may not represent or speak for the parties. If a party's Advisor of choice refuses to comply with the OLLU's established rules of decorum, OLLU may require the party to choose or OLLU may appoint a different Advisor.

The TDC Panel will answer all questions of procedure. The meeting will consist of informal questioning by the TDC Panel, who may also consult with the Title IX Coordinator during the entire process.

Participants at the meeting will include the TDC Panel, and may include the Title IX Coordinator or Deputy, the party, Advisor to the party, and anyone providing authorized accommodations or assistive services.

The TDC Panel may not draw any inference solely from a party's absence or refusal to answer questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the TDC Panel may consider all evidence it deems relevant.

### Recording Meetings

TDC Panel meetings with the parties recorded by OLLU purposes of review in the event of an appeal. TDC Panel deliberations are private and not recorded. The parties may not record the meetings and no other unauthorized recordings are permitted.

The decision-maker(s), the parties, their Advisors, and appropriate administrators of OLLU will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

### Deliberation, Decision-making, and Standard of Proof

Upon meeting with both parties, or a reasonable attempt has been made to meet, and the party(ies) waived their right to attend, the Chair or designee will promptly notify the parties the TDC Panel is proceeding with deliberations.



The TDC Panel will deliberate in private meetings to determine whether the Respondent is responsible or not responsible for the Policy violation(s) in question. A simple majority vote is required to determine the finding using the preponderance of evidence as the standard of proof. The Title IX Coordinator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the TDC Panel may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The TDC Panel will review the statements and any pertinent conduct history provided by the Title IX Coordinator and will determine the appropriate sanction(s) in consultation with other appropriate administrators, including the Vice President of Student Affairs, Director of Human Resources, and the Vice President for Academic Affairs, or designee(s), as required.

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions. The TDC Panel may also provide separate recommendations for the Title IX Coordinator to implement additional long-term remedies or actions with respect to the campus community that are intended to stop the conduct prohibited by the Policy, remedy the effects, and prevent reoccurrence.

This report typically should not exceed two (2) pages in length and must be submitted to the Title IX Coordinator within five (5) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

### Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Notice of Outcome may be reviewed by legal counsel. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within five (5) business days of receiving the TDC Panel's deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official OLLU records, or emailed to the parties' OLLU-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will identify the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by OLLU from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent OLLU is permitted to share such information under state or federal law; any sanctions issued which OLLU is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to OLLU's educational or employment program or activity, to the extent OLLU is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by OLLU to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

## Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the prohibited conduct The need for sanctions/responsive actions to prevent the future recurrence of prohibited conduct The need to remedy the effects of the prohibited conduct on the Complainant and the community
- The impact on the parties
- The sanctions outlined below in conjunction with the OLLU Student and Employee Handbooks
- Any other information deemed relevant by the decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

## Student Sanctions

The following summary of disciplinary measures has been adapted from the Student Code of Conduct provided in the [OLLU Student Handbook](#) and may be imposed upon students or organizations singly or in combination:

1. *Warning:* A written notice to the student that the student is violating or has violated the Policy. The notice may specify that more severe disciplinary action shall occur should the student be involved in further violations during the written notice period.
2. *Probation:* A written notice to the student that the student is violating or has violated the Policy and is placed on probation for a designated period of time. This notice may specify that more severe disciplinary action shall occur should the student be involved in further violations during the period of the probation.
3. *Loss of Privileges:* Denial of specified privileges for a designated period of time.
  - a. *Withdrawal of Privileges:* Privileges that may be withdrawn include facility usage, advertising and posting, financial transactions, fundraising, participation in university events, usage of the university's phone and email systems, and usage of other support services.
4. *Fine:* An individual or group may be fined any amount determined to be appropriate and commensurate with the severity of the offense.
5. *Restitution:* Compensation for loss, damage or injury. This sanction may take the form of appropriate service and/or monetary or material replacement.
6. *Behavioral Requirement:* Participation in required activities such as academic and/or personal counseling, conducting specific projects with administrative offices, and writing letters of apology, among others.
7. *Discretionary Sanctions:* Work assignments, community retribution and university service, among others.
8. *Residence Hall Probation:* Placement on official notice that if further violations of the Policy occur during the probationary period, the student may immediately be removed from the residence hall.

9. *Residence Hall Reassignment*: Relocation to another residence hall if, in the opinion of the or Director of Residence Life, other resident students and/or the university community would benefit from such a move.
10. *Residence Hall Suspension*: Separation from the residence halls for a designated period of time, after which the student shall be eligible to return; conditions for readmission may be specified.
11. *Residence Hall Expulsion*: Permanent separation from the residence halls. The student shall be permanently banned from the residence hall premises.
12. *Administrative Suspension*: Restriction of the student's right to conduct official business with the university because of the student's outstanding obligations. This suspension shall be lifted when obligations are met.
13. *Co-curricular Suspension*: Exclusion from all university facilities, services and functions, except the attendance of classes. Use of any other facilities, including residence halls, must be approved by the Director of Residence Life.
14. *Suspension*: Separation from the university for a designated period of time, after which the student is eligible to petition for return. During the period of suspension, the student shall be banned from the university's premises.
15. *Student Organization Suspension*: Suspension of all privileges for a specified length of time, usually no less than the remainder of the semester. Additional conditions may be imposed before the suspension is lifted.
16. *Dismissal*: Removal from the university. The student is ineligible to enroll in classes for a minimum of one year but may petition for reconsideration or readmission at the conclusion of the dismissal period. During the period of dismissal, the student shall be banned from the university's premises.
17. *Expulsion*: Permanent separation from all university facilities, services and functions. The student shall be permanently banned from the university's premises.
18. *Withdrawal of Student Organization Recognition*: Complete revocation of recognition and all privileges thereof.
19. *Involuntary Administrative Leave*: The student is prohibited from using all university facilities, services and functions, except the attendance of classes through virtual access. Any return to campus for purposes of conducting administrative business must be authorized by the Title IX Office or University Police Department.
20. *Withholding Diploma*: OLLU may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
21. *Revocation of Degree*: OLLU reserves the right to revoke a degree previously awarded from OLLU for fraud, misrepresentation, and/or other violation of OLLU policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
22. *Other Actions*: In addition to or in place of the above sanctions, OLLU may assign any other sanctions as deemed appropriate.

When determining the appropriate level of sanctions for students, decision-makers will also consider Article III, Minimal Sanctions for Offenses outlined in of the Student Code of Conduct.

## Employee Sanctions

Responsive actions for an employee who has engaged in sexual misconduct, including sexual harassment, sexual assault, dating violence, domestic violence, and/or stalking will be subject to sanctions consistent with the OLLU Employee Handbook. The following summary of progressive disciplinary measures has been adapted from the Employee Relations sections of the OLLU Employee Handbook:

Major violations will subject the employee to discharge on the first offense. Progressive disciplinary corrective action applies to less serious offenses. The procedure involves increasingly severe penalties each time an

employee is disciplined. Except for extremely serious acts of major misconduct and/or job performance, employees should not be discharged for the first offense. Individual counseling, warnings, and possible corrective actions are necessary steps for employees to improve their conduct in the performance of their jobs.

- *Informal Warning:* Reminders supervisors may give to employees at their discretion that an infraction of rules or substandard level of job performance might be reached should the employee (1) persist in the course of action they are taking or (2) not take corrective action.
- *Formal Written Warning:* (1) Identify the specific problem cause, (2) cite what specific corrective action must be taken by the employee being disciplined, (3) establish a reasonable time period in which the desired behavior correction must occur, and (4) specify what further corrective action will ensue should the rule(s) violation continue.
- *Final Written Warning:* The last written warning prior to discharge from employment should be labeled as the final written warning. This warning must indicate, along with the problem and corrective actions (if any) previously initiated, that the employee is marginal and any further rule violation will result in immediate discharge.
- *Discharge:* The most serious form of disciplinary action. It may be caused by one grave offense. However, it should occur most often following an accumulation of offenses for which the employee has been warned or has been given progressive corrective disciplinary action.

OLLU reserves the right to assign any other sanctions as deemed necessary and appropriate. To access the full text of Employee Relations, see the OLLU Employee Handbook. In the event there are any discrepancies between the summary above and the OLLU Employee Handbook, the language in the OLLU Employee Handbook will govern and control.

**NOTE:** A staff or faculty member's violation of the Policy constitutes a breach of his or her terms of employment with reference to the applicable provisions of the Employee Conduct and Job Performance Rules and the Faculty Professional Ethics Statement, respectively. As such, all violations will also be subject to the established discipline process described in the aforementioned handbooks.

## Withdrawal or Resignation While Charges Pending

### Students

If a student has an allegation pending for violation of this policy, OLLU may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from OLLU, the resolution process ends, as OLLU no longer has disciplinary jurisdiction over the withdrawn student.

However, OLLU will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged prohibited conduct. The student who withdraws or leaves while the process is pending may not return to OLLU. Such exclusion applies to all campuses of OLLU. A hold will be placed on their ability to be readmitted. They may also be barred from OLLU property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to OLLU unless and until all sanctions have been satisfied.

## Transcript Notation

If a student withdraws or graduates from OLLU pending a disciplinary charge alleging that the student violated the disciplinary code of conduct by committing sexual misconduct, OLLU will not end the disciplinary process or issue a transcript to the student until a final determination of responsibility is made. The disciplinary process shall be expedited as necessary to accommodate both the student's and the alleged victim's interest in a speedy resolution. On request of the student, OLLU will remove the notation from the transcript if the student becomes eligible to reenroll or OLLU determines that good cause exists to remove the notation. Texas regulations will be followed.

## Employees

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as OLLU no longer has disciplinary jurisdiction over the resigned employee.

However, OLLU will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with OLLU or any campus of OLLU, and the records retained by the Title IX Coordinator will reflect that status.

All OLLU responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

## Appeals

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within five (5) days of the delivery of the Notice of Outcome.

A three-member appeal panel chosen from the UGC will be designated by the Title IX Coordinator. No appeal panelists will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process. A voting Chair of the UGC Panel will be designated.

The Title IX Coordinator will forward the Request for Appeal to the UGC Panel Chair for consideration to determine if the request meets the grounds for appeal.

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

## Grounds for Appeal

Appeals are limited to the following grounds:

- 1) Procedural irregularity that affected the outcome of the matter;
- 2) New evidence that was not reasonably available at the time 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 decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.
- 4) The sanction(s) is disproportionate, viewed as arbitrary to a reasonable person, to the violation.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the UGC Panel Chair and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in the Procedures, then the UGC Panel Chair will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and the original decision-maker(s) selected from the TDC Panel.

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the Request for Appeal with the approved grounds, to include follow up questions from the UGC Panel, if any, and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the UGC Panel Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed for standing by the UGC Panel Chair and either denied or approved. If approved, the new grounds for appeal, to include follow up questions from the UGC Panel, if any, will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original decision-maker(s), as necessary, who will submit their responses in five (5) business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The UGC Panel Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will be shared with the UGC Panel, and the TDC Panel will render a decision in no more than five (5) business days, barring exigent circumstances. All decisions are by majority vote and apply the preponderance of the evidence.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which OLLU is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent OLLU is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' OLLU-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

### Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures in the Policy.

If any of the sanctions are to be implemented immediately post-hearing, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

OLLU may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

### Appeal Considerations

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only

when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.

- Appeals are not intended to provide for a full re-hearing of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Panel to substitute their judgment for that of the original decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeal Chair/Panel may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original investigator(s) and/or decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural or substantive error cannot be cured by the original decision-maker(s) (as in cases of bias), the appeal may order a new hearing with a new decision-maker(s).
- The results of a remand to a decision-maker(s) cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to OLLU or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the prohibited conduct, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the applicable employee assistance programs
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by OLLU to the Respondent to ensure no effective denial of educational access.



OLLU will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair OLLU's ability to provide these services.

### **Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final decision-maker(s) (including the Appeal Panel).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from OLLU and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.