

Edward Waters University Policy on Title IX Sexual Harassment and Sexual/Gender–Based
Misconduct

Revised July 18, 2022

I. POLICY STATEMENT

Edward Waters University (the “Institution” or “University”) is committed to providing a safe and non–discriminatory learning, living, and working environment for all members of the Institution community. The Institution does not discriminate on the basis of sex; the Institution is required by Title IX and applicable law not to discriminate in such a manner to the extent that application of Title IX is consistent with the religious tenets of the Institution. This requirement not to discriminate extends to admission and employment. Furthermore, the Institution prohibits sexual harassment, sexual/gender–based misconduct, retaliation and violations of supportive measures. Zero Tolerance conduct, as defined by the [Edward Waters Student Honor Code](#) is expressly forbidden and will not be tolerated at Edward Waters University.

The Institution adopts this Policy with a commitment to: (1) eliminating, preventing, and addressing the effects of sexual harassment and sexual/gender–based misconduct; (2) fostering an environment where all individuals are well–informed and supported in reporting sexual harassment and misconduct; (3) providing a fair and impartial process for all parties; and (4) identifying the standards by which violations of this Policy will be evaluated and disciplinary action may be imposed.

All individuals responsible for the implementation of this policy will be trained annually on this policy, prohibited conduct, and the process for conducting an investigation and hearing that protects the safety of and promotes accountability of members of the University community. All training will be conducted in an unbiased and objective manner and will prepare those involved in the grievance process to serve impartially.

This Policy shall be disseminated to the Institution’s faculty, staff, and students through the Institution’s website, new employee orientations, new student orientations, and other appropriate channels of communication.

Inquiries about the application of Title IX and federal regulations to the Institution may be referred to the Institution’s Title IX Coordinators, to the Assistant Secretary for Civil Rights, or both.

Title IX Coordinators:

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The Institution has determined that the following employees are Officials with Authority to address and correct sexual harassment and/or retaliation: the President, the Provost, and the Title IX Coordinators.

In addition to the Officials with Authority, all Responsible Employees may accept reports of sexual harassment and/or retaliation on behalf of the Institution. The Institution has classified all employees (except for employees classified as “Confidential Employees”) as Responsible Employees who are mandatory reporters¹ of any knowledge they have that a member of the Institution community is experiencing sexual harassment and/or retaliation.

II. DEFINITIONS

Advisor: Any person selected by the parties to provide assistance during meetings, interviews, hearings, or any phase of the University’s grievance process.

Appeal: The process by which any party to the University’s sexual harassment grievance process can request a reconsideration of the findings and/or sanctions issued by a hearing panel.

Business day: A day when the University is open and in normal operation.

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment or sexual/gender–based misconduct.

Consent: Means the communication of an affirmative, conscious, knowing, and freely given decision by each participant to engage in mutually agreed upon forms of contact or conduct. It is the responsibility of each person involved in any form of contact or conduct to ensure that they have the consent of the other person. Consent requires an outward demonstration, through understandable words or actions, which conveys a clear willingness to engage in the contact or conduct. Consent cannot be given by an individual who is asleep; unconscious; or

¹ This term (“mandatory reporter”) is not to be confused with those individuals who are legally required to report child abuse or other abuse to appropriate government officials, although these individuals may overlap with Responsible Employees who have mandatory reporting obligations under this Policy.

incapacitated, either through the effect of drugs/alcohol or for any other reason; or is under duress, threat, coercion, or force. Past consent does not imply present or future consent. Consent cannot be inferred from any existing or previous relationship or encounter (i.e., platonic, dating, or sexual). There must be mutual consent to engage in sexual contact for each occasion and each form of sexual contact. Consent to one form of sexual contact does not constitute consent to any other form of sexual contact, nor does consent to sexual contact with one person constitute consent to sexual contact with any other person. Consent cannot be obtained by coercion, use of position of influence, threat, manipulation, force, or by taking advantage of a person's inability to give consent because of incapacitation or other circumstances. Silence, passivity, or an absence of resistance does not imply consent. Consent can be withdrawn at any time.

Dating Violence: Violence committed by a person:

1. Who is or has been in a social relationship of a romantic or intimate nature with the complainant; and
2. Where the existence of such a relationship shall be determined based on a consideration of the following factors: a) The length of the relationship, b) The type of the relationship, c) The frequency of interaction between the persons involved in the relationship.

Domestic Violence: Felony or misdemeanor crimes of violence committed by:

1. A current or former spouse or intimate partner of the complainant;
2. A person with whom the complainant shares a child in common;
3. A person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner;
4. A person who is similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction receiving grant monies; or
5. Any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Employee: Any individual employed by the University, including all full-time and part-time faculty, administrators, staff, temporary employees, post-doctoral employees, graduate students with classroom responsibilities, and professional research assistants.

Formal Complaint: A document signed and filed by a complainant or signed and filed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the University investigate the allegations. A formal complaint may be filed with the Title IX Coordinator in person, by mail, by electronic mail or by submission to the official University [complaint reporting system](#). At the time of filing a formal complaint, a complainant must be

participating in or attempting to participate in an education program or activity of the Institution.

Grievance Process: The formal means of resolving complaints of sexual harassment and sexual/gender-based misconduct. The grievance process includes all meetings, interviews, conferences, hearings and appeals that occur during the resolution of a complaint.

Incapacitation: The inability to make rational reasonable judgments as a result of the use of alcohol, other drugs, being asleep, unconscious, or in a state of blackout. Incapacitation is a state beyond drunkenness or intoxication in which a person is unable to make fully informed judgments or have an awareness of consequences. Being incapacitated due to the use of alcohol or drugs is not a defense to a complaint of sexual harassment or sexual/gender-based misconduct. A determination regarding whether a respondent “should have known” that a complainant was incapacitated is made by looking at the particular facts available from an objective, reasonable-person standard. The definition of “a reasonable person” includes a person who is both sober and exercising sound judgment.

Indecent Exposure: To expose or exhibit one’s sexual organs in public or within the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner, or to be naked in public except in a place provided for that purpose. Indecent exposure also includes the unwelcome transmission of sexual images of sexual organs or nakedness via electronic mail, text messages, or other modes of communication.

Informal Resolution: A process by which the complainant and respondent agree to resolve a complaint. The informal resolution process is designed to assure fairness, facilitate communication and maintain an equitable balance of power between the parties. Informal resolutions are facilitated by the Title IX Coordinator or his/her designee.

Investigator: An official designated by the Title IX Coordinator to conduct investigations of sexual harassment and/or sexual/gender-based misconduct under this policy, the Student Honor Code, and any other applicable University policies.

Notice: University provided email is the official form of communication. When notice is transmitted by email, the notice is effective on the date that the email is sent. In situations where no University provided email is available or active, notice will be given in writing and transmitted by United States mail and or hand delivery to the address on file. When notice is transmitted by United States mail, the notice is effective on the date that it is mailed. When notice is hand delivered, it is effective on the date of delivery. Parties must notify the University of updated contact information throughout the grievance process.

Official(s) with Authority: A University employee who has the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of the University.

Party: Either the complainant or the respondent. References in this Policy to the plural “parties” includes complainants and respondents.

Preponderance of The Evidence: The standard by which the University will determine at a hearing whether a violation of this policy has occurred. Preponderance of the evidence should be understood to mean that “more likely than not” a violation of policy did or did not occur. This standard applies for all complaints of sexual harassment and/or sexual/gender–based misconduct under this Policy or the Student Honor Code.

Report: Any communication by any person to a Title IX Coordinator, an Official with Authority, or any Responsible Employee of the occurrence of conduct that could constitute sexual harassment or sexual/gender–based misconduct. Reports of sexual harassment and/or retaliation may be made at any time (including non-business hours) by using any of the following options: submit a written complaint (by email or mail) or give verbal notice to a Title IX Coordinator, an Official with Authority, or any Responsible Employee; or use the University’s [online complaint reporting system](#).

Reporter: Any person sharing information related to conduct that could constitute sexual harassment or sexual/gender–based misconduct.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute a violation under this Policy.

Responsible Employee: Institution faculty and staff who are required to report any information related to sexual harassment or sexual/gender–based misconduct of which they become aware.

Retaliation: Any action taken against a person because that person has reported an alleged violation of this policy or because that person has filed a complaint, served as a witness, assisted, participated or refused to participate in an investigation or grievance process. This includes action taken against a bystander who intervened to stop or attempt to stop sexual harassment as defined in this policy. Retaliation includes intimidating, threatening, or coercing an individual because of the individual's complaint or participation in any aspect of this policy (including the Formal Grievance Process).

Sexual Assault: An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, which includes:

1. Sex Offenses, Forcible: Any sexual act directed against a complainant, without the consent of the complainant including instances where the complainant is incapable of giving consent.

(a) Forcible Rape: The carnal knowledge of a person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

(b) Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against the person’s

will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

(c) Sexual Assault With An Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

(d) Forcible Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

2. Sex Offenses, Nonforcible: Unlawful, nonforcible sexual intercourse.

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

(b) Statutory Rape: Nonforcible sexual intercourse with a person who is under the statutory age of consent.

Sexual Exploitation: Occurs when a person makes non-consensual or unjust sexual advantages toward another person for their own advantage or benefit, or to benefit another person other than the one being exploited. Any act that extends the bounds of consensual sexual activity with or without the knowledge of the other individual for any purpose, including but not limited to sexual gratification, financial gain, or personal benefit. Examples include:

1. Non-consensual streaming, audio or video recording, photographing, or transmitting intimate or sexual utterances, sounds, or images without consent of all parties involved;
2. Allowing others to view sexual acts (whether in person or via a video camera or other recording device without consent of all parties involved;
3. Engaging in voyeurism without consent, even if the act itself is consensual;
4. Prostituting an individual;
5. Knowingly exposing an individual to sexually transmitted diseases without the individual's knowledge;
6. Inducing incapacitation for the purpose of making an individual vulnerable to non-consensual sexual activity.

Sexual/Gender–Based Misconduct: Any conduct on the basis of sex or gender that satisfies one or more of the following:

1. An employee of the University conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be severe, pervasive, or objectively offensive that it denies a person equal access to the University’s educational programs or activities; or
3. Any conduct that constitutes sex/gender–based discrimination, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation as defined in this policy and not falling under the definition of sexual harassment as contained in Title IX and its implementing regulations.

Sexual Harassment: For purposes of Title IX of the Education Amendments of 1972, sexual harassment is any conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the University conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s educational programs or activities; or
3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear his or her safety or the safety of others; or (2) suffer substantial emotional distress. Stalking includes but is not limited to:

1. Attempting to gather information about the target;
2. Vandalism, including attacks on social media, email and cyber accounts;
3. Direct physical and/or verbal threats against a target of unwelcome conduct or loved ones of a target of unwelcome conduct, including animal abuse;
4. Gathering of information about a target of unwelcome conduct from family, friends, coworkers, and/or classmates;
5. Defamation or slander against the target of unwelcome conduct; posting false information about the target of unwelcome conduct; posing as the complainant in order

to post to websites, news groups, blogs, or other sites that allow public contributions; and/or encouraging others to harass the target of unwelcome conduct;

6. Posing as someone other than oneself to initiate transactions, financial credit, loans, or other contractual agreements;

7. Arranging to meet the target of unwelcome conduct under false pretenses;

8. Cyberstalking, which means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person, serves no legitimate purpose, and would cause a reasonable person to feel fear.

Student: All students of the Institution, except for full-time employees of the University who are also taking classes at the University. The term “student” otherwise includes all individuals taking classes at the University, including degree-seeking and non-degree-seeking students.

Title IX Coordinator: An official responsible for oversight and coordination of the University’s educational programs and training efforts for the University community with regard to sexual harassment.

III. APPLICABILITY

This Policy addresses conduct meeting the definition of sexual harassment under Title IX and its implementing regulations. Conduct falling outside of the definition of sexual harassment as set forth by Title IX and its implementing regulations is defined as sexual/gender-based misconduct and may still constitute a violation of this policy. Sexual/gender-based misconduct will still be addressed by the University using the procedures set forth in the Edward Waters University Student Honor Code. It is the responsibility of the Title IX Coordinator, or their designee, to determine what conduct constitutes sexual harassment under Title IX and its implementing regulations and what conduct constitutes sex/gender-based misconduct under University policy.

This Policy applies to all faculty, staff, students, vendors, contractors (including employees of third parties), and guests of Edward Waters University. Any employee or student who violates this Policy may face disciplinary actions up to and including termination or expulsion.

A. For a complaint to be evaluated as a Title IX sexual harassment complaint, the following criteria must be met:

1. The complainant must be a current employee or student who has been subjected to sexual harassment as defined by Title IX and its implementing regulations;

2. The complainant must be a former student or employee who was subjected to sexual harassment and the conduct took place during the time of enrollment or employment at the Institution, the conduct has a reasonable connection to the Institution, and the former student or employee is attempting to access the programs or benefits of the Institution;

3. The respondent must be a current employee, student, otherwise affiliated with the Institution such that the Institution exercises substantial control over the respondent's access to or participation in its programs or activities.

B. University sexual/gender-based misconduct: For a complaint to be evaluated as University sexual/gender-based misconduct, the following criteria must be met:

1. The complainant must be a current or former employee, student, or individual who has been subjected to sex/gender-based misconduct while accessing or attempting to access the University's programs or activities;

2. The respondent must be a current employee or student or otherwise affiliated with the University such that the University exercises substantial control over the respondent's access to or participation in its programs or activities.

It shall be a violation of this Policy to engage in any of the following conduct (as defined above):

- Dating Violence
- Domestic Violence
- Indecent Exposure
- Retaliation
- Sexual Assault
- Sexual Exploitation
- Sexual/gender-based misconduct
- Sexual Harassment
- Stalking
- Making a false report or false statement in bad faith in the course of proceedings under this Policy
- Obstruction of a proceeding under this Policy by taking improper actions to discourage or impair participation in the grievance process, including but not limited to intimidating witnesses or other participants in the investigation process
- Unlawful possession or administration of date rape drugs such as Rohypnol, GHB, Burundanga, Ketamine, or alcohol, in order to engage in other conduct that violates this Policy

The Institution's policies are interpreted to include online and digital manifestations of any of the behaviors prohibited above when those behaviors occur in or have an effect on the Institution's education program and activities or use University networks, technology, or

equipment. Although the Institution may not control websites, social media, and other digital/online venues in which harassing communications are made, when such communications are reported to the Institution, it will take appropriate investigative and disciplinary action.

Members of the University community are encouraged to be responsible online/digital users and to refrain from online misconduct, including without limitation contributing to anonymous gossip blogs/sites, sharing inappropriate social media content, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge porn, breaching others' privacy, or otherwise using the internet or other technology to harass or retaliate against another member of the University community.

IV. GEOGRAPHIC SCOPE

The Institution will exercise Title IX jurisdiction over reports or complaints when the parties fall into the categories as defined above in section III. A. **and** when the following conditions are met:

1. The conduct occurred in the United States,
2. The conduct occurred on the Institution's property or at locations, events, or circumstances over which the Institution exercised substantial control over the context in which the sexual harassment occurred. This also includes any building owned or controlled by a student organization that is officially recognized by the Institution.
3. The conduct occurs via the use of the Institution's computers, internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the University.

Factors that will be considered when determining geographical jurisdiction include, but are not limited to whether the University funded, promoted, or sponsored the event or circumstance where the alleged harassment occurred.

Sexual harassment that occurs outside of the Institution's Title IX geographical scope will be addressed as sexual/gender-based misconduct under the Student Honor Code or other applicable University policies. The Institution reserves the right to determine the appropriate policy under which to investigate complaints.

V. RETALIATION

Edward Waters University employees and students are strictly prohibited from retaliating, intimidating, threatening, coercing, or otherwise discriminating against any individual for the purpose of interfering with any rights or privilege secured by Title IX, applicable federal regulations, or for exercising their rights or responsibilities under any provision of this policy.

Retaliation includes any charges filed against an individual for Student Honor Code violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations. In certain situations, disciplinary proceedings may be necessary for conduct arising out of the same facts or circumstances as a report or complaint of sexual harassment or sexual/gender-based misconduct. The Institution will not intimidate, threaten, coerce, or discriminate for the purpose of interfering with any right or privilege under Title IX or Institution Policy in such proceedings.

Employees or students found responsible for retaliation will be subject to disciplinary measures, up to and including separation from the University. Anyone who believes they have been retaliated against because they have exercised their rights under this policy should immediately make a report to the Title IX Coordinator.

VI. RESPONSIBLE EMPLOYEES

“Responsible Employees” are individuals who are required to promptly report to the Title IX Coordinator about any allegations or personal knowledge of sexual harassment or sexual/gender-based misconduct by or against any Edward Waters University student, staff, or faculty member.

All Edward Waters University employees (faculty, administrators, and staff), including but not limited to full or part-time positions and non-student OPS employees, are Responsible Employees under this Policy (except “Confidential Employees” as defined in Section VII below).

Student employees are Responsible Employees only if the student is employed in the following positions or areas: graduate teaching assistants, graduate research assistants, athletics department, Office of Residence Life & Housing and resident assistants.

If an individual alleges that they have been subject to conduct that may be criminal in nature, and if the alleged victim consents, employees should also contact local law enforcement.

Failure by employees to follow mandatory reporting requirements as set forth in this policy may result in disciplinary action up to and including termination.

VII. PRIVACY AND CONFIDENTIALITY

Edward Waters University encourages complainants to report sexual harassment and sexual/gender-based misconduct so they can get the support they need and so that the Institution can respond appropriately. As such, reports to the Title IX Coordinator, Campus Safety or any Responsible Employee are not confidential. Additionally, all reports of sexual harassment or sexual/gender-based misconduct made to Campus Safety will be referred to the Title IX Coordinator for review even if the complainant declines to pursue criminal charges.

The Institution will not share personally identifiable information without the complainant's consent, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 USC 1232g; FERPA regulations, 34 CFR 99; or as required by law, court order, or legal process, or to carry out the purposes of this Policy, including the conduct of any investigation, hearing, or appeal. The Institution will keep reports as private as possible and will only disclose information to the extent necessary to provide interim and supportive measures or to fully investigate the complaint.

Confidential Resources

If a party wishes to keep an incident confidential, the following offices are not obligated to report incidents of sexual harassment or sexual/gender-based misconduct:

1. Director of Campus Ministry and Church Relations
2. Health Services (any individual providing medical or mental health care)
3. Counseling Services

Employees of these offices are "Confidential Employees." All Confidential Employees will maintain confidentiality when acting within the scope of their licensure or professional ethics, except in cases of immediate danger or abuse of a vulnerable individual (e.g., elder, minor, person with a disability) or when required by law to disclose. Confidential Employees may offer to connect complainants to resources for support or to report crimes or policy violations.

Parties reporting incidents under this policy should be aware that, under the Clery Act, the Institution must issue timely warnings for incidents reported that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

When timely warnings are issued, the Institution will not share any personally identifiable information associated with the complainant, while still providing enough information for community members to make safety decisions in light of the potential danger.

VIII. INDEPENDENCE OF TITLE IX TEAM

The Title IX Coordinators act with independence from bias and conflicts of interest. Any Title IX personnel (including any Title IX Coordinators, deputy coordinators, investigators, and decision-makers) are trained to act impartially.

To make a complaint involving misconduct, bias or conflict of interest by a Title IX Coordinator, contact the Provost. Complaints of bias, misconduct, or conflict of interest by any other Title IX personnel should be reported to a Title IX Coordinator.

IX. COMPLAINANT REQUESTS FOR NO ACTION

If a complainant discloses an incident to a Responsible Employee, Campus Safety or the Title IX Coordinator but requests that no investigation be conducted or disciplinary action taken, the Institution will weigh that request against its obligation to provide a safe, non-discriminatory living, learning and working environment for all students and employees. However, if the Institution honors the request that no action be taken the complainant should understand that the Institution's ability to meaningfully respond and implement corrective action may be limited. The Title IX Coordinator will evaluate a complainant's request for no action and will consider a range of factors including but not limited to:

1. The increased risk that the alleged respondent could commit additional acts of sexual harassment, sexual/gender-based misconduct or other misconduct;
2. Whether there have been other sexual harassment or sexual/gender-based misconduct complaints about the same alleged respondent;
3. Whether the alleged respondent has a history of arrests or records from a prior school indicating a history of misconduct;
4. Whether the alleged respondent threatened further sexual harassment, sexual/gender-based misconduct or other misconduct against the complainant or others;
5. Whether the sexual harassment, sexual/gender-based misconduct was committed by multiple perpetrators;
6. Whether the sexual harassment or sexual/gender-based misconduct was perpetrated with a weapon;
7. Whether the complainant is a minor;
8. Whether the University possesses other means to obtain relevant evidence of the alleged sexual harassment or sexual/gender-based misconduct; or
9. Whether the complainant's report reveals a pattern of perpetration at a given location or by a particular group.

The presence of one or more of these factors could lead the Institution to investigate and, if appropriate, pursue disciplinary actions. If none or only a limited number of these factors is present, the Institution will make best efforts to respect the complainant's request that no action be taken. If the Institution determines that it cannot accommodate the complainant's request, the Title IX Coordinator will inform the complainant prior to starting an investigation. A complainant or respondent will not be required to participate in any investigation or disciplinary proceeding.

Note: The Institution must investigate the allegations in a formal complaint, regardless of a complainant's request for no action, to determine whether the formal complaint should be dismissed.

X. SUPPORTIVE MEASURES

Supportive measures are 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.

Upon receipt of a report of an alleged violation of this Policy, the Title IX Coordinator or designee will promptly contact the complainant to discuss the availability of supportive measures, inform the complainant that supportive measures are available with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

All complainants are entitled to supportive measures regardless of whether a complaint is filed or whether an investigation is conducted. Complainants may also request supportive measures at any point during or after the formal grievance process.

Where appropriate, the Title IX Coordinator may also offer supportive measures to respondents.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. The Institution shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent maintaining such confidentiality would not impair the ability of the Institution to provide the supportive measures.

Examples of such supportive measures include, but are not limited to:

1. No contact order between the complainant and the respondent;
2. Providing an escort to ensure that the complainant or respondent can move safely between classes, meeting and activities;
3. Ensuring that the complainant and respondent do not attend the same classes or other necessary appearances;
4. Moving the complainant or respondent to a different residence hall;
5. Providing counseling services;
6. Providing medical services;
7. Providing academic support services such as tutoring;

8. Arranging for the complainant or respondent to re–take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant’s academic record.

XI. EMERGENCY REMOVAL OF STUDENTS

Consistent with the Student Honor Code, in situations that require immediate action to address safety or other concerns, a student may be subject to emergency removal, prior to the outcome of the formal grievance process. Emergency removal will only be exercised after an individualized safety and risk analysis determines that an imminent risk of the physical health or safety of any person, arising from the sexual harassment allegations exists.

Violation of an emergency removal under this Policy will be grounds for discipline, which may include expulsion. The University 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, allowing a student to withdraw or take grade of Incomplete without financial penalty, restricting a student’s access to campus facilities or equipment, and suspending a student’s participation in extracurricular activities, student employment, student organizational leadership, or athletics or other supportive measures. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as little academic impact as possible on the parties.

Appeal of Emergency Removal

If a student–respondent is removed pursuant to this section, the Institution will provide the respondent with written notice and an opportunity to challenge the decision immediately following the removal. To challenge the removal, within three calendar (3) days of receiving notice of the emergency removal, the respondent must inform the Title IX Coordinator, in writing, of the basis of their challenge to the removal. The Title IX Coordinator will provide a copy of the challenge to the Complainant.

The Institution will then appoint a decision–maker to hold a hearing without delay, as soon as possible given the circumstances, but no later than five (5) business days after the Title IX Coordinator’s receipt of the challenge. The decision–maker will provide written notice to the parties of the date and time of the hearing, provide all parties the opportunity to be heard at the hearing, and issue its written recommendation to the Title IX Coordinator no later than three (3) business days after the hearing. The decision-maker’s recommendation will be approved or rejected by the Title IX Coordinator.

Student Rights during Emergency Removal

A respondent who is removed pursuant to this Emergency Removal procedure retains all rights to an investigation and hearing as set forth in this Policy prior to any ultimate finding of responsibility and sanctions.

XII. ADMINISTRATIVE LEAVE

Consistent with University Human Resource policies, non–student employees may be placed on administrative leave during the pendency of the grievance process. The Institution may also, in the Title IX Coordinator’s discretion, temporarily re-assign an employee, restrict an employee’s access to use of campus facilities and equipment, authorize a leave of absence, or take any other action deemed appropriate. The Title IX Coordinator will consult with Human Resources and the Provost prior to making determinations regarding administrative leave for employees.

XIII. FORMAL GRIEVANCE PROCESS

The grievance process will include a prompt, fair, and impartial investigation. Complainants and respondents will be treated with respect before, during, and after the conclusion of the process. The parties are entitled to equitable rights during the formal grievance process as further described in this policy. All respondents are presumed not responsible for violations of this policy until a finding has been made at the conclusion of the grievance process.

All proceedings within the sexual harassment and sex/gender–based misconduct grievance process (investigations, meetings, hearings, and disciplinary actions) shall be conducted by officials who do not have a conflict of interest or bias for/against the complainant or the respondent. Both the complainant and respondent may object to the impartiality of any Institutional official involved in the grievance process by submitting written notice to the Title IX Coordinator (or the Provost if the Title IX Coordinator is the subject of concern). It will be the responsibility of the Title IX Coordinator (or Provost) to determine if there is evidence that suggests that the concern has merit and to identify a suitable alternative Institutional official to serve. Both the complainant and respondent will be informed of any such actions.

A. Reporting – Any person may report sexual assault, stalking, dating/domestic violence, gender discrimination, or any other conduct that could be covered by this policy.

Upon receipt of a report, the Title IX Coordinator will evaluate the report to determine if the conduct meets the definition of sexual harassment under Title IX. If the conduct meets the definition of Title IX sexual harassment, the processes outlined in this Policy will be followed. If the conduct does not meet the definition of sexual harassment under Title IX, the conduct will be evaluated to determine if it meets the definition of sexual/gender–based misconduct. Conduct meeting the definition of sexual/gender–based misconduct will be addressed pursuant to the Student Honor Code or the disciplinary process set forth in the Employee Handbook.

B. Filing a Complaint – Only the victim of sexual harassment or the Title IX Coordinator may file a formal complaint. Formal complaints must be signed by the complainant and request that the Institution investigate the allegations of sexual harassment. Upon

receipt of a formal Title IX sexual harassment complaint, the Institution will provide parties with a written notice of the grievance process, including a written notice of the allegations (including sufficient details known at the time), and allow the respondent a reasonable amount of time to respond prior to being interviewed.

The Institution must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in this Policy and the federal regulations even if proved, did not occur in the Institution's education program or activity, or did not occur against a person in the United States, then the Institution must dismiss the formal complaint with regard to the conduct for purposes of sexual harassment under Title IX or the federal regulations; such a dismissal does not preclude action under another provision of the recipient's code of conduct for students and employees.

1. Formal complaints received that do not meet the Title IX jurisdictional requirements will be dismissed for Title IX purposes and will proceed as a sexual/gender-based misconduct complaint, if applicable.
2. The Title IX Coordinator may consolidate Title IX sexual harassment complaints when the allegations are against more than one (1) respondent, or by more than one (1) complainant against one (1) or more respondent, or by one (1) party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.
3. The Institution may dismiss a Title IX sexual harassment complaint upon notice from a complainant that they would like to withdraw the complaint, when the respondent is no longer enrolled, employed or affiliated with the Institution, or where there is insufficient evidence to reach a determination. Written notice, including the reasons for the dismissal will be provided to both the complainant(s) and respondent(s). Either party may appeal the Institution's dismissal of a formal complaint.

C. Informal Resolution – At any time prior to a determination regarding responsibility, the parties may choose to participate in an informal resolution. The Title IX Coordinator, or their designee, may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, as long as the parties provide their voluntary, written consent. Informal resolution is not available in cases where the complainant is a student and the respondent is an employee. The Institution may not offer an informal resolution process unless a formal complaint is filed.

In order to facilitate the informal resolution process, the Institution will provide the parties with:

- 1) A written notice disclosing the allegations;
- 2) The requirements of the informal resolution process including the circumstances under which the parties are prohibited from re-filing a formal complaint with respect to the same allegations; and
- 3) Any consequences resulting from participating in the informal resolution process, including waiving the right to a hearing and what records will be maintained or shared.

At any time prior to agreeing to a resolution reached using the informal resolution process, any party has the right to withdraw from the informal resolution process and resume adjudication of the complaint under the formal grievance process.

D. Investigation – The Title IX Coordinator, or their designee, will investigate all Title IX sexual harassment complaints. Any party whose participation is invited or expected, will be provided written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

Prior to the finalization of the investigative report, each party and the party's advisor, if any, will receive, in an electronic format or a hard copy, the draft report and any of the evidence collected by the investigator. The parties will have ten (10) business days to submit a written response to be considered by the investigator prior to finalization of the investigative report. After ten (10) business days or the receipt of the parties' written responses, whichever is later, the investigator will issue a finalized investigative report that fairly summarizes the investigation including relevant evidence. The investigator will not make any findings as to the credibility of the parties or witnesses nor will the investigator make a recommendation regarding whether a violation of this policy occurred.

E. Hearings – All hearings conducted pursuant to this policy will be live and in real time. No sooner than ten (10) business days after the issuance of the final investigative report, the Institution will conduct a hearing regarding the allegations of sexual harassment. Live hearings may be conducted with all parties physically present in the same geographic location or, at the Institution's discretion or the request of a party, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants to simultaneously see and hear each other. The Institution reserves the right to conduct hearings during any official institutional breaks, including but not limited to the summer months.

At least ten (10) business days prior to the hearing the parties will be provided with the date, time and location of the hearing, access to or copies of the investigative file, and names of all witnesses expected to appear at the hearing. The parties will also be

provided with the names of the hearing panelist(s) for review and to enable parties to raise any objections as to the panelist(s)'s objectivity.

Only relevant cross-examination other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

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.

At the conclusion of the hearing, the hearing panel/panelist will deliberate to determine if this Policy was violated. The hearing panelist(s) will evaluate responsibility using a preponderance of the evidence standard. If a panel is used, decisions will be by majority vote.

Within fifteen (15) calendar days of the conclusion of the hearing, the hearing panel chair will notify the parties, Title IX Coordinator, and the applicable office as determined by the respondent's status with the Institution, of the panel's decision in the form of a written determination. The determination will be provided simultaneously to both parties and will include the following information:

- 1) The specific policy violation alleged;
- 2) A description of the procedural steps taken by the Institution from receipt of the report to the determination;
- 3) The finding on each alleged policy violation, the facts that support the determination;
- 4) The conclusions regarding the application of this policy to the facts at issue;
- 5) If responsibility is determined, any sanctions and/or remedies designed address, correct or prevent any discriminatory effects resulting from the conduct, to the extent the Institution 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 the Institution to be final, any changes that occur prior to finalization, and the relevant appeal options.

F. Advisors – The complainant and respondent shall be provided with the same opportunities to have an advisor, of their choosing, present during any proceeding at which their presence is required or expected such as meetings with the Investigator, the informal resolution, or hearing.

The advisor's role in any meeting is limited to quietly conferring with their advisee through written or verbal communication. During hearings, the advisor's role is to ask the other party and any witnesses all relevant questions and follow up questions including those challenging a party's or witnesses' credibility. Cross examination of the opposing party MAY NOT be conducted by the parties themselves. If a party does not have access to an advisor, the Institution will provide one for the purpose of conducting cross examination on the party's behalf. Parties should notify the Title IX Coordinator of their choice of advisor as soon as possible.

Advisors are expected to follow the Institution's rules of decorum throughout each stage of the grievance process. Failure to follow the rules of decorum provided by Title IX personnel will result in the advisor being barred from further participation in that stage of the process.

G. Appeals – Within ten (10) calendar days following the Title IX Coordinator's dismissal of a formal sexual harassment complaint or the receipt of the hearing panelist(s) determination of responsibility, the parties may appeal the dismissal, determination or sanction(s) issued. Grounds for appeal include:

- 1) The existence of a 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 and that could affect the outcome of the matter; and
- 3) The Title IX Coordinator, investigator(s), or hearing panelist(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Within ten (10) calendar days of receipt of an appeal, the Institution will notify the non-appealing party that an appeal has been filed and provide both parties with the name of the individual hearing the appeal. All parties may submit a written statement in support of, or challenging the outcome. The Institution will appoint a decision-maker for the appeal, who will not be the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator. Either party may raise

objections as to the appeal panelist(s)'s objectivity. Appeals will be determined based on a review of the investigative record, transcript/recording of the hearing, and any materials submitted with the appeal.

Within a reasonable time, the appeal officer(s) will issue a written appeal decision describing the result of the appeal and the rationale for the result. The written appeal decision will be provided simultaneously to both parties.

H. Sanctions for Students – A sanction is an opportunity to educate students on the effects of their behavior and to attempt to affect change in that student's behavior in the future. Any student found responsible for violating this Policy may be subject to one or more sanctions. Failure to complete the conditions outlined in any sanction will result in a HOLD being placed on the student's records and registration. A HOLD on student records and registration will, for example, prevent the student from registering and from obtaining transcripts, verifications, or a diploma from the Institution until the student satisfies the conditions of the sanction.

Criteria for assigning sanctions are determined by several factors: the severity of the misconduct, the nature of the incident, and the student's prior conduct record. Listed below are some of the more common sanctions used at Edward Waters University, but if circumstances require it, alternative or additional sanctions may be put into place.

- 1) Education/Training – Students may be required to attend training or educate and prevent similar conduct in the future. Educational sanctions may be imposed in combination with or as a condition of any other disciplinary sanction. Educational sanctions may, for example, require the respondent to prepare letters of apology, to research an issue related to the offense, to attend a workshop, lecture or meeting, to perform community service, or to attend counseling.
- 2) Mandated Counseling – Depending on the violation, students may be required to complete counseling by a trained, licensed mental health professional prior to being allowed to enroll or register for courses.
- 3) Formal Warning– In cases of minor violations, students will be placed on a formal warning status for one (1) calendar year.
- 2) Residential Probation – A residential probation is a warning similar to, but more serious than, a formal warning. A student may be placed on residential probation for a specified period not to exceed a student's graduation.
- 3) Disciplinary Probation – This sanction may prohibit the individual from representing the college in any official capacity. Probation shall be for at least three months or could continue throughout the student's enrollment at Edward

Waters College. Further violations of college policies, including violation of probation terms, will probably result in removal from the institution.

4) Suspension – Involves the withdrawal of enrollment privileges for a specified period of time and ordinarily carries with it conditions, which must be met for re-enrollment. During the period of suspension, the student may not come onto campus, except when specifically authorized in writing by the Dean of Students, Vice President of Student Success and Engagement, or designee. Failure to abide by this condition may result in arrest for trespassing and/or further disciplinary sanctions. Suspended students are not permitted to live or board in Institution facilities. Re-enrollment after a suspension requires that the student applies to the Dean of Students, Vice President for Student Success and Engagement, or designee at the close of the imposed period for a determination of whether they have met the conditions of conduct related sanctions. Students suspended may not receive credit for college work completed by correspondence or in residence at another Institution without prior permission from the Vice President of Student Success and Engagement. Records of suspension are maintained indefinitely.

5) Expulsion – Permanent dismissal from the Institution. These records are maintained indefinitely. Educational Sanctions All consequences of conduct hearings are intended to be educational.

6) Behavioral Contract – A contract is written by an administrator and student(s) for the purpose of improving behavior/ attitude. The behavioral contract includes specific obligations or behaviors which the student(s) must meet within a specified time period. The contract serves as the working agreement between the student(s) and the administrator.

7) Community Service – For incidents where the student has engaged in behavior that has an impact on all or a portion of the Institution community, students are required to give back to the community.

8) Restitution – Compensation required of students who engage in theft, misuse, damage, or destruction of institutional, group or private property. The amount of restitution is dependent upon the extent of damage as well as what is determined to be the most appropriate way for a student to make amends for the damage caused. The amount, form, and method of payment of restitution are determined by the hearing panel(ist).

9) Fines – For some violations, fines may be imposed. At the discretion of the hearing panel(ist), fines and/or work assignments may be imposed.

10) Removal from a Living Unit – The hearing panel(ist) may require a student to vacate a residence hall.

11) Revocation of Admission and/or Degree – Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of Institution standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.

12) Withholding a Degree – The Institution may withhold awarding a degree otherwise earned until the completion of the process set forth in this policy, including the completion of all sanctions imposed.

13) Interim Suspension – Students may be restricted from accessing Institution property or events or may be suspended for an interim period prior to a resolution of a disciplinary proceeding if reliable information exists that the indicates student’s continued presence on the Institution campus or at Institution sponsored events poses an immediate threat of harm to the student or other individuals.

H. Sanctions for Employees – The disciplinary process is intended to provide a positive and constructive framework for the employee in meeting established performance and behavior standards. All employees are expected to maintain a high standard of conduct and abide by the rules of the University. The following includes, but is not limited to, the sanctions available for employees found responsible for violating this policy:

- 1) Verbal warning
- 2) Written warnings
- 3) Training
- 4) Probation
- 5) Suspension with or without pay
- 6) Termination

I. Withdrawal or Resignation Prior Pending an Outcome – Student or employee respondents who leave the University prior to the completion of the formal grievance process will be ineligible for readmission or rehire. Students or employees who wish to return to the institution should contact the Title IX Coordinator to discuss what options are available, if any, to facilitate a return to the Institution.