



# **Sexual Misconduct Policy**

**Effective Date: August 14, 2020**

# Southwestern Law School Sexual Misconduct Policy

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**I. Introduction: Institutional Values, Community Expectations, and Notice of Non-Discrimination**

The Law School has enacted this policy to create an environment for students, faculty, administrators, staff, and visitors that is free of all forms of discrimination and harassment, including sexual misconduct.



B.

**intoxication or recklessness of the Respondent, or (b) the Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.**

The following are essential elements of affirmative consent:

*Informed and reciprocal:* All Parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way.

*Freely and actively given:* Consent cannot be obtained through the use of force, coercion, threats, intimidation or pressuring, or by taking advantage of the incapacitation of another individual.

*Mutually understandable:* Communication regarding consent consists of mutually understandable words and/or actions that indicate a mutually unambiguous willingness to engage in sexual activity. Consent may not be inferred from silence, passivity, lack of resistance, or lack of active response. **An individual who does not physically resist or**

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whether or not to participate in sexual activity or provide consent. Consent obtained by force is not valid. For the use of force to be demonstrated, there is no requirement that a Complainant resist the sexual





assessment, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

The privacy of student education records will be protected in accordance with the Family  
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policy. The privacy of an indiv





sexual harassment, sexual violence, and intimate partner violence that may also be crimes under California law. The Law School will assist a Complainant in making a criminal report and cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process to the extent permitted by law.

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in the resolution of a complaint under this Policy.

Confidential Medical Resources

**\*In California, medical providers who treat a physical injury sustained from an assault, physical or sexual, are required by state law to report the assault to law enforcement.** However, the patient has the right to request that a survivor advocate be present when the patient speaks with law enforcement and to request that law enforcement not pursue a criminal charge at that time. Further, the disclosure of private information contained in most medical records is generally protected by HIPAA, and community medical providers will not notify the Law School (or anyone else, other than law enforce

abide by any restrictions imposed by a supportive measure. The Law School will take immediate and responsive action to enforce a previously implemented restriction if such restriction was violated.

#### A. Range of Supportive Measures

Supportive measures will be implemented at the discretion of the Law School. Potential remedies that may be applied include:

Access to counseling services and assistance in setting up initial appointment, both on and off campus;

Rescheduling of exams and assignments (in conjunction with appropriate faculty and deans as necessary);

Providing alternative course completion options (with the agreement of the appropriate faculty);

Change in class schedule, including the ability to take an "I" or "D" drop a course without penalty or transfer sections (with the agreement of the appropriate faculty);

Change in work schedule or job assignment;

Change in on-campus housing;

Arranging to dissolve a housing contract and pro-rating a refund in accordance with campus housing policies;

Providing alternative course completion options (with the agreement of the appropriate faculty);

Interim suspension or Law School-imposed leave\* pending resolution of the matter\*;

Voluntary leave of absence;

Providing an escort to ensure safe movement between classes and activities;

Providing medical services;

Providing academic support services, such as tutoring;

Interim suspension or Law School-imposed leave\*;

Any other remedy that can be tailored to the involved individuals to reasonably achieve the goals of this Policy.

\*Note: These measures are not applicable in cases covered by conduct set forth in Appendix B.

#### B. Interim Suspension or Separation

Where the reported conduct poses a substantial and immediate threat of harm to the safety or well-being of an individual, members of the campus community, or the performance of normal







3. **Disciplinary Probation:** Exclusion from participation in privileged activities for a specified period of time. For students, privileged activities may include, but are not limited to, elected or appointed ASOC offices, student research, athletics, some student employment, and study abroad. Employees may be placed on a performance plan. Additional restrictions or conditions may also be imposed. Violations of the terms of disciplinary probation or any other Law School policy violations may result in further disciplinary action.
4. **Restitution:** Repayment to the Law School or to an affected Party for



or Hearing Officer. Where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent alleges consent, the prior sexual history between the Parties may be relevant to assess the manner and nature of communications between the Parties. As noted in the Sexual Misconduct Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the Complainant with other individuals is typically not relevant and will not be permitted.

### **Respondent's Prior Conduct History**

Where there is evidence of a pattern of conduct similar in nature by the Respondent, either prior, or subsequent, to the conduct in question, regardless of whether there has been a finding of responsibility for a similar act of Prohibited Conduct, there is a presumption of relevance and the finding may be considered in making a determination as to responsibility and/or assigning of a sanction. The Law School, through the Coordinator, may choose to provide this information to the Investigator or Hearing Officer, with appropriate notice to the Parties. Alternatively, a Party may request in writing that information under this section be admitted. A request to admit such information must be submitted to the Coordinator. The Coordinator will assess the relevance of this information and determine if it is appropriate for inclusion in the investigation report.

### **Consolidation of Investigations**

The Coordinator has the discretion to consolidate into one Investigation multiple reports against a Respondent and/or cross-complaints between a Complainant and a Respondent, if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident. Matters may be consolidated where they involve multiple Reporting Parties, multiple Respondents, or related conduct that would regularly have been heard under the Code of Student Conduct.

### **Failure to Comply with Investigation and Disciplinary Process**

If a party fails to comply with the procedures set forth herein, including through a material breach of confidentiality, the Law School reserves the right to bring additional charges of misconduct against the party. The Coordinator is responsible for interpreting and applying this provision. If an Advisor fails to comply with the procedures set forth herein, including through a material breach of confidentiality, the Law School reserves the right to exclude the advisor from further participation in the process.

### **Integrity of Proceeding**

These procedures are entirely administrative in nature and are not considered legal proceedings, but rather procedures designed to address policy violations. Neither Party may audio or video record the proceedings, nor is formal legal representation allowed. Advisors may not speak for, or on behalf of, Parties.

### **False Reports**



## **APPENDIX A**

### **RESOLUTION OF GRIEVANCE AGAINST STUDENT**

**Please see Appendix B for Resolution of Title IX Grievances.** Note: The definitions below do not apply to conduct falling within the scope of Appendix B. The Title IX Coordinator shall have the discretion to consolidate cases in which there are allegations of misconduct involving both prohibited conduct as set forth in Appendix A and Appendix B. In the event that allegations are consolidated, the Title IX Coordinator shall provide written notice to both parties setting for the application allegations, and the processes that shall be applied.

#### **PROHIBITED CONDUCT**

##### Sex or Gender-Based Discrimination

Sex or gender-based discrimination refers to the disparate treatment of a person or group because

pervasive, or persistent is determined both from a subjective and objective perspective.

Examples of conduct that may create a hostile environment include:

**Verbal conduct**, including making or using derogatory comments, epithets, slurs or humor; verbal abuse of a sexual nature, graphic verbal commentaries about an

Sexual Misconduct: Forms

The Law School prohibits the following specific conduct:

- 1. Sexual Assault
- 2. Sexual Exploitation
- 3. Stalking
- 4. Non-Consensual Sexual Contact
- 5. Intimate Partner Violence

Each of these is explained in detail below. In instances where Prohibited Conduct constitutes a violation of more than one violation of the Policy, an individual may be charged with multiple violations of the Policy.

*1. Sexual Assault*

Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault includes:

- a) The penetration, no matter how slight, or attempted penetration, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without consent.
- b) Contact, without consent, between the mouth of one party and the genitalia of the other.
- c) 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.
- d) Causing an individual to touch their own intimate body parts, or disrobing or exposure of another without permission. Intimate body parts may include the breasts, genitals, buttocks, groin, mouth or any other part of the body that is touched in a sexual manner.

*2. Sexual Exploitation*

Non-consensual or abusive sexual contact

non-consensual sexual activity.

3. *Stalking*



5. *Intimate Partner Violence: Forms*

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The Title IX Coordinator will coordinate resolution of all reports of Prohibited Conduct defined in the Sexual Misconduct Policy, including reports of discrimination, harassment, and/or retaliation (Title IX prohibited conduct).

**1.**

Assess for pattern evidence or other similar conduct if possible;

Prohibit retaliation;

Explain that if the complaint involves a Clery crime, the Coordinator will notify the Clery Coordinator of the report to assess the need to (1) enter the report in the Clery Act database, as defined by the Clery Act, and assure the Complainant that any such reports will not include the Complainant's identifying information.

Following the meeting, the Coordinator will provide the Complainant with the above-listed information in writing. As described in the Sexual Misconduct Policy, the Complainant has the right to request that the Coordinator not share the Complainant's name (or other identifiable information) with the Respondent, or that the Coordinator take no formal action in response to the report. If the Complainant makes such a request, the Coordinator will balance the request with its dual obligation to provide a safe and nondiscriminatory environment for all Law School community members, and to remain true to principles of fundamental fairness that require the Law School to provide the Respondent with notice of the allegations and an opportunity to respond before action is taken against the Respondent. The Coordinator will make this determination consistent with the following considerations, namely (1) the seriousness of the conduct; (2) the respective ages and roles of the Complainant and the Respondent; (3) whether there have been other complaints or reports of Prohibited Conduct against the Respondent; and (4) the right of the Respondent to receive notice and relevant information before disciplinary action is sought. Should the Coordinator determine that, in response to the Complainant's request, the Law School community members, and the Respondent without proceeding through the Grievance Process described herein, the Coordinator has the discretion to do so.

Absent a request for confidentiality as described above, the Coordinator will ask the Complainant questions to get a basic understanding of the reported Prohibited Conduct. The interview will include questions to understand the key facts upon which the Complainant bases the report (i.e., the who, what, where, and when) to appropriately assess how to proceed. At the conclusion of the Intake Meeting, and if the individual wishes to move forward with a complaint, the Coordinator will make an initial threshold determination regarding whether the Complainant's report indicates a violation of the Sexual Misconduct Policy and/or violations of Appendix A. The Coordinator will make this threshold determination within three (3) days of the meeting and communicate that finding in writing to the Complainant.

If the Coordinator determines that the Complainant's report, if true, could constitute a violation of the Sexual Misconduct Policy, the Coordinator will offer the Complainant the option of proceeding through Formal or Informal Resolution.

the police, or seek available civil remedies through the judicial system. The Complainant also may re-file the report under the Sexual Misconduct Policy upon discovery of additional facts.

**c. Informal Resolution.**

Participation in Informal Resolution is voluntary. If an informal resolution option is preferred, the Title IX Coordinator will assess whether the complaint is suitable for informal resolution and will then determine if the Respondent is also willing to engage in informal resolution. Both parties must agree, in writing, to an informal resolution.

Even if the Parties agree to Informal Resolution, it is within the discretion of the Coordinator to determine that a report must proceed through Formal Resolution in certain cases (e.g., where a Respondent is alleged to have violated the Sexual Misconduct Policy on multiple occasions or with multiple Reporting Parties or where the reported conduct, if true, presents a threat to the safety of the Southwestern community).

The nature of Informal Resolution process is flexible, and not all complaints resolved through Informal Resolution will proceed in uniform fashion. Typically, however, the Coordinator will ask the Complainant to prepare a written report, which sets out the factual basis for the grievance and any proposed resolution. The Complainant will be asked to provide the written report to the Coordinator within five (5) business days of conclusion of the Intake Meeting. The Coordinator will share the written report with the Respondent, and will instruct the Respondent to provide a written response to the report within five (5) business days of reviewing the Complainant's report. The Coordinator will facilitate a meeting with the Parties to discuss potential resolution options based on the information available. The Coordinator is not a fact-finder; rather, the Coordinator identifies possible alternative resolution(s) to the complaint. Possible alternative resolution(s) may include, but are not limited to:

- Permanent no-contact order between the students
- Academic or residential reassignment
- Written apology and/or explanation of the circumstances surrounding the grievance
- É Educational remedies
- É Community service

If the Coordinator and the Parties reach agreement, the matter is closed. If not, the Coordinator will proceed with Formal Resolution set forth in Section B, below. Any Party (including the Coordinator) may terminate the Informal Resolution process at any time. In that event, the Title IX Coordinator will so notify the Parties in writing and will describe next steps and timeframes for the Formal Resolution.

Any resolution reached through an informal process will be confirmed in writing and provided to the Parties within five (5) business days of reaching a resolution. If either Party does not voluntarily agree in writing to pursue Informal Resolution, or if the Complainant, Respondent, or Coordinator, at any time, determines that Informal Resolution is no longer appropriate, the

If the Coordinator determines that the Complainant's report warrants a Formal Resolution, the Coordinator will notify both Parties, in writing, that the complaint will proceed. The Complainant will include:

1. Complainant's name
2. Nature of the report
  - o Specific policy violation(s) alleged (e.g., sexual assault, sexual harassment, retaliation)
  - o Date(s) of alleged policy violation(s)
  - o Approximate time(s) of alleged policy violation(s)
  - o Brief description of allegation(s)
3. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the Formal Resolution process.
4. A statement that the Parties have the right to review and inspect all directly related and/or relevant evidence during the Formal Resolution process, consistent with this Policy.
5. Information about the privacy of the process;
6. Information on the right to have an advisor of their choosing;
7. The name of the investigator along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the investigator may have;
8. An instruction to preserve any evidence that is directly related to the allegations.
9. A statement that the Complainant has not knowingly made any false statements during the Formal Resolution process.
- 10.

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vj g\"eqo r rclpv\"õKpxguiki cvkqpö+0\"Vj g\"Eqqtf kpcvor will select an Investigator based on several  
factors, including the Parties involved, the complexity of the complaint, the need to avoid any  
potential conflict of interest, and who may best conduct a fair and equitable investigation for all  
Parties involved. The Coordinator will notify the Parties, in writing, of the name of the designated  
Investigator at the time the Coordinator issues the notice of formal resolution. Both Parties will have  
three (3) business f c { u \"v \" q d l g e v \" v \" y g \" K p x g u i k i c v q t a \" u g r e v k o n on the basis of bias or conflict of  
interest. If either of the Parties objects, the Coordinator will evaluate whether the objection is



gathered in the Preliminary Investigation, including any written responses to the evidence submitted by the Parties. When the Investigator determines that the Preliminary Investigation is complete, the Investigator will submit the Summary of Evidence Report to the Coordinator. The Coordinator may require the Investigator to conduct additional investigation; if so, the Investigator will conduct additional investigation consistent with the procedures outlined above.

Once the Coordinator has agreed that the Preliminary Investigation is complete, within five (5) business days, the Coordinator will provide the Summary of Evidence Report to the Parties and their advisor. Given the sensitive nature of the information provided, the Coordinator will provide the Summary of Evidence Report in a secure manner (e.g., by providing digital copies of the materials through a secure email). Complainant nor the Respondent (or their advisors, including but not limited to family members and/or legal counsel) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. An advisor who fails to abide by this policy may be subject to discipline and/or may be excluded from further participation in the process.

The Parties will have ten (10) calendar days to review the Summary of Evidence Report and provide a response to the Coordinator. The Coordinator will provide the Summary of Evidence Report to the Hearing Officer.

### *Hearing*

The hearing is an opportunity for the Parties to address the Hearing Officer in person, to question the other Party and/or witnesses, and for the Hearing Officer to obtain information following the investigation that is necessary to make a determination of whether a Sexual Misconduct Policy violation occurred. The hearing will be conducted as follows:

1. Hearing Officer. The hearing will be conducted by a Hearing Officer, who is selected by the Law School from a pool of qualified candidates. The Hearing Officer will be responsible for the handling of student sexual misconduct cases, and other relevant issues.

The Hearing Officer must be impartial and free from bias or conflict of interest. The Parties will be informed of the identity of the Hearing Officer and vice versa before the pre-hearing meeting. If the Hearing Officer has concerns that he or she cannot conduct a fair or unbiased review, the Hearing Officer must report those concerns in advance of the pre-hearing meeting to the Coordinator and a different Hearing Officer will be assigned. Similarly, the Parties will have





provided with a list of witnesses and any relevant documents related to the  
y kpguguø appearance at the hearing no later than three (3)

cellphones, will be permitted in the hearing room, except as arranged by the Law School.

8. Standard of Evidence

five (5) business days of receiving all materials





## APPENDIX B

### RESOLUTION OF TITLE IX GRIEVANCE

These procedures will apply **only** to a narrow category of cases. Those cases meeting the definitions and jurisdictional elements below will follow this policy. Those cases that do not fit within these new definitions will follow the definitions in the previous policy. These procedures are consistent with the Violence, and Stalking Policy & Procedures for Resolving Complainants Against Students, Appendix A; this is not to suggest that any case is more or less important, but instead a reflection of federal regulations that apply only to a specifically-identified set of cases.

The effective date of these procedures is on August 14, 2020. These procedures will apply in all cases where a Formal Complaint of prohibited conduct under these procedures is made on or after August 14, 2020.

Where the date of the alleged prohibited conduct precedes the effective date of these procedures, the definitions of prohibited conduct in existence at the time of the alleged conduct will be used. These procedures, however, will be used to investigate and resolve all Formal Complaints made on or after the effective date of these procedures, regardless of when the conduct occurred.

**If you are unclear about any of the provisions below and would like to get more information, you may speak on a non-confidential basis with the Title IX Coordinator.**

These procedures apply only to the following cases:

#### **1. Nature of Complaint:**

- A complaint of Dating Violence, Domestic Violence, Stalking, or Sexual Assault as defined below;
- A complaint of sexual harassment in which the harassment was so severe and pervasive and objectively offensive that it denied the complainant equal access to an educational program or activity;
- A complaint of quid pro quo sexual harassment by an employee respondent.

**If yes to one of the above, continue. If no, please see Southwestern Law School Sexual Misconduct**







another office, or for handling under Appendix A, the Law School shall have the right to transfer all communications and information gathered to any other Law School administrator who will be reviewing



## **RESPONSE TO ALLEGATIONS THAT SEXUAL HARASSMENT OR GENDER-BASED MISCONDUCT AS SET FORTH IN THIS APPENDIX B MAY HAVE BEEN VIOLATED**

### **Intake Interview**

Upon receipt of information suggesting a potential violation of this Appendix B, or the Southwestern Law School Sexual Misconduct Policy, the Title IX Coordinator or designee will conduct an Intake Interview as set forth in the Southwestern Law School Sexual Misconduct Policy, Appendix A. During the intake interview, the Title IX Coordinator will also offer supportive measures, explain that supportive measures are available whether or not a formal complaint is filed, and explain the process for filing a formal complaint.

### **Supportive Measures**

Upon notice of conduct alleged to violate the policy set forth in this Appendix B, supportive services will be offered to the Complainant and/or the Respondent by the Law School as appropriate and reasonably available. Such measures are designed to restore or preserve equal access to the Law Uej qqm'gf wecvkp" program or activity without unreasonably burdening the other party, including measures designed to protect yj g"uchgv{ "qh'cm'r ct vku"qt "y g"Ncy "Uej qqm'gf wecvkpcn'gpxkqpo gpv"qt "f gygt "ugz wclj ctcuuo gpv" discrimination and/or retaliation.

At the time that supportive measures are offered, the Title IX Coordinator will inform the Complainant, in writing, that the Complainant may file a Formal Complaint as defined in this Appendix B with the Law School either at that time or in the future, if Complainant has not done so already. The Title IX Coordinator y km'utlxg"vq"cnq'lpvq "ceeqpvc'r ctv{ au'y kuj gu'y kj "tgr gev"q"uwr r qt vkg"o gcuvtgu'cpf "y km'gpwtg"vj cv'yj g" r ctv{ au'r tlxce{ "ku'o clpvkpgf "cu'b vej "cu'r quukdg'y kj qw'ko r cklpi "yj g"Ncy "Uej qqm'cdkxv{ "q'r tqxf g"yj g" supportive measures. The Law School will act to ensure as minimal an academic impact on the parties as possible.

Please also see Southwestern Sexual Misconduct Policy Appendix A.

## **RESOLUTION METHODS**

### Informal Resolution

When the Complainant requests an Informal Resolution in writing, the Title IX Coordinator will provide the Complainant and Respondent written notice that includes:

The specific allegation and the specific conduct that is alleged to have occurred;

The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;

Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the formal investigation and adjudication processes, there is a determination of responsibility.

An explanation that each party may be accompanied by an Advisor (add any others who may accompany, such as support person) of their choice, who may be a parent, friend, or attorney.

The date and time of the initial meeting with the Title IX Coordinator, with a minimum of (how many days) notice.

Information regarding Supportive Measures, which are available equally to the Respondent and to the Complainant.

If either party does not voluntarily agree in writing to pursue an Informal Resolution, or if the Complainant, Respondent, or Title IX Coordinator, at any time, determines that Informal Resolution is no longer appropriate, the Title IX Coordinator will promptly inform the Complainant and Respondent in writing that the complaint will proceed through Formal Resolution.

Records of any Informal Resolution will be maintained and can be shared with other offices as appropriate.

Allegations of quid pro quo harassment of a student by an employee shall not be handled through the Informal Resolution process, and instead only through the formal complaint process.

The Informal Resolution process shall be carried out in the same manner as Informal Resolution in Southwestern Law School Sexual Misconduct Policy Appendix A.

### **Investigation Process**

The Investigation process shall be carried out in the same manner as set forth in the Preliminary Investigation, Sexual Misconduct Policy, Appendix A.

### **Notice to Respondent**

Upon the filing of a Formal Complaint under this Appendix B, written notice shall be provided to the Respondent and to the Complainant. Such notice shall include the following information:

The specific allegation and the specific conduct that is alleged to have occurred.

The identity of the Complainant.

The date and location (if known) of the conduct that is alleged to have occurred.

A copy of this policy, which contains the process that will be followed, including an explanation that each party as well as their Advisors (if they have one) shall have the right to inspect and review all evidence directly related to the allegation(s) prior to the completion of the investigation.

A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the process below, there is a determination of responsibility.

An explanation that each party may be accompanied by an Advisor of their choice, who may be a parent, friend, attorney, or union representative.

The date and time of the initial meeting with the Title IX Coordinator, with a minimum of notice.

The Law School alcohol and drug amnesty policy.

The name and contact information for the assigned investigator.

Information regarding Supportive Measures, which are available equally to the Respondent and to the Complainant.

Information regarding prohibition of providing false information.

**Note: Should additional allegations be added at a later time, the Respondent will again be provided with a full written notice.**

The Hearing Officer is responsible for maintaining an orderly, fair, and respectful hearing and has broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending person. During cross-examination, the Hearing Officer has the authority to direct any Party or Advisor to refrain from asking questions that are unduly harassing or that seek information that is not relevant under this Policy.

Parties may make requests to the Coordinator related to the format or nature of their participation in the hearing. The Coordinator will work with the Hearing Officer to accommodate reasonable requests, including the option for the hearing to occur with the Parties located in separate rooms with technology enabling the decision-maker and the Parties to simultaneously see and hear the Party answering questions.

Hearings may be in person or via videoconferencing. If by videoconference, parties will receive written procedures for the videoconference within ten (10) days of the hearing. Prior to the hearing, the Hearing Officer shall have received instruction regarding the operation of any audio-visual equipment for the hearing.

Scheduling Parties may request to the Coordinator responses thereto, if any, to the Hearing Officer. The Coordinator will schedule a hearing date, time, and location and notify the Parties of the same. The Hearing Officer will strive to complete a hearing within fourteen (14) business days from receipt of the Summary of Evidence Report and the Parties' responses thereto, if any.

Pre-Hearing Meeting. Prior to the hearing, the Coordinator will conduct a pre-hearing meeting with each Party. At the pre-hearing meeting, each Party will receive an explanation of the hearing process and have the opportunity to ask any questions. If either Party does not have an Advisor, the Law School shall appoint an Advisor of its own choosing.

Witnesses. The Complainant, Respondent, and the Hearing Officer all have the right to call witnesses. Witnesses must have observed the conduct in question or have information relevant to the incident and

The hearing shall start with an overview of the hearing process from the Hearing Officer. The Hearing Officer will then pose questions to the Complainant. When the Hearing Officer has concluded, the Complainant will be asked follow-up questions for the Complainant, the Advisor will ask those questions. The same process will then be followed for any witnesses who are to be interviewed.

The Hearing Officer may refuse to allow those questions that seek information that is not relevant under this Policy. The Hearing Officer is not required to provide a lengthy or complicated explanation, but is required only to explain the reason why a question is not relevant.

If either Party does not appear, their Advisor will be present for the purpose of asking questions of the other party, or of witnesses. If neither the Party nor their Advisor appears, the Law School shall appoint an Advisor for purposes of cross-examining the other party, and witnesses, at the hearing.

The Complainant and the Respondent, their Advisors, and the Hearing Officer will attend the hearing. Other Law School administrators may attend at the request of or with the prior approval of the Hearing Officer, but the Parties will be notified in advance of anyone who will be in attendance. Any individual appearing as a witness will be present only while providing a statement and responding to questions.

The Hearing Officer has absolute discretion to decide upon a format for the hearing and to determine which witnesses are relevant to the outcome determination. A Hearing Officer may decline to hear from a witness where they conclude that the information is not relevant.

The Hearing Officer also will afford both Parties an opportunity at the end of the hearing to offer closing remarks. A decision whether to offer closing remarks is completely voluntary; however closing remarks may only be made by the Parties, and not their Advisors.

Advisors may be present during the hearing whether or not the Party being advised is also present. Other than cross



hearing shall be audio recorded. No other individual is permitted to record while the hearing is taking place. The recording is the property of Law School but shall be available for listening by contacting the Title IX Office.

Standard of Evidence. The Hearing Officer shall determine whether the Respondent has violated this Appendix B. The Hearing Officer shall consider all of the evidence and make a determination, by a preponderance of the evidence, whether the Respondent has violated this Appendix B.

Notice of Hearing Outcome. Following the hearing, the Hearing Officer will consider all of the evidence and make a determination, by a preponderance of the evidence, whether the Respondent has violated this Appendix B.

If the Respondent is found responsible for a violation of the conduct as set forth in this Appendix B, the Hearing Officer shall issue a Formal Resolution. If the Respondent is found not to have violated this Appendix B, the Formal Resolution shall be concluded.

The Title IX Coordinator will also determine whether any remedies designed to restore or preserve equal educational opportunity shall be put in place, the Coordinator shall note to the Respondent only that remedies were provided. The Complainant shall be informed of the specific remedies that will be provided.

The Hearing Officer will strive to issue the Final Report within fourteen (14) business days of the hearing. The Report shall include:

- The allegations
- A description of all procedural steps
- Findings of fact for each allegation
- Conclusion of application of facts to the policy for each allegation
- The rationale for each finding
- Sanctions and, for the Complainant, appropriate remedies
- Procedure for appeal

### **Appeals**

At the conclusion of the Formal Resolution Process, either Party may appeal upon the grounds described in Section D of the Title IX Policy (Southwestern Law School Sexual Misconduct Policy).

### **Consolidation of Cases**

In the event that the allegations under this policy involve allegations of a violation of a separate policy, whether Student Code of Conduct, Faculty Handbook, or Staff Handbook, the School shall have the right, within its sole discretion, to consolidate those other allegations within one investigation and/or hearing. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this policy.

### **Training for Investigators, Hearing Officers, Hearing Panel, Appeals Officers, Title IX Coordinator**

The Title IX Coordinator, Sanctioning Official, and Appeals Officer must have had the following training prior to commencing any role in any case under this policy:

the definition of sexual harassment under § 34 C.F.R. § 106.30(a);  
how to conduct iD 01 0 0 same regulations;

**Effective Date: August 14, 2020**