

CLARK ATLANTA UNIVERSITY TITLE IX POLICY

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CLARK ATLANTA UNIVERSITY		
POLICY and PROCEDURE	Subject: Title IX	
Department: Student Affairs Human Resources: Title IX	Review/Revise Date: 10/19/2015	Issued By: Title IX Coordinator: Ramona Roman
	10/20/2015 Revision 05/11/2017	
Distribution: All Students, Faculty and Staff of the University	Required Approval: President	No. of Pages: 18
Signature Approver Dr. Ronald A. Johnson <div style="text-align: right;">Date 06/30/2017</div>		

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1.0 Policy Statement

The University is a recipient of federal funds. As such, the University complies with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. ("Title IX"), which prohibits discrimination on the basis of sex in education programs or activities. In compliance with Title IX, the University is and remains committed to:

- Providing programs, activities, and an educational environment free from Sex Discrimination;
- Providing programs, activities, and an educational environment free from "sexual assault," "domestic violence," "dating violence" and "stalking," as those terms are defined under section 40002(a) of the Violence Against Women Act of 1994 and/or applicable state law;
- Fostering an environment that encourages prompt reporting of all types of Sexual Misconduct and Sex Discrimination and a timely response to complaints;
- Providing adequate, prompt, fair and impartial investigations into and resolution of allegations of Sexual Misconduct and Sex Discrimination; and
- Ensuring that Title IX investigations are conducted by University officials who receive annual training on the issues related to Sexual Misconduct and Sex Discrimination, and on how to conduct an investigation and hearing process that protects the safety of the accusers and promotes accountability.

2.1 Procedure Narrative

The University has jurisdiction to receive, investigate, hear and resolve reports and/or formal complaints brought by Students and University employees that involve or invoke Title IX. The Title IX Coordinator is authorized to enact procedures that include specific instructions for reporting, investigating and resolving incidents and/or complaints of Sexual Misconduct and Sex Discrimination. The Title IX Coordinator may designate deputies to assist in the reporting, investigation, and resolution of incidents and/or complaint of Sexual Misconduct and Sex Discrimination.

GENERAL TIMELINE FOR RESOLVING COMPLAINTS FOR SEXUAL MISCONDUCT AND SEX DISCRIMINATION

Most cases of alleged Sexual Misconduct and Sex Discrimination will be resolved within sixty (60) calendar days, excluding any appeal(s). Sexual Misconduct and Sex Discrimination violates University policy and federal civil rights laws and a person found responsible for said conduct may

be subject to penalties as severe as expulsion and/or denial of state funds for any loans, grants or scholarships, criminal prosecution, fines and/or imprisonment.

PROHIBITED CONDUCT

The University expressly prohibits any form of Sexual Misconduct and Sex Discrimination which creates a hostile campus and/or work environment. Retaliation against any member of the University community who makes a report of Sexual Misconduct or Sex Discrimination and/or cooperates in the review and investigation of such report is strictly prohibited and is a violation of the University's Nondiscrimination Policy, Sexual Harassment Policy, Title IX and other federal civil rights laws. Retaliation includes intimidation, harassment, threats, or other adverse action or speech against the person who reported the misconduct, the Complainant or Complainants, or witnesses. The University will not only take steps to prevent retaliation, but will also take strong corrective action if it occurs. Any person who experiences or witnesses acts of retaliation of any kind should promptly report such conduct to the Title IX Coordinator, Dean of Students, or the Department of Public Safety.

2.2 OPTIONS FOR REPORTING OR DISCLOSING SEXUAL MISCONDUCT

If Sexual Misconduct or Sex Discrimination of any kind occurs, the victim (or witness, if applicable) of said misconduct may pursue the following options:

- a) Report the offense to one or more of the following University officials and/or departments:
 - If Sexual Misconduct is involved, any member of the Student Health Services staff located at CAU Suites, 128 Mildred Street, and (404) 880-8322. Disclosures made to the any health professional in Student Health Services will be held in strict confidence but may serve as notice to the Title IX Coordinator requiring initiation of an investigation into the disclosed conduct;
 - Title IX Coordinator
 - University Counseling & Disability Services, 210 Kresge Hall, (404) 880-8044
 - Dean of Students, Suite 250, Student Center, (404) 880-6128
 - Director of Residence Life; Residencelife@cau.edu
 - Residence Hall Directors and resident assistants (RAs)
 - Athletics Compliance Officers, Director of Athletics, or team coaches

- Chief Judicial Affairs Officer
- b) If Sexual Misconduct is involved, notify the University Department of Public Safety or other law enforcement authorities
- c) Decline to notify any such authorities. However, the University strongly encourages victims of Sexual Misconduct to report the occurrence and seek all necessary and available assistance.

Assistance is available upon request to help victims of Sexual Misconduct review these disclosure and reporting options. In addition, University support services are available to victims regardless of whether they choose to formally report the violation to the University or to local law enforcement.

Meeting With the Victim Only.

- a) Upon receipt of notice of any allegation of Sexual Misconduct or Sex Discrimination, depending on the nature of the claim, the Title IX Coordinator or designee will promptly schedule an individual meeting with the victim to:
 - (i) Provide him or her a general understanding of this Code, these procedures, and the investigative process;
 - (ii) Discuss and provide written information regarding forms of support or immediate interventions available to the victim, such as on and off-campus resources, interim measures, etc.;
 - (iii) Discuss and provide written information regarding the victim's options for, and available assistance in, changing any accommodations that may be appropriate and reasonably available concerning the victim's academic, living, transportation and working situations;
 - (iv) Seek to determine if the victim wishes to notify law enforcement authorities, wishes to be assisted in notifying law enforcement authorities, or does not wish to notify law enforcement authorities;
 - (v) Where applicable, provide information to the victim of his or her rights and the University's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil or tribal court;

- (vi) Inform the victim about how the University will protect his or her confidentiality, including the omission of the victim's identifying information in publicly-available records, to the extent permissible by law.

When Victim Requests Confidentiality and Elects Not to Proceed With an Investigation or to file Formal Charges

- a) If the victim does not wish to proceed with an investigation and/or requests that the complaint remain confidential, Title IX still requires the University to investigate and take reasonable corrective action in response to the victim's information. The Dean of Students or designee will inform the victim that the University's ability to respond may be limited and will refer the victim to the Title IX Coordinator.
- b) The Title IX Coordinator will weigh the victim's request(s) for confidentiality and/or wish not to proceed with an investigation against the University's obligation to provide a safe, non-discriminatory environment for all students. Specifically, the Title IX Coordinator will consider the following factors:
 - (i) The seriousness of the alleged misconduct;
 - (ii) Whether there have been other complaints of Sexual Misconduct or Sex Discrimination against the accused at the University or any other school or in the nature of prior criminal charges;
 - (iii) Whether the accused threatened further misconduct or violence against the victim or others;
 - (iv) Whether the Sexual Misconduct or Sex Discrimination was committed by multiple persons;
 - (v) Whether the Sexual Misconduct involved use of a Weapon;
 - (vi) The age of the victim;
 - (vii) Whether the University possesses other means to obtain relevant evidence of the misconduct;
 - (viii) Whether the complaint reveals a pattern of conduct at a particular location or by a particular individual and or student group or organization;

- (ix) The accused's right to receive information about the allegations if the information is maintained by the University as an "education record" under FERPA.

The Title IX Coordinator or designee will inform the victim if the University cannot ensure confidentiality. In an instance where the University must disclose a victim's identity to the accused, the Title IX Coordinator or designee will inform the victim prior to making the disclosure.

Even if the victim does not wish to file a formal complaint or proceed with an investigation because he or she insists on confidentiality or requests that the complaint not be resolved, the University reserves the authority to undertake appropriate corrective action, including the interim measures described in this policy.

There is no time limit to filing a complaint, making a report or commencing an investigation under these procedures. However, victims are encouraged to report a complaint immediately in order to maximize the University's ability to obtain information, and conduct an adequate, thorough, prompt, and impartial investigation. Failure to promptly report alleged Sexual Misconduct may result in the loss of relevant information, evidence, and reliable witness testimony, and may impair the University's ability to carry out these procedures.

2.3 PROCEDURES FOR FILING COMPLAINTS OF SEXUAL MISCONDUCT

If the victim (i.e. the Complainant) of Sexual Misconduct elects to file and/or proceed with a formal complaint, he or she may file a formal complaint with the Title IX Coordinator or Title IX deputies.

2.4 INVESTIGATION PROCEDURES

Determination of Proceedings:

- a) If the Title IX Coordinator commences a formal investigation, he or she will provide a Notice of Investigation to both the Complainant and the Respondent. This Notice will include a description of the alleged conduct, the alleged conduct violation(s), a description of the investigation process, and a reaffirmation of available resources for both parties throughout the process.

Investigation/ Fact-Finding Procedures:

- a) The Title IX Coordinator may appoint one or more Investigators, who will conduct interviews with the Complainant, the Respondent and any witnesses, and who will collect and review any other information or evidence relevant to the complaint. When applicable, the Investigator(s) will coordinate with the Department of Public Safety and other law enforcement officials concerning the preservation and handling of any physical evidence.

Summary of Investigation:

- a) Once a formal investigation is completed, the Investigator(s) will prepare for submission to the Title IX Coordinator an Investigation Summary that includes the following:
 - (i) An overview of the incident including involved parties and history of the case;
 - (ii) Alleged violation(s);
 - (iii) The Standard of Proof;
 - (iv) Summaries of information provided by the Complainant, the Respondent and any third party witness(es);
 - (v) Summaries of information provided by expert witnesses, where applicable;
 - (vi) Any other relevant information (e.g., photographic, electronic and/or forensic evidence);
 - (vii) A summary of established facts and information that remains in question;
 - (viii) Recommendation of determination regarding alleged violations;
 - (ix) A list of recommended witnesses to be called in the event of a formal hearing.

After review of the Investigation Summary by the Title IX Coordinator, the Investigator(s) will distribute the Investigation Summary to the Complainant and the Respondent. The Investigator(s), Title IX Coordinator or both will then meet independently with the Complainant and the Respondent to discuss the Investigation Summary findings, collect responses, answer any questions, and discuss next steps in the proceedings. Once the Investigation Summary and responses from the Complainant and the Respondent have been collected, the documents will be submitted to the Dean of Students or designee. The Investigator(s) or Title IX Investigator will then make a recommendation to the Dean of Students or designee as to whether a violation has been committed and whether to move forward with a formal hearing before a Special Matter Hearing Panel.

2.5 INTERIM AND REMEDIAL MEASURES

Regardless of whether a victim of Sexual Misconduct or Sex Discrimination chooses to report the incident to campus police or local law enforcement, the University shall proactively consider the following remedies, as well as other remedies deemed appropriate for each specific case, while an investigation is being conducted:

- a) Providing the victim with an escort to ensure that he or she can move safely between classes;
- b) Ensuring that the victim and the accused do not attend the same classes;
- c) Moving the victim or the accused to a different residence hall;
- d) Providing counseling services;
- e) Providing medical services;
- f) Providing academic support services, such as tutoring;
- g) Arranging for the victim to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the victim's academic records;
- h) Reviewing any disciplinary actions taken against the victim to see if there is a causal connection between the harassment and the misconduct that may have resulted in the victim being disciplined.

The University also reserves the right to suspend the Respondent pending the investigation of the victim's complaint, or disciplinary or criminal proceedings. The interim suspension shall become immediately effective without prior notice whenever there is evidence that the continued presence of the student at the University poses a substantial and immediate threat to himself or herself, or to others. A Student suspended on an interim basis under this Part of the Code shall be given a prompt opportunity to appear personally before the Dean of Students or designee in order to discuss the following issues only:

- a) The reliability of the information concerning the Student's conduct, including the matter of his or her identity; and

- b) Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the Student on University premises poses a substantial and immediate threat to himself or herself, or to others.

The University may also consider and take remedial measures that affect the broader Student population, including, but not limited to, offering University-wide counseling and training; developing, updating and disseminating materials on Sexual Misconduct and Sex Discrimination; developing and implementing new policies and grievance procedures; and conducting internal University investigations to assess the effectiveness of the University's efforts to eliminate Sexual Misconduct and Sex Discrimination and promote an environment free of sex discrimination.

Mediation will not be used to resolve Sexual Misconduct complaints.

2.6 SPECIAL MATTER HEARING PANEL AND PROCEDURES

A Special Matter Hearing Panel shall be authorized to hear cases specifically involving formal charges of Sexual Misconduct and Sex Discrimination. The Dean of Students (or designee) shall be responsible for soliciting nominations for, screening, appointing and training members of the Special Matter Hearing Panel. The Special Matter Hearing Board shall consist of three (3) administrators and two (2) faculty members. There shall be no Student on any Special Matter Hearing Panel. The role of the Special Matter Hearing Panel shall be to determine whether the Respondent(s) is/are responsible for the alleged Sexual Misconduct and to make recommendations for sanctions to the Dean of Students. No member of any hearing board shall take part in any hearing where he or she has a conflict of interest, which may include, but not be limited to, personal, monetary, teacher-student, supervisor-supervisee interests or relationships.

SANCTIONS FOR SEXUAL MISCONDUCT

Any person found to have committed any act of Sexual Misconduct (regardless of whether sexual intercourse has occurred) will be subject to sanctions ranging from a warning to expulsion depending on the severity of the incident, and taking into account any previous campus conduct code violations. The Office of Judicial Affairs reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the initial hearing officers nor any appeals body or officer will deviate from the range of recommended sanctions unless compelling evidence exists to do so. Nothing in this Policy should be interpreted to relieve a Respondent from legal liability and sanctions under local, state or federal law.

TITLE IX APPEALS AND TITLE IX GENERAL GRIEVANCE PROCEDURES

Title IX Grievances and First-Level Title IX Appeals:

- a) All Title IX Grievances and first-level Title IX Appeals must be submitted in writing and include the following information:
 - i. The name, address, and signature of the grievant or appellant;
 - ii. A sufficient description of the issue on appeal (material deviation from substantive/procedural compliant proceedings; failure to base final decision on substantial evidence/information; or new issue or information sufficient to alter the decision) or the allegedly improper policy, practice or procedure resulting in a Title IX violation;
 - iii. The identity of additional witnesses or affected individuals.
 - iv. The attaching or identification of any other documents, facts, or evidence that the University should consider in reviewing the grievance or appeal.
- b) Title IX Grievances and first-level Title IX Appeals should be submitted to the following person(s) or department(s) for processing and determination:
 - i. **For Title IX Grievances:** For general grievances concerning a perceived Title IX violations not involving Sexual Misconduct but involving University policy, practice or procedure, the grievance should be submitted to the Title IX Coordinator. The Title IX Coordinator will investigate the grievance, including, but not limited to, seeking an opinion from relevant stakeholders regarding whether and why (or why not) the policy, practice or procedure being grieved violates Title IX, and what, if any, steps should be taken to bring the policy, practice or procedure into Compliance. The Title IX Coordinator may also conduct a follow-up conference or hearing with the grievant or others. Within sixty (60) days of receipt of the grievance, the Title IX Coordinator will issue a Notice of Grievance Determination regarding the grievance.
 - ii. **For First-level Title IX Appeals:** A person seeking to file a Title IX Appeal is not required to re-submit any documents or information that the University already has in its possession as a result of its original Title IX investigation.

Appeals to a Notice of Grievance Determination and Second-Level Title IX Appeals:

- a) Appeals to a Notice of Grievance Determination or to a decision on appeal from the Chief Judicial Affairs Officer must be brought within ten (10) business days of receipt of same, and may only be brought on one or more of the following two (2) grounds:
 - i. Decision resulted in the denial of appellant's due process rights under the law or applicable University policy;
 - ii. To consider new information sufficient to alter the decision or relevant facts not brought out in the investigation or on appeal.

- b) All second-level Title IX Appeals and Appeals to Notices of Grievance Determinations must be submitted, in writing, to the Vice President of Student Affairs and include the following information:
 - i. The name, address, and signature of the appellant;
 - ii. A sufficient description of the issue on appeal (denial of due process; or new issue or information sufficient to alter the decision) or the allegedly improper policy, practice or procedure resulting in a Title IX violation;
 - iii. The identity of additional witnesses or affected individuals;
 - iv. The attaching or identification of any other documents, facts, or evidence that the University should consider in reviewing the grievance or appeal.

- c) An appellant is not required to re-submit any documents or information that the University already has in its possession as a result of its original Title IX investigation or first-level appeal review.

- d) The Vice President of Student Affairs will issue a Notice of Final Appeal Determination within thirty (30) calendar days of receipt of the appeal. The Notice of Final Appeal Determination will affirm, modify, or reverse the decision being appealed, or the policy/practice/procedure being grieved.

- e) All decisions rendered in a second-level appeal are FINAL and may not be appealed; however, an affected individual may contact the U.S. Department of Education's Office of Civil Rights for questions, concerns or complaints about CAU's handling of your complaint, grievance, or appeal.

3.0 Entities Affected By This Policy

4.0 Definition of Key Terms

- a) **“Aggravated Violation”** means a violation which resulted or foreseeably could have resulted in significant damage to persons or property, or which otherwise posed a substantial threat to the stability and continuance of normal University of University-sponsored activities.
- b) **“Complainant”** means a member of the University community who files a formal complaint against a Student, Group, or Organization for violation of this Code or, for purposes of the Procedures set forth in Part Two of this Code, a Student who alleges to have experienced the Sexual Misconduct.
- c) **“Consent”** - Consent is clear, unambiguous, and voluntary agreement between participants to engage in specific sexual activity. Consent is active, not passive, and is given by clear actions or words. Consent may not be inferred from silence, passivity, or lack of active resistance alone. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Being intoxicated does not diminish one’s responsibility to obtain consent. In some situations, an individual may be deemed incapable of consenting to sexual activity because of circumstances or the behavior of another, or due to his or her age. Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a “no.” Examples of such situations include, but are not limited to, incompetence, impairment from alcohol and/or other drugs, fear, unconsciousness, intimidation, coercion, confinement, isolation, or mental or physical impairment.
- d) **“Dating Violence”** - Violence committed by a person—
- who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - the length of the relationship
 - the type of relationship
 - the frequency of interaction between the persons involved in the relationship”
- e) **“Domestic Violence” or “Family Violence”** - Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the

victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. Georgia state law specifically defines such violence as the occurrence of a felony or the commission of offenses of battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint, or criminal trespass between:

- (i) past or present spouses;
- (ii) persons who are parents of the same child;
- (iii) parents and children;
- (iv) stepparents and stepchildren;
- (v) foster parents and foster children; or
- (vi) other persons living or formerly living in the same household.

- f) **“Fabrication”** means intentional and unauthorized falsification or invention of any information or citation in an academic exercise.

- g) **“Force”** - The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes resistance or produces consent. There is no requirement that a person has to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

- h) **“Incapacitation”** - Incapacity can result from mental disability, sleep, involuntary physical restraint, or from intentional or unintentional taking of alcohol and or other drugs. An incapacitated person does not have the ability to give knowing consent. Sexual activity with a person who one should know to be – or based on the circumstances should reasonably have known to be – mentally or physically incapacitated, constitutes a violation of this policy. The perspective of a reasonable person will be the basis for determining whether one should have known about the impact of the use of alcohol and/or drugs on another's ability to give consent.

- i) **“Institution”** and **“University”** mean Clark Atlanta University and all of its undergraduate, graduate and professional schools, divisions, and programs.

- j) **“Investigator(s)”** - means an official(s) designated by the Title IX Coordinator to conduct an investigation of alleged Sexual Misconduct, and who acts as the primary witness in the event of a disciplinary hearing.

- k) “Non-Consensual Sexual Contact”** - Any intentional touching of a sexual nature, however slight, with any object, by a man or a woman upon a man or a woman, without consent and/or by force. Sexual contact includes intentional contact with the breasts, buttock, groin, or genitals, or touching another person with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice. The crimes of sexual battery and aggravated sexual battery are encompassed in this definition.
- l) “Non-Consensual Sexual Intercourse”** - Insertion of a sex organ, object, tongue or finger into the sex organ, mouth or anus of another, no matter how slight the insertion or contact, with consent and/or by force.
- m) “Notice of Outcome”** means a written notification issued to a Complainant and a Respondent following the conclusion of a student judicial proceeding under this Code. The Notice of Outcome shall be issued to the Complainant and the Respondent concurrently and shall contain the determination of whether the Respondent is Responsible or Not Responsible for the alleged violations and, where applicable, sanction(s) assigned, the due date(s) of the sanction(s), any other steps the University will or has taken to eliminate the hostile environment, and any available appeal rights. This term may also be used to refer to the written statement of a Title IX Coordinator or other investigator of his/her findings regarding the validity of the complaint and the recommended corrective actions to be taken and/or sanctions to be imposed in cases involving violations of Title IX.
- n) “Rape”** - A person commits the offense of rape when he has "carnal knowledge" of (1) a female forcibly and against her will; or (2) a female who is less than 10 years of age. Carnal knowledge in rape occurs when there is any penetration of the female sex organ by the male sex organ. The fact that the person allegedly raped is the wife of the defendant is not a defense to a charge of rape. A person convicted of rape in Georgia is subject to punishment by imprisonment for 25 years, life imprisonment or death.
- o) “Respondent”** generally means a Student, Group, or Organization formally or informally charged with and/or accused of violating this Code. The term may also be used to refer to a person alleged to be responsible, or who is accused of conduct alleged in a complaint to constitute a Title IX violation. The term may be used to designate persons with direct responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the complaint (i.e. a department head or chairperson).

- p) **“Responsible”** means a determination by a University Judicial Hearing Board, an Ad Hoc Judicial Hearing Board, or a Special Matter Hearing Panel (as described in Part Two of this Code) that the Respondent has, in fact, committed an act in violation of this Code.
- q) **“Sex Discrimination”** - conduct which is federally prohibited - occurs when a person has been treated unequally based on his or her gender in education programs or activities. Such programs or activities include, but are not limited to, admissions, recruitment, financial aid, academic programs, student treatment and services, counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, housing and employment. The prohibition on sex discrimination also covers discrimination on the basis of pregnancy, termination of pregnancy, childbirth, or related conditions. Also prohibited as sex discrimination is any act which is based on parental, family, or marital status and which is applied differently based on sex.
- r) **“Sexual Assault”** - Any type of Sexual Contact or behavior that occurs without the explicit consent of the recipient of the unwanted sexual activity. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, sodomy, child molestation, incest, fondling, rape, attempted rape, sexual battery and aggravated sexual battery. Georgia law defines sexual assault as sexual contact that is perpetrated by a person who has supervisory or disciplinary authority over another individual.
- s) **“Sexual Contact”** - The deliberate touching of a person's intimate parts (including genitalia, groin, breast or buttocks, or clothing covering any of those areas), or using Force to cause a person to touch his or her own or another person's intimate parts.
- t) **“Sexual Misconduct”** is a broad term that encompasses sexually motivated misconduct as described in the Sexual Harassment Policy, including conduct of an unwelcome and/or criminal nature. Thus, for purposes of this Code, Sexual Misconduct includes, but is not limited to:
- (i) Rape;
 - (ii) Sexual Exploitation;
 - (iii) Nonconsensual Sexual Contact;
 - (iv) Nonconsensual Sexual Intercourse;
 - (v) Sexual Assault;
 - (vi) Sexual Violence;
 - (vii) Domestic Violence;
 - (viii) Dating Violence; and
 - (ix) Stalking.
- u) **“Sexual Exploitation”** - Occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute

one of other Sexual Misconduct offenses. Examples of sexual exploitation include, but are not limited to the following: Invasion of sexual privacy; prostituting another student; non-consensual video or audio-taping of sexual activity; going beyond the boundaries of consent; observing unsuspecting individuals who are partly undressed, naked, or engaged in sexual acts; engaging in voyeurism; knowingly transmitting an STI or HIV to another student; exposing one's breasts, buttocks, groin, or genitals, in non-consensual circumstances; inducing another to expose their breasts, buttocks, groin, or genitals; sexually-based stalking and/or bullying may constitute a form of sexual exploitation, as well as a form of sexual harassment, as discussed above.

- v) **“Sexual Violence”** - Sexual violence, as defined by the Department of Education and relevant guidance, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX of the Education Amendments of 1972.
- w) **“Stalking”** - Occurs when a person follows, places under surveillance or contacts another person (i.e. the victim) at or about any public or private property occupied by the victim other than the residence of the person without the consent of the victim for the purpose of harassing and intimidating the victim. Harassment and intimidation is a knowing and willful course of conduct directed at a specific person which causes emotional distress by placing such person in reasonable fear for such person's safety or the safety of a member of his or her immediate family, by establishing a pattern of harassing and intimidating behavior, and which serves no legitimate purpose. Examples of contacting another person include, but are not limited to, communicating in person, by telephone, by mail, by broadcast, by computer or computer network, or by any other electronic device.
- x) **“Standard of Proof”** means the standard by which it is determined whether or not a violation of this Code has occurred. For purposes of Code procedures, the required Standard of Proof is a "preponderance of evidence," which means the evidence presented demonstrates that it is more likely than not that a violation has occurred.
- y) **“Student”** means an individual who, at the time of the alleged conduct, has accepted an offer of admission to the University by paying the required confirmation fee or has registered and/or enrolled for coursework; is participating in a University-sponsored or -affiliated educational program, and continues until withdrawal, graduation, or a break in registration for twelve or more months that results in an inability to register for classes

without reapplication; and for whom the institution maintains educational records, as defined by the Family Educational Rights and Privacy Act of 1974 (FERPA)(20 U.S.C. § 1232g) and related regulations.

z) **“Title IX Coordinator”** means the designated University official with ultimate oversight and responsibility for the University’s compliance with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. (“Title IX”), implementing regulations and relevant supplemental guidance.

aa) **“University premises”** refers to buildings or grounds owned, leased, operated, controlled or supervised by the University.

bb) **“University-sponsored activity”** means any activity hosted, performed or conducted on or off University premises that is specifically initiated or supervised by the University.

cc) **“Will” or “shall”**, when used in this Code, is to be regarded as a command or directive.