

# **TITLE IX SEXUAL HARASSMENT POLICY**

**Title IX of the Education Amendments of 1972** is a Federal civil rights law that prohibits discrimination on the basis of sex in educational programs and activities that receive Federal funds. It states:

*“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”* 20 U.S.C. §1681 et seq.

Title IX regulations require education programs to have a policy applicable to its community, including students, faculty, and staff, to ensure individuals have the right to be free from sexual harassment (including sexual assault, dating violence, domestic violence, and stalking), sexual exploitation, and retaliation (collectively, “Prohibited Conduct”). Prohibited Conduct will not be tolerated and will be grounds for disciplinary action up to and including suspension and/or termination from the student’s program of study. Diesel Driving Academy (“DDA”) will do all that is reasonably possible to offer safety, privacy, sensitivity, and support to persons reporting sexual harassment, as well as require training and educational programming to decrease the risk of sexual assault, dating violence, domestic violence and stalking on campus. DDA urges all individuals to learn about the steps that can be taken to prevent all forms of sexual harassment.

## **A. SCOPE AND APPLICABILITY**

Sexual harassment, including sexual assault, dating violence, domestic violence and stalking infringe on the rights of others, violate the standards of acceptable behavior at DDA and may be illegal under the laws of the State of Louisiana. DDA expects all students of the DDA community and its guests to conduct themselves in a responsible manner, showing respect for others and for the community.

DDA does not discriminate on the basis of sex in any educational program or activity (including admission and employment). Students, staff, faculty, or other third parties who have concerns about those issues are urged to report those concerns to the Title IX Coordinator. Such persons should not wait to report conduct of concern until the discrimination or harassment escalates or becomes sufficiently serious (i.e., severe, pervasive and persistent) to create a hostile environment.

## **B. JURISDICTION**

Title IX applies to persons in the United States with respect to education programs or activities that receive Federal financial assistance. Under these regulations, schools must respond when sexual harassment occurs in the school’s education program or activity, against a person in the United States. Education program or activity includes locations, events, or circumstances over which the school exercises substantial control over both the individual parties and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by DDA . Title IX applies to all of DDA’ education programs or activities in the United States, whether such programs or activities occur on-campus or off-campus.

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## I. The Title IX Coordinator

DDA has appointed Monica Wells to serve as the Title IX Coordinator, contact information for the Title IX Coordinator is:

Monica Wells  
3010 Knight St. Suite 340  
Shreveport, LA 71105  
TitleIX@dda.edu  
(318) 677-8900

The Title IX Coordinator oversees DDA's compliance with Title IX. DDA's Title IX Coordinator can be used by any student as a resource for understanding and navigating the complaint process. This includes explaining policies and procedures, providing contact information for internal and external support resources, answering procedural questions from the Investigation Team, etc. However, reports or complaints to the Title IX Coordinator may not necessarily remain confidential, if the matter is one upon which the Title IX Coordinator is required by law to act.

The Title IX Coordinator is not an advocate for either the Complainant or the Respondent. The Title IX Coordinator will respond promptly in a manner that is not deliberately indifferent.

Duties of the Title IX Coordinator include:

- Offer and coordinate supportive measures
- Determine if conduct meets the definition and jurisdiction of the Title IX Sexual Harassment Policy.
- Provide the following written notices to the parties who are known:
  - (A) Notice of DDA's grievance process including any informal resolution process.

(B) Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.

(C) Inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence. If either party does not have an advisor, DDA will provide one free of charge.

- Provide a copy of this policy to both the Complainant and Respondent.
- Provide to both Complainant and Respondent information about options for obtaining medical and counseling services, information about making a criminal report, information about receiving advocacy services, and information about other helpful resources.
- Offer to coordinate with other DDA officials, when appropriate, to implement interim remedial measures such as no-contact orders or academic accommodations.
- Sign a formal complaint in circumstances in which the Title IX Coordinator may determine DDA must continue with an investigation without the Complainant's participation, due to DDA's commitment to providing a safe and non-discriminatory learning and working environment free from discrimination or harassment.
- Answer procedural questions raised by members of the Title IX Team.
- Explain to parties and witnesses that retaliation for reporting alleged violations of the policy, or participating in an investigation of an alleged violation, is strictly prohibited and that any retaliation should be immediately reported and will be promptly addressed.
- Coordinate informal resolution procedures any time following a formal complaint before responsibility has been determined.

## II. Definitions

The following definitions clarify key terminology as used in this Policy.

**Actual Knowledge** means notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of DDA who has authority to institute corrective measures on behalf of DDA

**Complainant** refers to the individual(s) who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.

**Consent** is a voluntary, informed, un-coerced agreement through words or actions freely given, which could be reasonably interpreted as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate.

Indications that consent is not present include: when physical force is used or there is a reasonable belief of the threat of physical force; when duress is present; when one individual overcomes the physical limitations of another individual; and when an individual is incapable of making an intentional decision to participate in a sexual act, which could include instances in which the individual is in a state of incapacitation.

Important points regarding consent include:

- Consent to one act does not constitute consent to another act.
- Consent on a prior occasion does not constitute consent on a subsequent occasion.
- The existence of a prior or current relationship does not, in itself, constitute consent.

- Consent can be withdrawn or modified at any time.
- Consent is not implicit in an individual's manner of dress.
- Accepting a meal, a gift, or an invitation for a date does not imply or constitute consent.
- Silence, passivity, or lack of resistance does not necessarily constitute consent.
- Initiation by someone who a reasonable person knows or should have known to be deemed incapacitated is not consent.

**Formal complaint** refers to a document filed by a complainant (meaning a document or electronic submission (such as by electronic mail) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the individual filing the formal complaint) alleging Title IX Sexual Harassment against a respondent and requesting that DDA investigate the allegation of Title IX Sexual Harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of DDA . A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information provided in this policy, and by any additional method identified in this policy.

**Formal complaint** may also refer to a document signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a respondent. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party.

**Incapacitation** (or incapacity) is the state in which an individual's perception or judgment is so impaired that the individual lacks the cognitive capacity to make or act on conscious decisions. The use of drugs or alcohol can cause incapacitation. An individual who is incapacitated is unable to consent to a sexual activity. Engaging in sexual activity with an individual who is incapacitated (and therefore unable to consent), where an individual knows or ought reasonably to have understood that the individual is incapacitated, constitutes Title IX Sexual Harassment as defined by this policy.

**Official with Authority** refers to administrators who have authority to institute corrective measures on behalf of DDA .

**Party or parties** refer to the complainant(s) and the respondent(s).

**Report** refers to information brought to the attention of an Official with Authority alleging conduct prohibited under this policy; a report is not considered to be a formal complaint. A party may bring a report and then subsequently file a formal complaint.

**Respondent** refers to the individual(s) who has been alleged to be the perpetrator of conduct that could constitute Title IX Sexual Harassment.

**Third party** refers to any individual who is not an DDA student, a faculty member, or a staff member (e.g., vendors, alumni/ae, or local residents).

**Witness** refers to any individual who shares information relating to an allegation of prohibited conduct under this policy.

### **III. Prohibited Conduct**

This policy addresses Title IX Sexual Harassment, which encompasses all of the prohibited conduct described below that occurs on the basis of sex and meets all of the following requirements:

- Occurs within the United States; and

- Occurs within DDA' education program or activity, meaning locations, events, or circumstances over which DDA exercises substantial control over both the respondent and the context in which the Title IX Sexual Harassment occurs; and
- At the time of filing a formal complaint, a complainant is participating in or attempting to participate in the education program or activity at DDA .

Allegations of sexual misconduct that do not fall under this policy because they do not constitute Prohibited Conduct as defined in this section may constitute violations of DDA' other polices, including but not limited to those contained in the Catalog .

In determining whether alleged conduct violates this policy, DDA will consider the totality of the facts and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred. Any of the prohibited conduct defined in this policy can be committed by individuals of any gender, and it can occur between individuals of the same gender or different genders. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships.

The prohibited behaviors listed below are serious offenses and will result in discipline. Prohibited conduct involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another individual's state of incapacitation, will be deemed especially egregious and may immediately result in suspension, expulsion or termination from the student's program of study . The respondent's consumption of alcohol or the use of illegal substances does not constitute a mitigating circumstance when it contributes to a violation under this policy.

Prohibited behaviors are:

- **Quid Pro Quo Sexual Harassment:** An employee of DDA conditioning the provision of an aid, benefit, or service of DDA on a student's participation in unwelcome sexual conduct;
- **Sexual Harassment:** Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies an individual equal access to DDA' education program or activity;
- **Sexual Assault:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes and/or genders. This includes the following:
  - **Rape:** The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - **Sodomy:** Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - **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, without the consent of the victim, including

instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;

- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
  - **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.
- **Domestic Violence:** A felony or misdemeanor crime of violence committed: (a) by a current or former spouse or intimate partner of the victim; (b) by an individual with whom the victim shares a child in common; (c) by an individual who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (d) by an individual similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the felony or misdemeanor crime of violence occurred; (e) by any other individual against an adult or youth victim who is protected from that individual's acts under the domestic or family violence laws of the jurisdiction in which the felony or misdemeanor crime of violence occurred. For purposes of this policy, an intimate partner is defined as an individual with whom one has or had a short- or long-term relationship that provides romantic and/or physical intimacy or emotional dependence. Intimate relationships can occur between individuals of the same gender or different genders and may include (but are not limited to) marriages, civil unions, dating relationships, "hook-up" relationships, relationships in which partners are characterized as "girlfriends" or "boyfriends," and relationships between individuals with a child in common.
  - **Dating Violence:** Violence committed by an individual who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting individual's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the individuals involved in the relationship. This includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
  - **Stalking:** Engaging in a course of conduct directed at a specific individual that would cause a reasonable person to: (a) fear for the individual's safety or the safety of others; or (b) suffer substantial emotional distress. For the purposes of the Stalking definition: *Course of conduct* means two or more acts, including acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about an individual, or interferes with an individual's property. *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim. *Substantial emotional distress* means significant mental suffering or anguish

that may, but does not necessarily, require medical or other professional treatment or counseling.

**Retaliation under this policy:** No individual may intimidate, threaten, coerce, or discriminate against any student for the purpose of interfering with any right or privilege secured by this policy or because a student has made a report or formal complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

DDA retains the right to charge a student for making a materially false statement in bad faith during the course of an investigation, proceeding, or hearing under this.

Complaints alleging retaliation under this Title IX Sexual Harassment policy, including for the exercise of rights under this policy, must be filed in accordance with this policy and will be addressed promptly and equitably. Where the individual allegedly retaliating is not affiliated with DDA and not otherwise subject to its policies, DDA will process the complaint and take appropriate measures.

Notwithstanding the above, the exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this policy; and charging a student with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation; provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

For purposes of this policy, consent is defined as follows:

**Consent** means an active agreement to participate in a sexual act. An active agreement is words and/or conduct that communicate a person's willingness to participate in a sexual act. Examples of sexual act(s) include, without limitation: vaginal intercourse; anal intercourse; oral sex; any other intrusion, however slight, of a person's finger or any object into any other person's genitals or anus; the intentional touching of a person's intimate parts (genital area, groin, inner thigh, buttock or breast), the intentional touching of the clothing covering the immediate area of a person's intimate parts, or the intentional touching of any other person with a person's own intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual gratification.

Consent can be revoked at any time. Valid Consent cannot be given if:

- A person is incapacitated and a reasonable person in the same situation as the Respondent would have known that the person is incapacitated;
- A person is forced to consent; or
- The sexual penetration of a person by the Respondent would constitute mitigated statutory rape, statutory rape, or aggravated statutory rape under state law, based on the ages of the Respondent and the other person.

**Force** (Forced) means words and/or conduct that, viewed from the perspective of a reasonable person, substantially impair(s) a person's ability to voluntarily choose whether to take an action or participate in an activity. Examples of Force include, without limitation:

- Physical force (e.g., hitting, punching, slapping, kicking, restraining, choking, kidnapping, using a weapon, blocking access to an exit);
- Words and/or conduct that would cause a reasonable person to fear; or
- Physical force or other harm to the person’s health, safety, or property, or a third person’s health, safety, or property;
  - o Loss or impairment of an academic benefit, or money;
  - o Disclosure of sensitive personal information or information that would harm a person’s reputation;
  - o Disclosure of video, audio, or an image that depicts the person’s nudity or depicts the person engaging in a sexual act(s); or
  - o Other immediate or future physical, emotional, reputational, financial, or other harm to the person or a third person.

Incapacitation means that a person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of an anesthetizing or intoxicating substance such that the person does not have control over their body, is otherwise unaware that sexual activity is occurring, or their mental, physical, or developmental abilities renders them incapable of making a rational informed judgment. Incapacitation is not the same as legal intoxication. A person violates this Policy when they engage in sexual activity with another person who is incapacitated under circumstances in which a reasonable person would have known the other person to be incapacitated. For purposes of evaluating Incapacitation, a “reasonable person” means a sober, objectively reasonable person in the same situation, with ordinary sensitivities, and with similar identities as the Respondent. Incapacitation can be voluntary or involuntary. Signs of Incapacitation may include, without limitation: sleep; total or intermittent unconsciousness; lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; emotional volatility; combativeness; vomiting; incontinence; unresponsiveness; and inability to communicate coherently. Incapacitation is an individualized determination based on the totality of the circumstances.

## **IV. Assessment of Formal Complaints**

Upon receipt of a report of sexual harassment or a formal complaint, the Title IX Coordinator will respond to any immediate health or safety concerns raised. The Title IX Coordinator must promptly contact the Complainant to discuss the availability of supportive measures, such as those set forth in Section VII herein. The Title IX Coordinator will then conduct an initial assessment for the sole purpose of determining whether the alleged conduct, if substantiated, would constitute prohibited conduct under this policy. DDA will seek to complete this initial assessment within ten (10) business days of receipt of the formal complaint. Following the initial assessment, the Title IX Coordinator may take any of the following actions:

- If the allegations forming the basis of the formal complaint would, if substantiated, constitute Prohibited Conduct as defined in this policy, the Title IX Coordinator shall implement any appropriate supportive measures, not already in place. In addition, the Title IX Coordinator shall initiate an investigation of the allegations under this policy in a formal complaint, as described in Section IX. However, if the Title IX Coordinator deems the

formal complaint appropriate for the informal resolution process, upon the consent of both the complainant and respondent, the Title IX Coordinator may instead refer the matter to the informal resolution process, as described in Section IX.

- If the allegations forming the basis of the formal complaint would not, if substantiated, constitute Prohibited Conduct as defined in this policy, the Title IX Coordinator shall dismiss the formal complaint from the Title IX grievance process (and the complainant and/or respondent may appeal this dismissal, as discussed in Section XII below). However, if appropriate, the Title IX Coordinator may refer the matter to the Vice President of Operations for review pursuant to other relevant student or employee policies. In addition, at any time prior to the hearing, DDA may dismiss a formal complaint if:
  - The complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or any allegations therein;
  - The respondent is no longer enrolled or employed by DDA ; or
  - Specific circumstances prevent DDA from gathering sufficient evidence to reach a determination as to the formal complaint or the allegations therein.
  - Upon dismissal, DDA shall promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties via electronic format. Both parties will have equal right to appeal the dismissal through the appeal process described in Section XII.

The determination regarding dismissal becomes final either: (i) on the date that the parties are provided with the written determination of the result of an appeal, if an appeal is filed, or (ii) if an appeal is not filed, the date on which an appeal would no longer be considered timely. Once final, a complainant cannot file a formal complaint under this policy concerning the same alleged conduct.

## **V. Confidentiality and Privacy**

Issues of privacy and confidentiality play important roles in this and may affect individuals differently. Privacy and confidentiality are related but distinct terms that are defined below.

In some circumstances, the reporting responsibilities of DDA students, or DDA's responsibility to investigate, may conflict with the preferences of the complainant and/or respondent with regard to privacy and confidentiality. Therefore, all individuals are encouraged to familiarize themselves with their options and responsibilities, and make use of Confidential Resources, if applicable, in determining their preferred course of action. Requests for confidentiality or use of anonymous reporting may limit DDA's ability to conduct an investigation.

### **1. Confidentiality Rights of Complainants and Respondents**

While complainants, respondents, and witnesses involved in the grievance process under this policy are strongly encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation, complainants and respondents are not restricted from discussing the allegations under investigation.

Medical, psychological, and similar treatment records are privileged and confidential documents that cannot be accessed or used for a grievance process under this policy without the relevant party's voluntary, written consent.

## **2. Privacy**

The term “privacy” refers to the discretion that will be exercised by DDA in the course of any investigation or grievance processes under this policy. In all proceedings under this policy, DDA will take into consideration the privacy of the parties to the extent possible.

In accordance with federal regulations, DDA will keep confidential the identity of any individual who has made a report or formal complaint under this policy, including any complainant, any individual who has been reported to be the perpetrator, any respondent, and any witness, except as may be permitted by Family Educational Rights and Privacy Act (“FERPA”), or as required by law, or to carry out the purposes of conducting any investigation or hearing under this policy. Any additional disclosure by DDA of information related to the report or formal complaint may be made if consistent with FERPA or the Title IX requirements. In addition, governmental agencies may mandate certain reporting related to prohibited conduct under this policy involving employees or students.

## **VI. Options for Complainants, Respondents, and Other Reporting Individuals**

A complainant, respondent, or witness has many options, including counseling and support services. Information regarding contact information for local law enforcement as well as contact information for Confidential Resources that are available to provide support to parties and witnesses are described in further detail in Appendix A.

After consulting a Confidential Resource as appropriate, a complainant may:

- Request supportive measures from the Title IX Coordinator (see [Section VII](#));
- File a formal complaint with the Title IX Coordinator, thereby invoking DDA’ internal grievance process (see [Section II](#)); and/or
- Contact local law enforcement to file a criminal complaint (see Appendix A). At the complainant’s request, DDA will assist the complainant in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue a criminal process.

An individual may pursue some or all of these steps at the same time. When initiating any of the above, an individual does not need to know whether they wish to request any particular course of action, nor how to label what happened. Before or during this decision-making process, complainants and other reporting individuals are encouraged to consult a Confidential Resource (see Appendix A).

### **1. Students’ Responsibility to Report**

Any student of DDA who learns of a potential allegation of sexual harassment, including quid pro quo harassment or hostile educational environment must, within 24 hours of receiving the information, report it to the Title IX Coordinator..

### **2. Anonymous Reporting**

If a reporting individual makes an anonymous report, the Title IX Coordinator will consider how to proceed, taking into account the individual's articulated concerns; the best interests of the DDA' community; fair treatment of all individuals involved; and DDA' obligations under Title IX.

A complainant cannot file a formal complaint anonymously.

### **3. Timeliness of Report**

Complainants and other reporting individuals are encouraged to report any violation of this policy as soon as possible in order to maximize DDA' ability to respond promptly and effectively. Reports and formal complaints may be made at any time without regard to how much time has elapsed since the incident(s) in question. If the respondent is no longer a student or employee at the time of the report or formal complaint, DDA may not be in a position to gather evidence sufficient to reach a determination as to the formal complaint and/or DDA may not be able to take disciplinary action against the respondent. However, DDA will still seek to provide support for the complainant and seek to take steps to end the prohibited behavior, prevent its recurrence, and address its effects.

## **VII. Supportive Measures for Complainants and Respondents**

Upon receipt of a report or formal complaint of a violation of this policy, DDA , through the Title IX Coordinator, will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. DDA will also consider supportive measures, as appropriate and reasonably available, for the respondent.

These supportive measures are designed to restore or preserve equal access to DDA' educational and working programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties and the broader DDA community, or deter sexual harassment. While a supportive measure may impose some restrictions on a party, it will not unreasonably burden them. DDA may provide supportive measures to the complainant or respondent, as appropriate, as reasonably available, regardless of whether the complainant seeks formal disciplinary action. Once supportive measures are approved, the parties or affected individuals will be notified in writing of the supportive measures. DDA will maintain any supportive measures provided to the complainant or respondent as confidential to the extent possible. These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Altering work arrangements for employees or student-employees
- Safety planning
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Changing an individual's student or employee status or job responsibilities.
- Changing an individual's work or course schedule or job assignment.
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

Requests for supportive measures may be made by or on behalf of the complainant or respondent to any DDA official, including the Title IX Coordinator. The Title IX Coordinator is responsible for ensuring the implementation of supportive measures and coordinating DDA' response with the appropriate offices on campus.

All individuals are encouraged to report concerns about the failure of another to abide by any restrictions imposed by a supportive measure. DDA will take immediate action to enforce a previously implemented measure and disciplinary sanctions can be imposed for failing to abide by an imposed measure.

## **VIII. Emergency Removal**

In connection with this policy, whether or not a grievance process is underway, DDA may summarily remove an individual from an education program or activity on an emergency basis, after undertaking an individualized safety and risk analysis, and upon the determination that the individual poses an immediate threat to the physical health or safety of any student or other individual (including themselves, the respondent, the complainant, or any other individual). In these situations, DDA will provide the individual with notice and an opportunity to challenge the decision immediately following the removal.

## **IX. Informal Resolution Process**

Subject to the consent of the parties and the approval of the Title IX Coordinator, DDA permits informal resolution processes in cases in which a formal complaint has been filed with the Title IX Coordinator. Subject to approval by the Title IX Coordinator, the informal resolution process is available in matters involving a student complainant and a student respondent as well as in matters involving a faculty/staff complainant and a faculty/staff respondent. The informal resolution process is not available in matters involving a student and an employee.

The informal resolution process is a voluntary, remedies-based process designed to provide parties with an option to resolve disputes with other students in a forum that is separate and distinct from DDA' formal grievance processes under the Title IX Sexual Harassment policy. The purpose of the informal resolution process is to address the conduct which has been reported by the complainant, and place the parties in a position to pursue their academic interests in a safe, respectful, and productive educational and working environment. Under this process, there will be no disciplinary action taken against a respondent, and the resolution will not appear on the respondent's disciplinary record.

DDA may facilitate the informal resolution process prior to conducting a hearing. Before the informal resolution process is used, both parties must provide voluntary, written consent to the informal resolution process and must receive written notice disclosing: the allegations, 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), and any outcomes resulting from participating in the informal resolution process (including the records that will be maintained or could be shared). At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Title IX Sexual Harassment grievance process with respect to the formal complaint.

DDA will not require, as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of Title IX Sexual Harassment. Similarly, DDA will not require, encourage, or discourage the parties from participating in the informal resolution process. DDA will not offer the informal resolution process unless a formal complaint is filed.

See Appendix B for additional information regarding the informal resolution process.

## **X. Grievance Procedures for Title IX Sexual Harassment Complaints**

DDA is committed to providing a prompt and impartial investigation and adjudication of all formal complaints alleging violations of this policy. During the grievance process, both parties (complainant and respondent) have equal rights to participate.

### **1. Conflict of Interest**

All individuals who have responsibilities in administering the grievance process under this policy must be free of any conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent and will be trained as provided by federal regulations. Parties will be notified at the appropriate junctures of the identities of the individuals serving as Investigators, Decision Maker, and Appeal Officer as appointed by the Title IX Coordinator in consultation with the President. A party who has concerns that one or more of the individuals performing one of the aforementioned roles has conflicting interest or is biased must report those concerns to the Title IX Coordinator within 48 hours of being notified of their identities and include a brief explanation of the basis for the conflict or bias concern. The Title IX Coordinator will assess the allegations of conflict or bias to determine whether or not the identified individual(s) can fulfill their duties in an impartial way. If the Title IX Coordinator concludes that the facts and circumstances support the claim of conflict or bias, the pertinent individual(s) will not participate in the case.

### **2. Responsibility to Review Reports and Formal Complaints**

The Title IX Coordinator may review reports of violations of this policy even absent the filing of a formal complaint, or under certain circumstances, even if a formal complaint has been withdrawn. The Title IX Coordinator may need to file a formal complaint and proceed with an investigation even if a complainant specifically requests that the matter not be pursued. In such a circumstance, the Title IX Coordinator will take into account the complainant's articulated concerns, the best interests of the DDA community, fair treatment of all individuals involved, and DDA's obligations under Title IX.

Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

### **3. Presumption of Good Faith Reporting**

DDA presumes that reports of Prohibited Conduct are made in good faith. A finding that the alleged behavior does not constitute a violation of this policy or that there is insufficient evidence to establish that the alleged conduct occurred as reported does not mean that the report was made in bad faith.

#### **4. Presumption of Non-Responsibility**

The respondent is presumed to be not responsible for the alleged conduct unless and until a determination regarding responsibility is made at the conclusion of the grievance process.

#### **5. Honesty and Cooperation during Grievance Process**

DDA expects all members of the DDA community to be honest and cooperative in their official dealings with DDA under this policy. In this regard, individuals are expected to acknowledge requests from DDA officials for information in a timely fashion and to make themselves available for meetings with DDA officials or any persons acting on behalf of DDA ; any student or member of the faculty or staff who fails to do so may be subject to discipline. However, parties and witnesses may choose not to attend the hearing or may choose not to participate in cross examination at the hearing.

#### **6. Advisors**

Throughout the grievance process, each party may have an advisor of their choice; parties may change their advisor at any time during the grievance process. An advisor is an individual chosen by a complainant or a respondent to provide guidance during the grievance process. An advisor may be a member or non-member of DDA community and may be an attorney. If a party is unable to select an advisor, DDA will provide without fee or charge to that party an advisor selected by DDA (who may be, but is not required to be, an attorney) to be present at any interviews or meetings. In addition, the advisor will participate in any hearing for the purpose of conducting cross-examination of the other party and/or any witnesses.

The role of the advisor is narrow in scope: the advisor may attend any interview or meeting connected with the grievance process, but the advisor may not actively participate in interviews and may not serve as a proxy for the party. The advisor may attend the hearing and may conduct cross-examination of the other party and any witnesses at the hearing; otherwise, the advisor may not actively participate in the hearing.

Any individual who serves as an advisor is expected to make themselves available for meetings and interviews throughout the investigation process, as well as the hearing, as scheduled by DDA . DDA (including any official acting on behalf of DDA such as an investigator or a hearing panelist) has the right at all times to determine what constitutes appropriate behavior on the part of an advisor and to take appropriate steps to ensure compliance with this policy.

#### **7. Prior Sexual Behavior**

The complainant's predisposition or prior sexual behavior are not relevant and will not be used during the grievance process, unless 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.

## **8. Consolidation**

The Title IX Coordinator has the discretion to consolidate multiple formal complaints as to allegations of Title IX Sexual Harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances.

## **9. Investigation of Allegations of Violations of Other Policies**

When an initial assessment or investigation under this policy identifies additional related possible violations of DDA policies by the same party(ies) that would normally be handled by another responsible office, the Title IX Coordinator, with the approval of that responsible office, may direct investigators under this policy to investigate such other possible violations at the same time that they investigate the allegations covered by this policy. Under such circumstances, the records from the investigation of the non-Title IX Sexual Harassment matter shall be provided to the person responsible for adjudicating that non-Title IX Sexual Harassment matter in accordance with applicable DDA policies and procedures.

## **10. Procedures Where One Party Is a Member of the DDA Community and the Other Party Is a Non-Member of the DDA Community**

When a third party, (i.e., a non-member of our DDA community) is a party under this policy, DDA will use disciplinary procedures that are generally consistent with the disciplinary procedures described in this policy, appropriately modified based on the particular circumstances of the case and taking into account privacy requirements and the like. In no case will a member of our community (i.e., current student, faculty member, or staff member) be afforded lesser rights or lesser opportunities to participate in the disciplinary proceeding than the non-member of the DDA community.

# **XI. Investigation and Adjudication**

## **1. Timing**

DDA will seek to complete the investigation and adjudication within ninety (90) business days after the investigators' first interview of the complainant. Investigations will proceed according to the aforementioned timeframe during times when DDA is not in session. Timeframes for all phases of the grievance process, including the investigation, the hearing, and any related appeal, apply equally to both parties.

There may be circumstances that require the extension of time frames for good cause. Time frames may be extended to ensure the integrity and completeness of the investigation or adjudication, comply with a request by external law enforcement, accommodate the absence of a party, advisor, or witness, or for other legitimate reasons, including the complexity of the investigation and the severity and extent of the alleged misconduct. DDA will notify the parties in writing of any extension of the time frames for good cause, and the reason for the extension.

In accordance with policy, DDA will review requests for language assistance and accommodation of disabilities throughout the investigation and adjudication process.

Although cooperation with law enforcement may require DDA to temporarily suspend the fact-finding aspect of an investigation, under such circumstances, DDA will promptly resume its investigation as soon as it is notified by the law enforcement agency that the agency has completed the evidence gathering process. DDA will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide supportive measures for the complainant or respondent. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

## **2. Investigation**

If the Title IX Coordinator has determined, following an initial assessment, that an investigation is appropriate, the Title IX Coordinator will refer the matter for investigation to an investigator or investigators.

### **a. Notice of Investigation**

Following the receipt and review of the formal complaint by the Title IX Coordinator, and it being determined that the matter properly falls under this Title IX Sexual Harassment policy, the parties will be informed in writing of the initiation of the investigation. The written information shall include:

- The identities of the parties, if known.
- A concise summary of the alleged conduct at issue (including when and where it occurred, if known).  
Notice of the allegations potentially constituting Title IX Sexual Harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the respondent is presumed not responsible and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement informing the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement informing the parties that they may request to inspect and review evidence.
- A statement informing the parties that knowingly making false statements or knowingly submitting false information during the grievance process may constitute a violation of DDA policy.
- Information regarding the applicable grievance procedures, including the informal resolution process.

If, during the investigation, additional information is disclosed that may also constitute Prohibited Conduct under this policy, the respondent and complainant will be informed in writing that such additional information will be included in the grievance process.

### **b. Collection of Evidence**

The investigators will collect information from each party. While the complainant and the respondent are not restricted from gathering and presenting relevant evidence, the investigators are responsible for gathering relevant evidence to the extent reasonably possible. However, each party will be given an equal opportunity to suggest witnesses; provide other relevant information, such as documents, communications, photographs, and other evidence; and suggest questions to be posed to the other party or witnesses. Parties and witnesses are expected to provide all available relevant evidence to the investigators during the investigation. If a party or witness fails to provide available relevant evidence during the investigation, such evidence may, at the discretion of the Decision Maker (see Section IX (3)), be excluded from consideration at the hearing. While parties are not restricted from presenting information attesting to the parties' character, such evidence generally is not considered relevant.

The investigators will provide to a party written notice of the date, time, location, participants, and purpose of all investigative interviews to which they are invited or expected, with sufficient time (generally no less than three (3) business days, absent exigent circumstances) for the party to prepare to participate.

Parties will be interviewed separately and will be interviewed by the investigator. The investigator will interview witnesses as necessary and may, at their discretion, delegate witness interviews to two investigators. The investigator will record all interviews or take notes during the interviews. Any other recording of interviews is prohibited and violations may result in discipline.

In general, a party's medical and counseling records are confidential. The investigator will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the investigator obtains that party's voluntary, written consent to do so.

The investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (e.g., attorney-client, doctor-patient), unless the individual holding such privilege has waived the privilege.

### **c. Case File**

After each party has been interviewed and had the opportunity to identify witnesses and other potentially relevant information and evidence, and the investigator has completed any witness interviews and any gathering of evidence, the investigator will prepare a case file. The case file will include all collected evidence that is directly related to the allegations raised in the formal complaint, including the evidence upon which DDA does not intend to rely in reaching a determination regarding responsibility and any inculpatory or exculpatory evidence, whether obtained from a party or other source as part of the investigation. The case file may include, as applicable, transcripts or summaries of party and witness interviews and other collected documents and evidence. The investigator will provide the case file, redacted of personally identifiable information in accordance with privacy regulations, to each party and their advisor in electronic form or hard copy. In all cases, any information relied on in adjudicating the matter will be provided to the parties

and their advisors. The investigator will also provide an updated Notice of the Allegations, as appropriate.

Within ten (10) business days of receiving the case file, each party may respond in writing, which may include a request that the investigators collect additional evidence. If the investigator believes that further information is needed following receipt of any responses from the parties, the investigator will pursue additional investigative steps, if needed. The parties and their advisors will be provided with each party's written responses to the case file, if any, as well as any additional information collected by the investigator, in electronic format or hard copy.

#### **d. Investigative Report**

Following their review of the parties' responses (if any) to the case file, the investigator will create a written investigative report that summarizes all relevant evidence; the report will not contain irrelevant information.

At least ten (10) business days prior to the hearing, the investigative report will be provided to the parties and their advisors via electronic format.

The parties may choose to provide a written response to the investigative report, which must be submitted at least five (5) business days prior to the start of the hearing. The response may consist of a written statement not to exceed 10 pages. At least 48 hours prior to the hearing, the parties and their advisors will be provided with the other party's written response to the investigative report, if any, in electronic format.

### **3. Hearing**

An alleged Title IX violation complaint must be resolved through the Title IX Hearing process, unless the parties agree to an Informal Resolution. A Decision Maker, appointed by the Title IX Coordinator in consultation with the President, will hear every case.

At least ten (10) business days prior to the hearing, the parties and their advisors will be notified of the hearing date, time, and location (or relevant electronic information, if the hearing will be conducted remotely). The Decision Maker will have absolute discretion with respect to administering the hearing. The Decision Maker will decide whether evidence and witnesses are relevant or irrelevant, with the understanding that the introduction of relevant evidence and witnesses will always be permitted. The Decision Maker will be responsible for maintaining an orderly, fair, and respectful hearing and will have broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending individual, including a party, witness, or advisor.

Prior to the hearing, the Decision Maker will be provided with the case file, investigative report, and any responses to the investigative report. She/he shall review the case file (including the parties' responses), ask questions during the hearing as deemed appropriate, and deliberate the adjudication of responsibility (as described in Section XI(3)(e)).

In advance of the hearing, parties will be required to identify witnesses to be called at the hearing, as well as to provide a brief written explanation of the information each witness would be asked to provide, such that the Decision Maker can determine their relevance. The Decision Maker has the discretion to exclude from the hearing evidence/witnesses/questions deemed irrelevant.

At the Decision Maker's discretion, pre-hearing meetings may be scheduled with each of the parties and their advisors to explain the hearing protocol.

The live hearing may be conducted with all parties physically present in the same geographic location, or, at DDA' discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. DDA may delay or adjourn a hearing based on technological errors not within a party's control. Each party may make requests related to the format or the nature of their participation in the hearing. The Decision Maker will accommodate requests by either party for the hearing to occur with the parties located in separate locations with technology enabling the Decision Maker and the parties to simultaneously see and hear the party answering questions. As appropriate and/or at the discretion of the Decision Maker, hearings may be conducted in person or by video conference or any other means of communications by which all individuals participating are able to see and hear each other.

#### **a. Standard of Proof**

The standard of proof under this policy is preponderance of the evidence. A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all the relevant evidence and reasonable inferences from the evidence, that the respondent violated this policy.

#### **b. Expectation regarding the Complainant, the Respondent, and the Witnesses regarding the Hearing**

In all proceedings under this policy, including at the hearing, the complainant, the respondent, and the witnesses and other individuals sharing information are expected to provide truthful information.

If the complainant, the respondent, or a witness informs DDA that they will not attend the hearing (or will refuse to be cross-examined), the hearing may proceed, as determined by the Title IX Coordinator. The Decision Maker may not, however: (a) rely on any statement or information provided by that non-participating individual in reaching a determination regarding responsibility; or (b) draw any adverse inference in reaching a determination regarding responsibility based solely on the individual's absence from the hearing (or their refusal to be cross-examined).

#### **c. Case Presentation**

While the hearing is not intended to be a repeat of the investigation, the parties will be provided with an equal opportunity for their advisors to conduct cross examination of the other party and/or of relevant witnesses. A typical hearing may include brief opening remarks by the Decision Maker; questions posed by the Decision Maker to one or both of the parties; questions posed by the Decision Maker to any relevant witnesses; and cross-examination by either party's advisor of the other party and relevant witnesses. The parties will have equal opportunity to present fact and expert witnesses, and other inculpatory and exculpatory evidence.

The parties' advisors will have the opportunity to cross examine the other party (and witnesses, if any). Such cross examination must be conducted directly, orally, and in real time by the party's advisor and never by a party personally. Only relevant cross examination questions may be asked of a party or witness. Before a party or witness answers a cross-examination question that has been posed by a party's advisor, the

Decision Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Others may attend the hearing at the request of or with the prior approval of the Decision Maker, but the parties will be notified in advance of anyone else who will be in attendance.

#### **d. Record of Hearing**

DDA shall create an official record in the form of a recording or transcript of any live (or remote) hearing and make it available to the parties for inspection and review. Any other record of the hearing or any other recording is prohibited. Violations may result in discipline.

#### **e. Evaluation of Evidence and Written Determination**

Following the hearing, the Decision Maker will consider all of the relevant evidence and deliberate regarding responsibility. The Decision Maker shall make a determination, by a preponderance of the evidence, whether the respondent has violated the policy.

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision Maker.

Decision Makers shall not draw inferences regarding a party or witness' credibility based on the party or witness' status as a complainant, respondent, or witness, nor shall they base their judgments in stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Decision Makers will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Except where specifically barred by the Title IX Final Rule, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

Where a party or witness' conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Decision Maker may draw an adverse inference as to that party or witness' credibility.

The Decision Maker shall write a written determination, which will contain: (1) the allegations potentially constituting Title IX sexual harassment; (2) a description of the procedural steps taken from the receipt of the formal complaint through the determination (including any notifications to the parties, interviews with parties and witnesses, site visits (if any), methods used to gather other information, and the hearing); (3) findings of fact

supporting the determination; (4) conclusions regarding the application of this policy to the facts; (5) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether a policy violation occurred), any disciplinary sanctions imposed if there has been a finding of responsibility (as described in Section XI(4)), and whether any remedies designed to restore or preserve equal access to DDA' education program or activity or working environment will be implemented; and (6) relevant appeal information for the parties. Disciplinary sanctions and remedies will be determined in accordance with the procedures listed below.

The parties and their advisors will simultaneously be provided with the written determination via electronic format.

#### **4. Disciplinary Sanctions and Remedies (to be included in the Written Determination)**

The sanctions will be imposed by the Campus Director if the respondent is a student and in consultation with Human Resources, if the respondent is a faculty or staff member. Sanctions will take into account the seriousness of the misconduct as compared to like cases in the past, the respondent's previous disciplinary history (if any), and institutional principles. Remedies, which may include supportive measures, will be designed to restore or preserve equal access to DDA' education program or activity.

See Appendix C for the range of sanctions under this policy.

## **XII. Appeal**

Appeals under this policy will be heard by an individual ("Appeal Officer"), appointed by the Title IX Coordinator, in consultation with the Campus Director.

Both parties have equal rights to an impartial appeal at the following junctures:

Upon the dismissal of a formal complaint or any allegations therein; or

Upon receiving the written determination regarding responsibility and, when applicable, sanction and remedies.

Appeals may be submitted on the following bases:

- (1) procedural irregularity that affected the outcome of the matter;
- (2) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made which could affect the outcome of the matter;
- (3) the Title IX Coordinator or their staff, investigator(s), the Decision Maker 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; and/or
- (4) the sanctions (or recommended sanctions) are not commensurate with the violation.

To appeal, a party must electronically submit a written appeal statement to Title IX Coordinator within five (5) business days of receipt of the written determination or dismissal. The Appeal Panel Chair may deem a late submission reasonable only under extenuating circumstances, and the Appeal Panel Chair may decide in their sole discretion what constitutes valid extenuating circumstances. The appeal shall consist of a written statement not to exceed ten (10) pages, outlining the basis for appeal and the relevant information to substantiate the appeal. The non-appealing party will be provided with a copy of the appealing party's written statement and may submit a written response, not to exceed ten (10) pages, to

the Title IX Coordinator within five (5) business days of receipt of the appealing party's written statement. The non-appealing party's statement will be provided to the appealing party. No further appeal submissions from the parties shall be permitted.

An appeal is limited in scope. The purpose of an appeal is not to initiate a review of substantive issues of fact or a new determination of whether a violation of DDA' rules has occurred.

In deciding an appeal, the Appeal Panel may consider the case file and any responses, investigative report and any responses, the hearing record, the written determination, and any written appeal(s) or statements by the parties. The Appeal Panel also may consider any other relevant materials and that have been shared with the parties.

The parties and their advisors will simultaneously be provided (via electronic format) with the written decision describing the result of the appeal and the rationale for the result.

- If the Appeal Panel finds that the earlier decision should stand, the parties will be so informed, and the Title IX process is concluded.
- If the Appeal Panel finds that there was procedural irregularity that affected the outcome of the matter, the matter will be remanded to the Decision Maker to determine appropriate further action.
- If the Appeal Panel finds that new evidence is available which was not reasonably available at the time of the determination regarding responsibility or dismissal, and such evidence could alter the outcome of the matter, the matter will be remanded to the Decision Maker for appropriate further action.
- If the Appeal Panel finds that the Title IX Coordinator or their staff, investigator(s), or the Decision Maker 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, the Appeal Panel will take appropriate measures to address and remediate the impact of the bias or conflict consistent with the general procedures of this policy.
- If the Appeal Panel finds that the sanctions (or recommended sanctions) are not commensurate with the violation, the matter will be remanded to the Decision Maker for reconsideration.

The Appeal Panel will seek to complete the appeal review within twenty (20) business days of receipt of the appealing party's written statement.

Unless further proceedings are necessary, the determination regarding responsibility becomes final either: (i) on the date that the parties are provided with the written determination of the result of an appeal, if an appeal is filed (at which point the Title IX Sexual Harassment grievance process is concluded), or (ii) if an appeal is not filed, the date on which an appeal would no longer be considered timely (at which point the Title IX Sexual Harassment grievance process is concluded).

### **XIII. Training**

DDA will provide appropriate training to DDA officials with responsibilities under this policy, including the Title IX Coordinator, investigators, potential Decision Makers and Appeal Panel members, and any individual who facilitates the informal resolution process. Such training will cover the definition of Title IX Sexual Harassment, the scope of DDA' education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes under this policy,

as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. DDA will ensure that Decision Makers receive training on any technology to be used at a hearing and on issues of relevance of questions and evidence, including questions and evidence about the irrelevancy of complainant's sexual predisposition or prior sexual behavior. DDA will ensure that investigators receive training on issues of relevance in order to create an investigative report that fairly summarizes relevant evidence.

## **XIV. Record Retention**

DDA will maintain records of the following for a period of seven (7) years:

- Each Title IX Sexual Harassment grievance process conducted under this policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript from a hearing, any disciplinary sanction imposed on the respondent, and remedies provided to the complainant designed to restore or preserve access to DDA' education program or activity;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom;
- All materials used to train Title IX Coordinators, investigators, Decision Makers, Appeal Panel members, and any individual who facilitates the informal resolution process with regard to Title IX Sexual Harassment; and
- Records of any actions, including any supportive measures, taken in response to a report or formal complaint of Title IX Sexual Harassment. In each instance, DDA will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to DDA' educational and working program or activity. If DDA does not provide a complainant with supportive measures, then DDA will document the reasons why.

## **XV. Modification and Review of Policy**

DDA reserves the right to modify this policy to take into account applicable legal requirements or extraordinary circumstances.

At regular intervals, DDA will review this policy to determine whether modifications should be made.

## **Appendix A:**

### **Law Enforcement and Confidential Resources**

Any individual may contact local law enforcement concerning alleged sexual harassment that may constitute a crime.

Information shared with Confidential Resources (including information about whether an individual has received services) will be disclosed to the Title IX Coordinator or any other individual only with the individual's express written permission, unless there is an imminent threat of serious harm to the individual or to others, or a legal obligation to reveal such information (e.g., if there is suspected abuse or neglect of a minor).

Any individual may also access resources located in the local community. These organizations can provide crisis intervention services, counseling, medical attention and assistance in dealing with the criminal justice system. If accessing these resources, individuals are encouraged to clarify whether the resources are confidential. Other off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with DDA unless the victim requests the disclosure and signs a consent or waiver form.

## **Appendix B:**

### **Informal Resolution Process**

The informal resolution process is a voluntary, remedies-based process designed to provide members of the DDA community with an option to resolve certain disputes with other members of the DDA community in a forum that is separate and distinct from the formal grievance processes under the Title IX Sexual Harassment Policy. Subject to approval by the Title IX Coordinator (see below), the informal resolution process is available in matters involving a student complainant and a student respondent as well as in matters involving a faculty/staff complainant and a faculty/staff respondent. *The informal resolution process is not available in matters involving a student and an employee.* The purpose of the informal resolution process is to eliminate the conduct which has been reported by the complainant (and prevent its recurrence), and place both individuals in a position to pursue their academic, working, and non-academic interests in a safe, respectful, and productive educational and working environment. Under this process, there will be no disciplinary action taken against a respondent, and the resolution will not appear on the respondent's disciplinary record.

Prior to participating in the informal resolution process, parties will be notified in writing of the information contained in this [Appendix B](#).

The following are features of the informal resolution process:

Participation in the informal resolution process is completely voluntary.

No party will be required to participate in the informal resolution process; and

DDA will not require, encourage, or discourage the parties from participating in the informal resolution process.

All parties must consent in writing to participation in the informal resolution process.

DDA may offer the informal resolution process only under the following circumstances:

A formal complaint (as defined in [section II](#)) has been filed by the complainant;

The Title IX Coordinator has determined, through an initial assessment (see [section IV](#)), that the alleged conduct, if substantiated, would constitute Title IX Sexual Harassment or Sexual Misconduct;

The Title IX Coordinator has determined that the informal resolution process is appropriate for this matter.

All parties will be provided with a written notice disclosing the allegations, the requirements of the informal resolution process, and any outcomes resulting from participating in the informal resolution process.

At any time prior to signing an informal resolution agreement, any party has the right to withdraw from the informal resolution process and resume the formal grievance process.

Under the informal resolution process, there will be no disciplinary action taken against a respondent, and the resolution will not appear on the respondent's disciplinary record. If a formal complaint is filed against the respondent in a subsequent matter under the Title IX Sexual Harassment policy, the respondent's participation in a prior informal resolution process will not be considered relevant and will not be taken into account in the resolution of the subsequent complaint.

Parties may be accompanied by a member of the DDA community who will serve as a support person to any meeting related to the informal resolution process. However, an DDA support person may not actively participate in meetings and may not serve as a proxy for the party. Any individual who serves as an DDA support person is expected to make themselves available for meetings as scheduled by DDA. DDA (including any official acting on behalf of DDA) has the right at all times to determine what constitutes appropriate behavior on the part of an DDA support person and to take appropriate steps to ensure compliance with this policy.

Any agreements reached as part of the informal resolution process must be approved by the Title IX Coordinator in order to ensure consistency with DDA's federal obligations. If the Title IX Coordinator determines at any time prior to the signing of the informal resolution agreement that the informal resolution process is no longer appropriate, the Title IX Coordinator may terminate the process.

Upon signing the informal resolution agreement, the parties are bound by its terms and cannot opt for a formal grievance process based on the conduct alleged in the formal complaint.

Failure to comply with the signed agreement may result in disciplinary action for either party.

If the parties' circumstances change significantly, they may request a supplemental agreement; the Title IX Coordinator will determine whether it is appropriate to proceed.

## **Initiation of the Informal Resolution Process**

If the complainant files a formal complaint and requests to engage in the informal resolution process, the Title IX Coordinator will consider whether the informal resolution process is appropriate in the particular matter. In making this determination, the Title IX Coordinator will consider the following factors:

- The disciplinary record (or past conduct) of the respondent relating to sexual misconduct, physical violence, failure to comply with a No Contact Order, and/or other relevant conduct;
- The nature of the alleged conduct, whether allegations involve multiple victims and/or a pattern of conduct, or other evidence-informed factors indicative of increased risk to campus safety;
- Whether the circumstances warrant the Title IX Coordinator filing a formal complaint (e.g., if there is sufficient evidence to proceed with an investigation/adjudication even absent participation by the complainant);
- Whether proceeding with the informal resolution process is in accordance with the principles and objectives of DDA's Title IX Sexual Harassment policy, as determined by the Title IX Coordinator; and/or

- Whether proceeding with the informal resolution process in matters involving faculty and staff members is in accordance with DDA’ employment practices.

If the Title IX Coordinator determines that a case is not appropriate for the informal resolution process, the Title IX Coordinator will inform the complainant that the informal resolution process is unavailable.

If the formal grievance process has already begun, either party may seek to initiate the informal resolution process up until five business days prior to the hearing. If both parties agree to participate in the informal resolution process and the Title IX Coordinator approves of the informal resolution process, the formal grievance process will be adjourned while the informal resolution process is pending; if an agreement is not reached, the formal grievance process will be resumed.

Upon initiation of the informal resolution process, the Title IX Coordinator will refer the matter to a trained informal resolution facilitator (“facilitator”). The facilitator will consult (separately) with each party in an effort to reach a resolution that best meets the interests and needs of the parties. Unless they mutually choose to do so as part of an agreement, the parties will not meet together in person as part of the process.

### **Potential Outcomes of the Informal Resolution Process**

Depending on the nature and circumstances of the particular situation, parties may agree to outcomes such as:

- Long-term extension of a mutual No Contact Order or No Communication Order;
- Imposition of a “skewed” No Contact Order, placing the burden on the respondent to limit the respondent’s physical proximity to the complainant;
- Restrictions on the respondent from participation in particular organizations or events;
- Participation by the respondent in an alcohol education program designed to reduce the harmful problems associated with alcohol abuse;
- Provision to the respondent of an “impact statement” written by the complainant (describing the impact(s) that the respondent’s conduct had on the complainant);
- Conversation between the parties facilitated by a trained individual appointed by the Title IX Coordinator; and
- Other measures deemed appropriate by the Title IX Coordinator.

### **Failure to Comply with the Informal Resolution Agreement**

Failure to comply with the signed agreement may result in disciplinary action for either party, consistent with the disciplinary procedures described applicable policy manuals (for faculty and staff members).

### **Records Relating to the Informal Resolution Process**

The records relating to the informal resolution process will be maintained in accordance with section XIV.

Prior to participating in the informal resolution process, parties will be notified in writing that any information gathered during the informal resolution process may be used in the Title IX Sexual Harassment formal grievance processes described in Section X, if the informal resolution process ends prior to a written agreement being signed by the parties. However, DDA will not draw any adverse inference based on a respondent’s participation in the informal resolution process, nor will such participation be considered an admission by the respondent.

Even if the parties enter into a written informal resolution agreement, if information related to the violation of other DDA policies comes to light through the informal resolution process, such information may be used in other DDA disciplinary processes.

## Retaliation

The protections against Retaliation described in section III apply to individuals participating in the informal resolution process. Disciplinary consequences may result for those found responsible for Retaliation.

## Time Frame for the Informal Resolution Process

The time frame for completion of the informal resolution process may vary, but DDA will seek to complete the informal resolution process within thirty (30) business days of completion of the initial assessment. Should the time period extend beyond this time frame, the parties will be notified.

## Appendix C: Range of Sanctions under this Policy

Members of the DDA community may be subject to disciplinary sanctions for violating this policy.

### Sanctions Applicable to Students

The sanctions for students are listed below.

1. **Warning.** An admonition that does not become part of a student's permanent record, but that may be taken into account in judging the seriousness of any future violation.
2. **Reprimand.** Reprimand is a stronger admonition than a warning, intended to signal that the student has committed a minor infraction, conveying that the student must be vigilant against future infractions, and providing a disincentive against future infractions in that a reprimand will not become part of the student's permanent record unless there is a subsequent infraction, at which point the reprimand will be formally recorded on the student's permanent record.

Both a warning and a reprimand may be taken into account in judging the seriousness of any future violation.

More serious violations may be met with the following formal responses which are recorded on the student's permanent record.

1. **Disciplinary Probation.** A more serious admonition assigned for a definite amount of time. It implies that any future violation, of whatever kind, during that time, may be grounds for suspension, suspension with conditions, or in especially serious cases, expulsion from DDA. Disciplinary probation will be taken into account in judging the seriousness of any subsequent infraction even if the probationary period has expired.

Disciplinary probation appears on a student's permanent record at DDA (but not on the transcript) and may be disclosed in response to requests for which the student has given permission or as otherwise legally required.

2. **Withholding of Degree.** In cases involving students in their final semester, DDA may withhold a student's DDA degree for a specified period of time. This sanction is imposed instead of suspension at the end of a student's final year when all other degree requirements have been met. A withheld degree is recorded on a student's transcript. Relevant information remains on the student's permanent record at DDA and may be

disclosed in response to requests for which the student has given permission or as otherwise legally required.

1. **Suspension.** Removal from enrollment in DDA for a specified period of time. A suspension is recorded on a student's transcript. Relevant information remains on the student's permanent record at DDA and may be disclosed in response to requests for which the student has given permission or as otherwise legally required.
2. **Suspension with Conditions.** Removal from enrollment in DDA for at least the period of time specified by the suspension, with the suspension to continue until certain conditions, stipulated by the appropriate body applying this sanction, have been fulfilled. These conditions may include, but are not limited to, restitution of damages, formal apology, or counseling. A suspension with conditions is recorded on a student's transcript. Relevant information remains on the student's permanent record at DDA and may be disclosed in response to requests for which the student has given permission or as otherwise legally required.
3. **Expulsion.** Permanent removal from enrollment in DDA, without any opportunity for readmission to the community. Expulsion is recorded on a student's transcript. Relevant information remains on the student's permanent record at DDA and may be disclosed in response to requests for which the student has given permission or as otherwise legally required.

The following may accompany the preceding sanctions, as appropriate:

**Censure.** Censure can be added to any of the other sanctions listed above, except warning and reprimand. Censure indicates DDA's desire to underscore the seriousness of the violation and the absence of mitigating circumstances, and to convey that seriousness in response to future authorized inquiries about the given individual's conduct.

**Restriction of Access to Space, Resources, and Activities.** When appropriate in cases involving behavioral misconduct between members of the community, restrictions may be placed on access to space and/or resources or on participation in activities so as to limit opportunities for contact among the parties.

### **Sanctions Applicable to Faculty and Staff Members**

For violations of this policy by faculty or staff members, disciplinary sanctions may include (in accordance with the employment policies governing the employee in question) counseling or training, written warning, financial penalty, unpaid leave of absence, suspension (or recommendation for suspension), demotion, termination (or recommendation for termination) in accordance with applicable policies. DDA may place a faculty or staff member on administrative leave during the pendency of a grievance process, provided that such action shall not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

### **Sanctions Applicable to Non-Members of the DDA Community**

For violations of this policy by non-members of the DDA community, disciplinary sanctions may include being temporarily or permanently barred from DDA or subject to other restrictions.