



Office of Institutional Equity

GRIEVANCE POLICY FOR ADDRESSING SEX-BASED HARASSMENT FOR STUDENTS AND EMPLOYEES

Effective: August 1, 2024

I. Effective Date and Changes to Procedure Based on Court Rulings and Legal Challenges or Changes in Law or Regulation

This Grievance Procedure applies to incidents that occur on or after August 1, 2024. Any incidents reported under this Grievance Procedure that occurred on or before July 31, 2024 will be processed through SUNY Downstate's Grievance Policy for Addressing Formal Complaints of Sexual Harassment Under Title IX Regulations.

Should any portion of the 2024 Title IX Final Rule (89 Fed. Reg. 33474 (Apr. 29, 2024)), be stayed or held invalid by a court of law, or if the 2024 Title IX Final Rule is withdrawn or modified to not require elements of this Grievance Procedure, the Grievance Procedure in its entirety, or the invalidated elements of this Grievance Procedure, they will be deemed revoked as of the publication date of the opinion or order from the Court and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by the date of the opinion or order publication by the Court. If this Grievance Procedure is revoked in this manner, any conduct covered under this Grievance Procedure shall be investigated and adjudicated under the previous 2020 Title IX Grievance Policy and/or The Rules of Student Conduct or Sexual Misconduct Policy. SUNY Downstate Health Sciences University will update this Grievance Procedure as soon as practicable to reflect any court rulings or changes that invalidate parts of the Grievance Procedure, where applicable.

II. Scope of Procedure

Sex-Based Harassment is considered discrimination on the basis of sex if it includes harassment due to actual or perceived sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity.

III. Jurisdiction of Procedure

SUNY Downstate Health Sciences University's Title IX Coordinator or designee will determine if this Grievance Procedure applies to a Complaint. This Grievance Procedure will apply when the following elements are met, in the reasonable determination of the Title IX Coordinator:

- The conduct alleged occurred on or after August 1, 2024;
- The conduct alleged occurred on campus, off campus, or while studying abroad
- The conduct alleged occurred in SUNY Downstate Health Sciences University's Education Program or Activity; and
- The conduct alleged, if true, would constitute Sex-Based Harassment as defined in this Grievance Procedure.

NOTE: SUNY Downstate Health Sciences University has an obligation to address a sex-based hostile environment under its Education Program or Activity, even when some conduct alleged to be contributing to the hostile environment occurred outside SUNY Downstate Health Sciences University's Education Program or Activity, or outside of the United States. SUNY Downstate Health Sciences University's Title IX Coordinator will work with all Complainants to assess such complaints that may fall under these criteria, and direct to appropriate SUNY Downstate Health Sciences University Policies and Procedures that may apply if this Grievance Procedure does not. SUNY Health Sciences University will communicate all such decisions in writing to the Complainant. Any such dismissals shall be subject to appropriate appeal rights under this Grievance Procedure as outlined in the Dismissals section below.

Conduct that occurs under SUNY Health Sciences University's Education Program or Activity includes but is not limited to conduct that occurs in any building owned or controlled by SUNY Downstate or any affiliated organization that is officially recognized by SUNY Downstate Health Sciences University and conduct that is subject to SUNY Health Sciences University's disciplinary authority under The Rules of Student Conduct.

If all elements of jurisdiction are met, SUNY Downstate Health Sciences University will investigate the allegations according to this Grievance Procedure as appropriate, unless an Informal Resolution is pursued or unless there are grounds for dismissal of the Complaint.

IV. Non-Discrimination in Application

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, race, color, national origin, religion, creed, age, disability, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, criminal conviction, or other protected classes covered by applicable federal, state, or local law. All requirements and protections are equitably provided to individuals regardless of such protected status(es) or status as a Complainant, Respondent, or Witness. Individuals who wish to file a Complaint about under the Grievance Policy or process may contact the U.S. Department of Education's Office for Civil Rights using contact information available at <https://ocras.ed.gov/contact-ocr>. Individuals may also file complaints with the New York State Division of Human Rights (DHR), using contact information available at <https://dhr.ny.gov/complaint>.

V. Students' Bill of Rights

All Students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of Domestic Violence, Dating Violence, Stalking, and Sexual Assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by SUNY Downstate;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive courteous, fair, and respectful health care and counseling services at SUNY Downstate, where available;
6. Be free from any suggestion that the Reporting Individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few SUNY Downstate representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from Retaliation by SUNY Downstate, any Student, the Accused and/or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of SUNY Downstate;
9. Access to at least one level of appeal of a determination;

10. Be accompanied by an advisor of choice who may assist and advise a Reporting Individual or Complainant, Accused, or Respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of SUNY Downstate.

VI. Definitions

1. **Admission** means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in, or at an Education Program or Activity operated by SUNY Downstate Health Sciences University.
2. **Affirmative Consent** means a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, if those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Please note that to comply with the above definition of Affirmative Consent, you should remember the following:

- Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When Consent is withdrawn or can no longer be given, sexual activity must stop.

“Consent” and “affirmative consent” may be used interchangeably under this Grievance Procedure.

3. **Complainant** means:

(1) a student or student employee or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment as defined in these procedures and who was participating or attempting to participate in SUNY Downstate Health Sciences University's Education Program or Activity; or

(2) a person other than a student, student employee or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment under this Grievance Procedure and who was participating or attempting to participate in SUNY Downstate Health Sciences University's Education Program or Activity at the time of the alleged Sex-Based Harassment.

4. **Complaint** means an oral or written request to SUNY Downstate Health Sciences University that objectively can be understood as a request for SUNY Downstate Health Sciences University to investigate and decide on alleged Sex-Based Harassment at SUNY Downstate.
5. **Confidential Employee** means:
 - (1) an employee of SUNY Downstate Health Sciences University whose communications are privileged under Federal or State law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;
 - (2) an employee of SUNY Downstate Health Sciences University whom the recipient has designated as confidential for the purpose of providing services to persons related to Sex-Based Harassment. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about Sex-Based Harassment in connection with providing those services; or
 - (3) an employee of SUNY Downstate Health Sciences University who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex-Based Harassment. The employee's confidential status is only with respect to information received while conducting the study.
6. **Disciplinary Sanctions** means consequences imposed on a Respondent following a determination under this Grievance Procedure that the Respondent violated SUNY Downstate Health Sciences University's prohibition against Sex-Based Harassment.
7. **Education Program or Activity** means any academic, extracurricular, research, occupational training or other Education Program or Activity operated by SUNY Downstate Health Sciences that receives Federal financial assistance.
8. **Party** means Complainant or Respondent.
9. **Peer Retaliation** means Retaliation by a Student against another Student.
10. **Relevant** means related to the allegations of Sex-Based Harassment under investigation as part of this Grievance Procedure. Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex-Based Harassment occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex-Based Harassment occurred.
11. **Remedies** means measures provided, as appropriate, to a Complainant or any other person SUNY Downstate Health Sciences University identifies as having had their equal access to SUNY Downstate Health Sciences University's Education Program or Activity limited or denied by Sex-Based Harassment. These measures are provided to restore or preserve that person's access to SUNY Downstate Health Sciences University's Education Program or Activity after SUNY Downstate Health Sciences University determines that Sex-Based Harassment occurred.
12. **Respondent** means a person who is alleged to have violated SUNY Downstate Health Sciences University's prohibition on Sex-Based Harassment.

13. **Retaliation** means intimidation, threats, coercion, or discrimination by any person by SUNY Downstate Health Sciences University, a Student, or an employee or other person authorized by SUNY Downstate Health Sciences University to provide aid, benefit, or service under SUNY Downstate Health Sciences University's Education Program or Activity, for the purpose of interfering with any right or privileged secured by Title IX, or because the person has reported information, made a complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Grievance Procedure, including an informal resolution process.

14. **Sex-Based Harassment** means sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

(1) *Quid pro quo harassment*. An employee, agent or other person authorized by SUNY Downstate Health Sciences University's Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) *Hostile Environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from SUNY Downstate Health Sciences University's Education Program or Activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following: (i) the degree to which the conduct affected the Complainant's ability to access SUNY Downstate Health Sciences University's Education Program or Activity; (ii) the type, frequency, and duration of the conduct; (iii) the Parties' ages, roles within SUNY Downstate Health Sciences University's Education Program or Activity, previous interactions and other factors about each Party that may be Relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other Sex-Based Harassment in SUNY Downstate Health Sciences University's Education Program or Activity;

(3) *Sexual Assault* (as defined in the Clery Act, 20 U.S.C. 1092(f)) means any sexual act directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent;

(4) *Dating Violence* (as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act) means any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

(5) *Domestic Violence* means any felony or misdemeanor crimes committed by a person who: (A) is a current or former partner of the victim under the family or domestic violence laws of the State of New York, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shared a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the State of New York; or

(6) *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress.

15. **Student** means a person who is currently or has enrolled or is on an approved leave of absence at SUNY Downstate.
16. **Supportive Measures** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to: (1) restore or preserve that Party's access to SUNY Downstate Health Sciences University's Education Program or Activity, including measures that are designed to protect the safety of the Parties or SUNY Downstate Health Sciences University's educational environment; or (2) provide support during SUNY Downstate Health Sciences University's Grievance Procedures for Sex-Based Harassment or during the Informal Resolution process.

VII. NOTE: Disability Accommodations

Generally

This Procedure does not alter any institutional obligations under applicable federal state, and/or local disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, among others. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Procedure that do not fundamentally alter the Procedures. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

Requests for Reasonable Accommodations During the Title IX Grievance Procedure

If the Complainant or Respondent discloses a disability, the Title IX Coordinator may consult, as appropriate, with Office of Student Affairs (for students) or the Office of Employee and Labor Relations (for employees) who provide support to individuals with disabilities to determine how to comply with applicable law including, without limitation, Section 504 of the Rehabilitation Act of 1973 in the implementation of any Supportive Measures, or any other reasonable accommodations requested during the Grievance Procedure.

VIII. Policy for Alcohol and/or Drug Use Amnesty

The health and safety of every student at SUNY Downstate Health Sciences University is of utmost importance. SUNY Downstate Health Sciences University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. SUNY Downstate Health Sciences University strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to SUNY Downstate officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to SUNY Downstate Health Sciences University's officials or law enforcement will not be subject to SUNY Downstate Health Sciences University's Rules of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

IX. Basic Requirements of the Grievance Procedure

SUNY Downstate Health Sciences University is required to:

- Treat Complainants and Respondents equitably;
- Ensure that any person designated by SUNY Downstate Health Sciences University as a Title IX Coordinator, Investigator, or Decisionmaker does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent;
- Establish reasonably prompt timeframes for the major stages of this Grievance Procedure, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay;
- Ensure that reasonable steps to protect the privacy of the Parties and witnesses during the pendency of the Grievance Procedure are taken, provided that the steps do not restrict the abilities of the Parties to obtain and present evidence, including by speaking to witnesses (as long as such does not result in Retaliation), consult with their family members, confidential resources, or advisors, or otherwise prepare for or participate in this Grievance Procedure;
- Ensure an objective evaluation of all evidence that is Relevant and not otherwise impermissible under this Grievance Procedure, including both inculpatory and exculpatory evidence, and provide that credibility determinations must not be based on a person's status as a Complainant, Respondent or Witness;
- Exclude impermissible evidence from consideration as defined in the Grievance Procedure; and
- Clearly articulate principles for how SUNY Downstate Health Sciences University will determine which policies and procedures apply if not all such complaints are handled under this Grievance Procedure.
- Be provided access to report the incident to the University Police Department, local law enforcement (including the NYPD), and/or the New York State Police;
- Have emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a Complainant to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated New York Penal Law should be addressed to law enforcement or to the district attorney, who shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the Complainant of other reporting options;
- Disclose confidentially the incident to SUNY Downstate representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for Complainants;
- Disclose confidentially the incident and obtain services from the state or local government;
- Disclose the incident to SUNY Downstate representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals;
- File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Coordinator and other appropriate SUNY Downstate representatives for information and assistance, ensure that Complainants know that reports shall be investigated in accordance with this Grievance Procedure and/or any other institutional policies that may be applicable, and ensure that a Complainant's identity will remain private at all times if said Complainant wishes to maintain privacy;
- Disclose, if the accused is an employee of SUNY Downstate Health Sciences the incident to SUNY Downstate Health Sciences University's Departments of Human Resources and/or Labor Relations or the right to request that a confidential or private employee assist in reporting to the appropriate representative for the Human Resources/Labor Relations Department, at which point, such referral shall be handled according to the appropriate policies and procedures related to employee complaints;
- Receive assistance from appropriate SUNY Downstate Health Sciences University representatives in initiating legal proceedings in family court or civil court; and

- Withdraw a complaint or involvement from SUNY Downstate Health Sciences University's Grievance Procedure at any time.

X. Reporting Sex-Based Harassment Occurring Between Students to SUNY Downstate

Non-Confidential Reports

Any person may report sex discrimination, including Sex-Based Harassment (whether or not the person reporting is the person alleged to be the victim of the conduct that may constitute sex discrimination or Sex-Based Harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator at SUNY Downstate Health Sciences University:

Name: Bolaji Olasokan

Title: Title IX Director

Office Address: Basic Sciences Building 5-95

Email Address: AskODI@downstate.edu

Telephone Number: (718) 270-1738

Confidential Reports

The following officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited by Title IX:

- Title IX Coordinator or designee(s);
- Student Affairs, Deans, or Academic Deans or Faculty
- NYS University Police Department
- All other employees at SUNY Downstate that are not designated as confidential resources

The following officials may provide confidentiality:

- Counselors within the SUNY Downstate Student Counseling Center: counseling@downstate.edu , (718) 270-1408
- SUNY Downstate Employee Assistance Program, Dr. Magda Alliancin, Director, (718) 270-1489
- Individuals serving in a pastoral role under SUNY Downstate's Department of Pastoral Care: Reverend Sharon Codner-Walker, Sharon.Walker@downstate.edu, (718) 270-2594
- SUNY Downstate physicians, licensed medical professionals or supervised interns when they are engaged in a physician/patient relationship, including those within the Student Health Center, 440 Lenox Road, Apt 1-W, (718) 270-1995/2018 (Please note that this does not include physicians, licensed medical professionals or supervised interns who are engaged with the reporting individual in a faculty/student relationship or supervisor/supervisee relationship, only those engaged with the reporter in a physician/patient relationship. Physicians, licensed medical professionals or supervised interns working within the Student Health Center specifically do not serve in a faculty role.)

There are other confidential options available for crisis intervention, resources and referrals, but these are not reporting mechanisms to SUNY Downstate, meaning that disclosure on a call to one of these hotlines does not provide any information to SUNY Downstate Health Sciences University.

Complainants are encouraged to additionally contact a campus confidential or private resource so that SUNY Downstate Health Sciences University can take appropriate action in these cases. Some resources for confidential disclosure **NOT** to SUNY Downstate include:

- The New York State Office for the Prevention of Domestic Violence hotlines: <http://www.opdv.ny.gov/help/dvhotlines.html>. Additional disclosure and assistance options that can be found and are presented in several languages can also be found here: <http://www.opdv.ny.gov/help/index.html> (or by calling 1-800-942-6906).
- SurvJustice: <http://survjustice.org/our-services/civil-rights-complaints/>;
- Legal Momentum: <https://www.legalmomentum.org/>;
- NYSCASA: <https://nyscasa.org/responding>;
- NYSCADV: <http://www.nyscadv.org/>;
- Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>;
- GLBTQ Domestic Violence Project: <http://glbtqdv.org/>;
- RAINN: <https://www.rainn.org/get-help>; and
- Safe Horizons: <http://www.safehorizon.org/>.

Privacy vs. Confidentiality

References made to confidentiality refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or University officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to privacy mean SUNY Downstate Health Sciences University's offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. SUNY Downstate Health Sciences University will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

At the First Instance of Disclosure of a Report

SUNY Downstate Health Sciences University shall ensure that, at a minimum, at the first instance of disclosure by a Complainant to a SUNY Downstate Health Sciences University representative, the following information shall be presented to the Complainant: "You have the right to make a report to University Police, local law enforcement, and/or state police or choose not to report; to report the incident to your SUNY Downstate; to be protected by SUNY Downstate from Retaliation for reporting an incident; and to receive assistance and resources from SUNY Downstate."

XI. Supportive and Interim Measures

Providing Supportive Measures

Complainants who report allegations of Sex-Based Harassment have the right to receive supportive measures from SUNY Downstate Health Sciences University regardless of whether they file a complaint. Supportive measures are non-disciplinary and non-punitive. Supportive measures may vary depending upon what is reasonably available at SUNY Downstate.

As appropriate, supportive measures may include without limitation:

- Counseling services
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services, as available
- Restrictions on contact applied to one or more Parties (no contact orders)
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Training and education programs related to Sex-Based Harassment

Supportive measures must not unreasonably burden either Party and must be designed to protect the safety of the Parties or SUNY Downstate Health Sciences University's educational environment, or to provide support during SUNY Downstate Health Sciences University's Sex-Based Harassment Grievance Procedures under this Policy or during Informal Resolution under this Grievance Procedure.

SUNY Downstate Health Sciences University may modify or terminate supportive measures at the conclusion of the Grievance Procedure or at the conclusion of the informal resolution process or may continue them beyond that point within SUNY Downstate Health Sciences University's discretion.

SUNY Downstate Health Sciences University will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one Party of supportive measures provided to another Party, unless necessary to provide the supportive measure or restore or preserve a Party's access to SUNY Downstate Health Sciences University's Education Program or Activity, or there is an exception that applies, such as:

- SUNY Downstate Health Sciences University has obtained prior written consent from a person with the legal right to consent to the disclosure;
- When the information is disclosed to an appropriate third Party with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- To carry out the purpose of the policy when it is necessary to address conduct that reasonably may constitute Sex-Based Harassment under Title IX in SUNY Downstate Health Sciences University's Education Program or Activity;
- As required by Federal law, federal regulations, or the terms and conditions of a federal award; or
- To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, or its implementing regulations, 34 CFR Part 99).

Note on Orders of Protection and their equivalent: SUNY Downstate Health Sciences University must provide a copy of the order of protection or equivalent when it is received by SUNY Downstate Health Sciences University, and Parties shall have the opportunity to meet or speak with the Title IX Coordinator, who can explain the order and answer questions about it, including information from the order about the Accused's/Respondent's responsibility to stay away from the protected person or persons. Parties are entitled to an explanation of the consequences for violating these orders, including, without limitation, arrest, additional conduct charges, and interim suspension or emergency removal, as applicable. A Complainant is also entitled to receive assistance from University Police in effecting an arrest when an individual violates an order of protection or to call on and assist local law enforcement in effecting an arrest for violating such order, in accordance with limits on current law enforcement jurisdiction and procedures.

Process for Review of Supportive Measures

SUNY Downstate Health Sciences University provides for a Complainant or Respondent to seek modification or reversal of SUNY Downstate Health Sciences University's decision to provide, deny, modify or terminate a supportive measure. Grounds for challenge of supportive measures include, but are not limited to:

- Whether a supportive measure is reasonably burdensome;
- Whether a supportive measure is reasonably available;
- Whether a supportive measure is being imposed for punitive or disciplinary reasons;
- Whether the supportive measure is being imposed without fee or charge; and
- Whether the supportive measure is effective in meeting the purposes for which it is intended, including to restore or preserve access to the Education Program or Activity, provide safety, or provide support during the Grievance Procedure.

Request for a modification or reversal of a supportive measure must be timely, and should be submitted within five (5) business days. SUNY Downstate Health Sciences University will conduct a fact specific inquiry into whether the request was timely.

This review will be conducted by an impartial employee of SUNY Downstate Health Sciences University, who did not make the challenged decision on the original supportive measure request. The impartial employee of SUNY Downstate Health Sciences University who makes this determination will have the authority to modify or reverse the decision if that impartial employee determines that the decision to provide, deny, modify or terminate the supportive measure was inconsistent with the procedures as outlined above for providing supportive measures in accordance with the Title IX regulations.

Parties are only allowed to challenge their own individual supportive measures. Challenges by one party will not be heard to supportive measures afforded to the opposite party, unless that supportive measure directly impacts the party making such challenge (i.e., two-way no contact orders).

Emergency Removal of a Respondent who is a Student

SUNY Downstate Health Sciences University retains the authority to remove a Respondent from all or part of SUNY Downstate Health Sciences University's Education Program or Activity on an emergency basis, where SUNY Downstate Health Sciences University (1) undertakes an individualized safety and risk analysis, and (2) determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons at or associated with SUNY Downstate, arising from the allegations of Sex-Based Harassment justifies removal.

SUNY Downstate Health Sciences University will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal under the policies in the Rules of Student Conduct ("Change in Student Status/Interim Suspension").

Any decision made to remove a Respondent may be challenged under the following appeal procedure:

1. Within five (5) calendar days of receiving the written notice of a decision from the Vice President for Student Affairs or their designee at SUNY Downstate, the student may submit an appeal of the decision in writing to the Vice President for Student Affairs who shall initiate the appeal process.

2. The appeal shall be heard by a three (3) person Board of Appeals. The decisionmaker who imposes the initial removal shall not hear appeals or render decisions on appeals. The individuals chosen to oversee appeals cannot have been involved in the original decision-making process. The written request for appeal must specify the particular substantive and/or procedural basis for the appeal and must be made on grounds other than general dissatisfaction with the decision of the Vice President for Student Affairs or their designee. While the appeal is pending and being heard by the Board of Appeals, the original decision will remain in place. All appeals decisions will be issued within seven (7) calendar days of after the Board of Appeals has heard/reviewed the appeal.

The criteria for appeal will be limited to the following:

- ***Disproportionate Findings or New Information:*** if there is any information not previously considered that would allow the student to return to campus or if there is any new information not previously available to the student that may change the outcome of the decision-making process;
 - ***Procedural irregularities:*** if there were any procedural irregularities that materially affected the outcome of the matter to the detriment of the student who appealed the decision.
3. After reviewing the matter fully, the Board of Appeals will issue a written decision affirming, modifying, or reversing the decision to remove the Respondent. The Board of Appeals' decision shall be final, and no other appeals or Grievance Procedures are available at the campus level.

Individuals who hear a challenge to an emergency removal must also not be involved in any decision regarding responsibility or appeal of a determination.

Emergency removals will not be considered Relevant evidence that can be considered in reaching a determination of whether Sex-Based Harassment occurred.

Emergency Removal of a Respondent who is an Employee / Administrative Leave

SUNY Downstate Health Sciences University retains the authority to place a non-student employee Respondent on administrative leave during the Grievance Procedure, consistent with the most recent appropriate Collective Bargaining Agreement.

*When a Complainant or Respondent is both a student and an employee of SUNY Downstate Health Sciences University, SUNY Downstate Health Sciences University must make a fact-specific inquiry to determine whether this procedure applies to that student-employee. SUNY Downstate Health Sciences University will consider if the Complainant or Respondent's primary relationship with SUNY Downstate Health Sciences University is to receive an education and whether the alleged Sex-Based Harassment occurred while the party was performing employment-related work.

XII. The Title IX Grievance Procedure for Sex-Based Harassment Occurring Between Students

A. Filing a Complaint

Who can make a Complaint?

- A Complainant (as defined in Section VI (6) of this Grievance Procedure); or
- The Title IX Coordinator.

Title IX Coordinator Initiated Complaints: In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an Informal Resolution process, the Title IX Coordinator must determine whether to initiate a Complaint of Sex-Based Harassment. This determination is fact-specific, and the Title IX Coordinator must consider:

- The Complainant's request not to proceed with the initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Sex-Based Harassment would occur if a Complaint is not initiated;
- The severity of the alleged Sex-Based Harassment, including whether the Sex-Based Harassment, if established, would require the removal of a Respondent from campus or imposition of another Disciplinary Sanction to end the Sex-Based Harassment and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee of SUNY Downstate Health Sciences University;
- The scope of the alleged Sex-Based Harassment, including information suggesting a pattern, ongoing Sex-Based Harassment, or Sex-Based Harassment alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether Sex-Based Harassment occurred; and
- Whether SUNY Downstate Health Sciences University could end the alleged Sex-Based Harassment and prevent its recurrence without initiating this Grievance Procedure.

If after considering these and other Relevant factors, the Title IX Coordinator determines that the conduct as alleged present as an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents SUNY Downstate Health Sciences University from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint.

If the Title IX Coordinator does initiate the Complaint after making this determination, the Title IX Coordinator must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures as listed in Section IX of this Grievance Procedure.

Complaint Format

As defined in Section VI (6) of this Grievance Procedure, a Complaint can be an oral or written request to SUNY Downstate Health Sciences University that objectively can be understood as a request for SUNY Downstate Health Sciences University to investigate and decide whether the alleged Sex-Based Harassment occurred at SUNY Downstate.

Who can I report a Complaint to?

Any reports of Sex-Based Harassment may be made directly to the Title IX Coordinator, whose contact information is listed at the beginning of this Grievance Procedure. There are other ways in which a Party may report a Complaint.

SUNY Downstate Health Sciences University requires that any employee who is not a Confidential Employee and who either has authority to institute corrective measures on behalf of SUNY Downstate Health Sciences University or has responsibility for administrative leadership, teaching, or advising in SUNY Downstate Health Sciences University's Education Program or Activity must notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Sex Discrimination, including Sex-Based Harassment.

All other employees at SUNY Downstate Health Sciences University who are not Confidential Employees and are not employees as identified above are required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Sex-Discrimination, including Sex-Based Harassment.

Note: If an employee has personally been subject to conduct that reasonably may constitute Sex Discrimination, including Sex-Based Harassment, under Title IX or any SUNY Downstate policy or this Grievance Procedure, these requirements do not apply to an employee reporting a personal Complaint.

Timeframe for Evaluation of the Initial Complaint

The Title IX Coordinator must evaluate whether the Complaint falls under this Grievance Procedure within ten (10) business days after the Complaint is made and must issue a request for additional information or the Notice of Allegations as soon as practicable after the Complaint is evaluated. If there are any delays or extensions, the Title IX Coordinator must appropriately notice the Parties in writing, on a case-by-case basis, with good cause and the reason(s) for the extension or delay.

Initiation of the Grievance Procedure After Making a Compliant to Law Enforcement

SUNY Downstate Health Sciences University has an obligation to appropriately evaluate all Complaints, regardless of whether there is a concurrent complaint before law enforcement. This process is an administrative process that is different from the criminal justice process. Per New York State Law, it is required that SUNY Downstate Health Sciences University's process run concurrently with a criminal justice investigation and proceeding, however, temporary delays are allowed as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten (10) days except when law enforcement specifically requests and justifies a longer delay.

B. Multi-Party Situations and Consolidation of Complaints

SUNY Downstate Health Sciences University may consolidate complaints alleging Sex-Based 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 Sex-Based Harassment arise out of the same facts or circumstances.

SUNY Downstate Health Sciences University can consider factors when making this fact-specific determination, which include, but are not limited to:

- The facts and circumstances of the particular complaints when deciding whether to consolidate, including the toll of separate proceedings on the Parties; and
- Any risks to the fairness of the investigation or outcome.

C. Allegations Potentially Falling Under Two Policies

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied to investigation and adjudication of only the allegations that constitute covered sexual harassment.

D. Dismissal of a Complaint

Grounds for Dismissal

SUNY Downstate Health Sciences University may dismiss a complaint of Sex-Based Harassment for any of the following reasons:

- SUNY Downstate is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in SUNY Downstate's Educational Program or Activity and is not employed by SUNY Downstate Health Sciences University;
- The Complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a Complaint of these procedures, and SUNY Downstate determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute Sex-Based Harassment under Title IX or this Grievance Procedure even if proven; or
- SUNY Downstate Health Sciences University determines that the conduct alleged in the complaint, even if proven, would not constitute Sex-Based Harassment under Title IX or these procedures.

Notice of Dismissal

If SUNY Downstate Health Sciences University dismisses a Complaint, SUNY Downstate is required to promptly notify the Complainant of the basis for dismissal.

If the dismissal of the Complaint occurs before a Notice of Allegations is issued to the Respondent, the Title IX Coordinator does not need to notice the Respondent at that time. However, if the Complainant appeals the dismissal, the Respondent will need to be noticed of the complaint allegations and given an opportunity to respond to the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then SUNY Downstate Health Sciences University must notify the Respondent and Complainant of the dismissal and the basis for the dismissal simultaneously in writing.

Appeal rights will be outlined in any notification of dismissal of a complaint, as included below under *Appeal of Dismissals*.

Appeals of Dismissals

SUNY Downstate Health Sciences University must notify the Complainant that a dismissal may be appealed and provide the Complainant with an opportunity to appeal the dismissal of a complaint on the following grounds:

- **Procedural irregularity:** procedural irregularity that affected the outcome of the matter (i.e., a failure to follow SUNY Downstate Health Sciences University's own policy to a degree that had material effect on the outcome of the matter);
- **New evidence:** New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Harassment occurred or dismissal of the Complaint was made; and
- **Bias or Conflict of Interest:** The Title IX Coordinator, investigator(s), or decisionmaker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome of the matter.

If the dismissal occurs after the Respondent has been notified of the allegations, then SUNY Downstate Health Sciences University must also notify the Respondent that the dismissal may be appealed on the grounds set out above.

The submission of appeal stays any sanctions for the pendency of an appeal.

Supportive measures and remote learning opportunities (if possible) remain available during the pendency of the appeal.

If a Party appeals, SUNY Downstate will as soon as practicable notify the other Party in writing of the appeal, however the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.

Appeals may be no longer than 25 pages (including attachments). Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the Party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by a three (3) member panel to serve as the Appeal Board. Members of the Appeal Board will be selected from faculty and/or staff who are not in the same program as the involved parties and may include up to one student, all of whom shall be free of conflict of interest and bias, and will not serve or have served as investigator, Title IX Coordinator, Hearing Officer or a decisionmaker in the same matter.

Outcome of appeal will be provided in writing simultaneously to both Parties, and include rationale for the decision.

E. Notice of Allegations

Upon initiating SUNY Downstate Health Sciences University's Grievance Procedure, the Title IX Coordinator shall provide a notice of allegations in writing to the Parties whose identities are known. Such notice will occur within ten (10) business days after SUNY Downstate Health Sciences University receives a Complaint, if there are no extenuating circumstances.

Contents of Notice of Allegations

The written Notice of Allegations will include the following:

- Notice of SUNY Downstate Health Sciences University Title IX's Grievance Procedures.
- Sufficient information available at the time of the issuance of the Notice of Allegations to allow the Parties to respond to the allegations, which includes the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sex-Based Harassment under the Grievance Procedure, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to SUNY Downstate Health Sciences University;
- A statement that the Parties are entitled to:
 - an equal opportunity to access the Relevant and not otherwise impermissible evidence; or
 - an accurate description of the Relevant and not otherwise impermissible evidence, with an equal opportunity for the Parties to access the underlying Relevant and not otherwise impermissible evidence upon request of any Party;
- A statement that the Respondent is presumed not responsible for the alleged Sex-Based Harassment until a determination is made at the conclusion of SUNY Downstate Health Sciences University's Grievance Procedures and that prior to the determination, the Parties will have an opportunity to present Relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- A statement that the Parties may have an advisor of their choice, and that the advisor may be, but is not required to be, an attorney as required under 34 C.F.R. § 106.45(b)(5)(iv); and
- Knowingly giving false information or making false statements to the University or misrepresenting oneself, on or off-campus, may lead to disciplinary action under the Code of Conduct.
- If, in the course of an investigation, SUNY Downstate Health Sciences University decides to investigate additional allegations of Sex-Based Harassment by the Respondent toward the Complainant that are not

included in the original written Notice of Allegations provided, SUNY Downstate will provide written notification to the Parties whose identities are known of any additional allegations.

Ongoing Notice

If, in the course of an investigation, SUNY Downstate decides to investigate additional allegations of Sex-Based Harassment by the Respondent toward the Complainant that are not included in the original issued written Notice of Allegations, or that are included in a Complaint that is consolidated under this Grievance Procedure, SUNY Downstate will notify the Parties whose identities are known of the additional allegations.

Safety Concerns

To the extent that SUNY Downstate has reasonable concerns for the safety of any person as a result of providing a written Notice of Allegations, SUNY Downstate through the Title IX Coordinator, may reasonably delay providing the written Notice of Allegations in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

F. Advisor of Choice and Participation of Advisor of Choice

A Party's advisor of choice may accompany the Party to any meeting or proceeding and SUNY Downstate cannot limit the choice of who that advisor may be or their presence for the Parties in any meeting or proceeding unless such advisor does not follow SUNY Downstate Health Sciences University's established rules of decorum and rules around participation.

G. Investigation

General Rules of Investigations

The Title IX Coordinator and/or designee will perform an investigation of the conduct alleged to constitute Sex-Based Harassment within ninety (90) business, where practicable, after issuing the Notice of Allegations.

SUNY Downstate Health Sciences University, and not the parties, has the burden to conduct an investigation that gathers sufficient evidence to determine whether Sex-Based Harassment occurred under this Grievance Procedure (has the burden of proof and the burden of gathering evidence, i.e., the responsibility of showing a violation of this Policy has occurred). This burden does not rest with either Party, and either Party may decide not to share their account of what occurred, or may decide not to participate in the investigation or hearing. This does not shift the burden of proof away from SUNY Downstate Health Sciences University and does not indicate responsibility.

SUNY Downstate Health Sciences University cannot access, consider, or disclose medical records without a waiver from the Party (or parent, if applicable) to whom the records belong, or of whom the records include information. SUNY Downstate Health Sciences University will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory or exculpatory evidence, as described below.

Notice of Participation

SUNY Downstate Health Sciences University will provide written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate, if a Party is invited or expected to participate in any such meeting or proceeding.

Advisors of Choice and Participation of Advisors of Choice

SUNY Downstate Health Sciences University will provide the parties equal access to advisors and support persons. Any restrictions on advisor participation will be applied equally.

The SUNY Downstate Health Sciences University has a long-standing practice of requiring students to participate in the process directly and not through an advocate or representative. Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, as consistent with the Final Rule, Advisors of Choice shall not participate directly in the process as per standard policy and practice of SUNY Downstate Health Sciences University.

SUNY Downstate Health Sciences University will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for all parties are not available, provided that the Advisor of Choice acts reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

SUNY Downstate Health Sciences University's obligations to investigate and adjudicate in a reasonably prompt timeframe under Title IX and other college policies apply to matters governed under this Policy, and SUNY Downstate Health Sciences University cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee. SUNY Downstate Health Sciences University will not be obligated to delay a meeting or hearing under this process due to the unavailability of an Advisor of Choice, and may offer the Party the opportunity to obtain a different Advisor of Choice or utilize one provided by SUNY Downstate Health Sciences University.

Review and Access to Relevant and Not Otherwise Impermissible Evidence

Each Party will have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible, to the Title IX Coordinator and/or designee. The Title IX Coordinator and/or designee will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance, consistent with this Policy.

Each Party and their advisors of choice will have an equal opportunity to review and access the evidence that is relevant to the allegations of sex-based discrimination and not otherwise impermissible regardless of relevance prior to the conclusion of the investigation. The Title IX Coordinator and/or designee will provide each Party with a reasonable opportunity to respond to the evidence. Both parties will have the opportunity to respond to the evidence prior to and during the live hearing.

SUNY Downstate Health Sciences University will take reasonable steps to prevent and address the Parties' unauthorized disclosure of information and evidence obtained solely through this Policy. Participating individuals who engage in the unauthorized disclosure of information and evidence obtained solely through this Policy may be subject to the Rules of Student Conduct and other applicable SUNY Downstate Health Sciences University policies and/or procedures that may apply.

Note: Disclosures of information and evidence for purposes of administrative proceedings or litigation related to the complaint of Sex-Based Harassment are authorized and not considered unauthorized disclosures potentially subject to other disciplinary action.

Relevant Evidence

Evidence is relevant when it is related to the allegations of Sex-Based Harassment under investigation as part of this Policy.

Questions are relevant when they seek evidence that may aid in showing whether the alleged Sex-Based Harassment occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged Sex-Based Harassment occurred.

Impermissible Evidence

The following types of evidence, and questions seeking that evidence, are excluded as impermissible (i.e., must not be accessed or considered, except by SUNY Downstate Health Sciences University to determine whether an exception applies, must not be disclosed, and must not otherwise be used) regardless of whether they are relevant:

- Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless SUNY Downstate Health Sciences University obtains that Party's or witness's voluntary, written consent for use in SUNY Downstate's Grievance Procedure; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent to the alleged Sex-Based Harassment. Note: the fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's Consent to the alleged Sex-Based Harassment or preclude determination that Sex-Based Harassment occurred.

Timeframes

An investigation shall be concluded within a reasonably prompt manner, and take no longer than ninety (90) business days to complete. If there are any delays or extensions, the Title IX Coordinator must appropriately notify the parties in writing, as detailed below.

Extensions and Delays

SUNY Downstate Health Sciences University allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the Parties that includes the reason for the extension or delay.

H. Live Hearing

General Rules for Live Hearings

SUNY Downstate Health Sciences University will not issue a finding or disciplinary sanction arising from an allegation of Sex-Based Harassment (to include sexual assault, dating and domestic violence, and stalking) without holding a live hearing, unless otherwise resolved through an informal resolution process as outlined in this Grievance Procedure.

The live hearing may be conducted with the parties physically present in the same geographic location. SUNY Downstate Health Sciences University has the discretion to conduct the live hearing with the parties physically present in separate locations, with technology enabling the decisionmaker and parties to simultaneously see and hear the party or the witness while that person is speaking. A party may also request this option prior to the hearing.

SUNY Downstate Health Sciences University shall create an audio or audiovisual recording or transcript of any live hearing and make it available to the Parties for inspection and review.

Participants in the Live Hearing

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

Complainant and Respondent (The Parties)

The parties cannot waive the right to a live hearing.

If a Party chooses not to participate in the process or the hearing, the live hearing may still proceed in the absence of a Party, and SUNY Downstate Health Sciences University may reach a determination of responsibility in their absence, including through any evidence gathered and other witness statements.

SUNY Downstate Health Sciences University will not threaten, coerce, intimidate or discriminate against any Party in an attempt to secure the Party's participation.

The decisionmaker cannot draw an inference about the determination regarding responsibility based solely on a Party's absence from the live hearing, or a refusal to answer questions.

The Decisionmaker

The hearing body will consist of an administrative hearing officer, who shall be a member of the SUNY Downstate Health Sciences University community.

No member of the hearing body will have served as the Title IX Coordinator, Title IX investigator or advisor to any Party in the case, nor may any member of the hearing body serve on the appeals body in the case.

No member of the hearing body will have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor of or against the parties to the particular case.

The hearing body will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.

The parties will have an opportunity to raise any objections regarding a decisionmaker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

Advisor of Choice

The parties have the right to select an advisor of their choice, who may be, but is not required (does not have) to be, an attorney.

The advisor of choice may accompany the parties to any meeting or hearing they are permitted to attend but may not speak for the Party.

An advisor of choice is not prohibited from being a witness in the hearing.

Advisors shall be subject to SUNY Downstate's Rules of Decorum which shall be distributed to all parties by the Hearing Officer at the beginning of the hearing, and may be removed upon violation of those rules.

Witnesses

Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation.

Witnesses shall be subject to SUNY Downstate's Rules of Decorum which shall be distributed to all parties by the Hearing Officer at the beginning of the hearing, and may be removed upon violation of those rules.

Hearing Procedures

For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

The Administrative Hearing Officer shall serve as the Chair of the Hearing and will open and establish rules and expectations for the hearing;

The parties will each be given an opportunity to provide opening statements;

The Administrative Hearing Officer will ask questions of the parties and witnesses;

Questioning of the parties and witnesses will occur according to the procedures below.

Questioning Parties and Witnesses

During a live hearing, each Party is allowed to ask relevant and not otherwise impermissible questions and follow-up questions of the parties and witnesses through the Hearing Chair.

No questioning to another party or witness will be conducted by a party personally.

Procedures for Decisionmaker's Evaluation of Questions and Limitation on Questions

The panel of 3 decisionmakers will determine whether a proposed question is relevant and not otherwise impermissible as described in this Grievance Procedure, prior to the question being posed, and will explain any decision to exclude a question as not relevant or otherwise impermissible.

If a panel of 3 decisionmakers determines that a Party's question is relevant and not otherwise impermissible, then the question must be asked unless such question is unclear or harassing of the Party or witness being questioned. The panel of 3 decisionmakers must give a Party an opportunity to clarify or revise a question that the panel of 3 decisionmakers has determined is unclear or harassing and, if the Party sufficiently clarifies or revises a question so that it is no longer unclear or harassing, the question must be asked.

Refusal to Respond to Questions and Inferences Based on Refusal to Respond to Questions

The panel of 3 decisionmakers may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed relevant and not impermissible.

The panel of 3 decisionmakers must not draw an inference about whether Sex-Based Harassment occurred based solely on a Party's or witness's refusal to respond to such questions.

All parties (i.e., complainant, witnesses, respondent) shall be subject to SUNY Downstate's Rules of Decorum which shall be distributed to all parties by the Hearing Officer at the beginning of the hearing. Said rules shall be applied equally to the parties.

Continuances or Granting Extensions

SUNY Downstate Health Sciences University may determine that multiple sessions or a continuance (a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, SUNY Downstate Health Sciences University will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

I. Determination Regarding Responsibility and Sanctioning

Standard of Proof

SUNY Downstate Health Sciences University uses the preponderance of the evidence standard of proof to determine whether or not sex-based harassment occurred. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Grievance Procedures occurred.

General Considerations for Evaluating Evidence and Testimony

The decisionmaker is required to evaluate relevant and not otherwise impermissible evidence for its persuasiveness.

If the decisionmaker is not persuaded under the applicable standard by the evidence that sex-based harassment occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that sex-based harassment occurred.

Determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the decisionmaker.

Decisionmakers 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 it base its 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.

Still, credibility judgments should not rest on whether a Party or witness' testimony is non-linear or incomplete, or if the Party or witness is displaying stress or anxiety.

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 may be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

Communication of the Determination in Writing

The written Determination Regarding Responsibility on whether sex-based harassment occurred will be issued simultaneously to all parties through their SUNY Downstate email account, or other reasonable means as necessary.

The Determination will include:

- A description of the alleged sex-based harassment;
- Information about the policies and procedures that SUNY Downstate Health Sciences University used to evaluate the allegations;
- The decisionmaker's evaluation of the relevant evidence and determination on whether sex-based harassment occurred;
- Any Disciplinary Sanctions SUNY Downstate Health Sciences University will impose on the Respondent, whether remedies other than the imposition of Disciplinary Sanctions will be provided by SUNY Downstate Health Sciences University to the Complainant, and, to the extent appropriate, other students identified by SUNY Downstate Health Sciences University to be experiencing the effects of sex-based harassment, if there is a finding that sex-based harassment occurred; and
- SUNY Downstate Health Sciences University's procedures and the permitted reasons for the Complainant and Respondent to appeal.

Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility will be issued by SUNY Downstate Health Sciences University within ten (10) business days of the completion of the hearing.

Finality of Determination

The determination regarding responsibility becomes final either on the date that SUNY Downstate provides the parties with the written determination of the result of any appeal, if an appeal is filed consistent with the procedures and timeline outlined in "Appeals" below, or if an appeal is not filed, the date on which the opportunity to appeal expires or would no longer be considered timely.

The Complainant and Respondent have the right to have all information obtained during the course of the conduct or judicial process be protected from release until the appeals panel makes a final determination unless otherwise required by law.

Determination of Disciplinary Sanctions After a Finding of Responsibility

Per New York state law, past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction. However, it is not admissible prior to determination of responsibility.

Additionally, each Party will have an opportunity to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.

Disclosures of Outcome by the Parties

The Complainant and Respondent have the right to choose whether to disclose or discuss the outcome of a conduct or judicial process related to sexual assault, dating violence, domestic violence, or stalking.

J. Appeals

Each party may appeal (1) the dismissal of a complaint or any included allegations and/or (2) a determination regarding responsibility. To appeal, a Party must submit their written appeal within five (5) business days of being notified of the decision, indicating the grounds for appeal.

For appeals resulting from dismissal of a complaint, please see the section on *Dismissal of Complaints*.

Grounds for Appeal

The limited grounds for appeal available are as follows:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Harassment occurred or dismissal was made; and
- The Title IX Coordinator, investigator(s), or decisionmaker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
- That the sanction or remedy imposed is not in due proportion to the nature and seriousness of the offense.

Additional Procedures for Appeal Process

SUNY Downstate Health Sciences University will notify the parties of any appeal, provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome, and will notify the parties of the result of the appeal and the rationale for the result.

The submission of an appeal stays (or pauses) any sanctions for the period during which an appeal determination is being assessed. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

Appeals may be no longer than 25 pages (including attachments). Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by a three-member panel to serve as the Appeal Board. Members of the Appeal Board, will be selected from faculty who are not in the same program as the involved parties and may include up to one student, all of whom shall be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or Hearing Officer/Decision-Making in the same matter.

K. INFORMAL RESOLUTION

Procedures for Entering and Exiting Informal Resolution Process

At any time prior to determining whether Sex-Based Harassment occurred under this Grievance Procedure, including prior to making a Complaint, Parties may instead seek SUNY Downstate Health Sciences University's assistance to resolve allegations of Sex-Based Harassment, and may elect to enter the informal resolution process.

The Parties may voluntarily elect to enter the SUNY Downstate Health Sciences University's informal resolution process at any time through an informed written consent. This informed written consent will include all terms of the elected informal process, including a statement that any agreement reached through the process is binding on the Parties.

No Party may be required to participate in informal resolution, and SUNY Downstate Health Sciences University may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.

The Parties may elect to leave the informal resolution process at any point until the informal resolution process is concluded. If a Party elects to leave the informal resolution process, the Grievance Procedure that the Parties paused will continue. In participating in the informal resolution process, the Parties understand that the timeframes governing the Grievance Procedure will temporarily cease, and only reinstate upon reentry into the Grievance Procedure.

Supportive Measures will be available, or continue to be available if already provided, during an informal resolution process, if elected to proceed. The Title IX Coordinator will also, to the extent necessary, take other appropriate prompt and effective steps to ensure that Sex-Based Harassment does not continue or recur within SUNY Downstate Health Sciences University's Education Program or Activity.

Notice Prior to Entry Into Informal Resolution Process

Before the initiation of an informal resolution process, the Title IX Coordinator must provide to the Parties a written notice that explains:

- The allegations;
- The requirements of the informal resolution process;
- That, prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to initiate or resume SUNY Downstate Health Sciences University's Grievance Procedures;
- That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming SUNY Downstate Health Sciences University's Grievance Procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
- What information SUNY Downstate Health Sciences University will maintain and whether and how SUNY Downstate could disclose such information for use in its Grievance Procedures if they are initiated or resumed.

Determination to Approve Entry into Informal Resolution Process

Even where the Parties agree to submit a matter to informal resolution, the Title IX Coordinator or Designee may approve the decision to move the matter to the informal resolution process and may determine that informal resolution is not appropriate under the circumstances. Informal resolution is not available for complaints containing allegations of sexual assault, domestic violence, dating violence, or stalking.

Factors that the Title IX Coordinator or designee may weigh in considering the appropriateness of the informal resolution process include, but are not limited to, the gravity of the allegations, whether there is an ongoing threat of harm or safety to the campus, whether the Respondent is a repeat offender, whether the alleged conduct would present a future risk of harm to others, and whether the Parties are participating in good faith. This determination is not subject to appeal.

Informal resolution may be available to address allegations of student-on-student and is not allowed to address allegations of employee-on-student Sex-Based Harassment.

At any time after the commencement of the informal resolution process, the Title IX Coordinator or Designee may determine that the informal resolution process is not an appropriate method for resolving the matter, and may require that the matter be resolved through the Grievance Procedures. This determination is not subject to appeal.

If informal resolution is approved or denied, SUNY Downstate Health Sciences University will provide the outcome in writing simultaneously to the Parties. If informal resolution is approved, the Title IX Coordinator shall also provide the information of the facilitator in writing to the Parties in a reasonable timeframe once the facilitator is assigned.

Role of the Facilitator

Informal resolution processes are managed by trained facilitators. All facilitators must not be the same person as the investigator or the/a decisionmaker(s) in SUNY Downstate Health Sciences University's Grievance Procedures. Any person designated to facilitate informal resolution must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The Title IX Coordinator may serve as the facilitator, subject to these restrictions.

All facilitators must have specialized training, required by law and regulation. Such training includes:

- SUNY Downstate Health Sciences University's obligation to address sex discrimination, including Sex-Based Harassment, in its Education Program or Activity;
- The scope of conduct that constitutes sex discrimination, including Sex-Based Harassment, under Title IX, including the definition of Sex-Based Harassment;
- All applicable notification and information requirements related to parental, family, or marital status, including pregnancy and related conditions, and SUNY Downstate Health Sciences University's response to sex discrimination;
- The rules and practices associated with SUNY Downstate Health Sciences University's informal resolution process; and
- How to serve impartially, including by avoiding conflicts of interest and bias.

Contents of Informal Resolution Agreements

Potential terms that may be included in an informal resolution agreement between the Parties include but are not limited to:

- Restrictions on contact; and
- Restrictions on the Respondent's participation in one or more of SUNY Downstate Health Sciences University's educational programs or activities or attendance at specific events, including restrictions SUNY Downstate Health Sciences University could have imposed as Remedies or Disciplinary Sanctions had SUNY Downstate Health Sciences University determined at the conclusion of the Grievance Procedures that Sex-Based Harassment occurred.

Breach of Informal Resolution Agreements

If a Party breaches the resolution or if SUNY Downstate Health Sciences University has other compelling reasons, such as if it learns of any fraud by a Party in entering into the agreement, SUNY Downstate Health Sciences University may void the agreement and initiate or resume the Grievance Procedures.

Confidentiality

In entering the informal resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the complaint is confidential. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support, or with an advocacy organization. As a condition of entering the informal resolution process, any evidence shared or received during the informal resolution process may not be used in any subsequent Grievance Procedure or institutional appeal.

Informal Resolution Options

SUNY Downstate Health Sciences University offers the following informal resolution procedures for addressing complaints of Sex-Based Harassment described under this Grievance Procedure:

Administrative Resolution

Should the Parties mutually determine to enter the informal resolution process, and the Respondent elects to accept responsibility for the allegations of the complaint at any point during the informal resolution process, SUNY Downstate may administratively resolve the complaint.

Where the Respondent admits responsibility, the Parties will receive simultaneous written notification of the acceptance of responsibility, and the Title IX Coordinator or their designee will convene to determine the Respondent's sanction and other Remedies, as appropriate and consistent with SUNY Downstate policy. The Parties will be given an opportunity to be heard at the sanctions hearing, including without limitation, the submission of impact statements, and the Parties may be accompanied by their Advisor, but questioning of Parties or witnesses will not be permitted. The Parties will receive simultaneous written notification of the decision regarding sanctions and Remedies, which may be appealed according to the process described in Section XII (J) following the hearing.

Mediation

The purpose of mediation is for the Parties who are in conflict to identify the implications of a student's actions and, with the assistance of a trained facilitator, identify points of agreement and appropriate Remedies to address them. Either Party can request mediation to seek resolution; mediation will be used only with the consent of both Parties, who will be asked not to contact one another during the process. The Title IX Coordinator and/or the Vice President for Student Affairs will also review any request for mediation and may decline to mediate based on the facts and circumstances of the particular case. Either Party has the right to terminate the mediation process and choose or resume another option for resolution at any time.

The mediation process will typically commence within 10 business days after the Title IX Coordinator and/or the Vice President for Student Affairs receives consent to mediate from both Parties and has made its determination to allow informal resolution to go forward. Mediation will continue until concluded or terminated by either Party, the facilitator, or the Title IX Coordinator and/or the Vice President for Student Affairs. During mediation, any potential investigation will halt, and calculations for time frames will be stayed. If the mediation results in a resolution, the disciplinary process will be concluded, and the matter will be closed. If a resolution cannot be reached, the matter will be referred to the Title IX Coordinator to re-evaluate other options for resolution, including investigation or proceeding forward with the Grievance Procedures.

During mediation, a facilitator will guide a discussion between the Parties. In circumstances where the Parties do not wish to meet face to face, either Party can request "caucus" mediation, and the facilitator will conduct separate meetings. Whether or not the Parties agree to meet face to face, each Party will be permitted to bring an advisor of their choice to any meetings who may be, but is not required to be, an attorney.

At the conclusion of the mediation, the facilitator will memorialize the agreement that was reached between the Parties. The Title IX Office or the Office of Student Affairs will monitor adherence to the proposed solution and close the matter when compliance is satisfactory.

The Title IX Coordinator will monitor the Parties' adherence to their proposed solution and reserves the right to close the matter when compliance is satisfactory.

XIII. Transcript Notations

For crimes of violence, including, without limitation, sexual violence, defined as crimes that meet the reporting requirements pursuant to the Clery Act (20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII)), SUNY Downstate Health Sciences University is required to make a notation on the transcript of a student found responsible for suspension or expulsion, per SUNY Downstate Health Sciences University's "Transcript Notation Policy."

XIV. Retaliation

When SUNY Downstate Health Sciences University has information about conduct that reasonably may constitute Retaliation under Title IX or its Grievance Procedures, SUNY Downstate is obligated to initiate its Grievance Procedures or, as appropriate, SUNY Downstate Health Sciences University's informal resolution process.

SUNY Downstate Health Sciences University will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a complaint of Sex-Based Harassment or sex discrimination under SUNY Downstate Health Sciences University's Title IX Grievance Procedures, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under SUNY Downstate Health Sciences University's Title IX Grievance Procedures.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Grievance Policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes Retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or Sex-Based Harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or complaint of Sex-Based Harassment. SUNY Downstate Health Sciences University has an amnesty policy on other offenses as enumerated in the Rules of Conduct and Sexual Misconduct Policy.

Complaints alleging retaliation may be filed according to SUNY Downstate's Sexual Misconduct Policy.

Conduct Charges Applicable under this Policy

The following represent violations of the Rules of Student Conduct under this policy:

Sex-Based Harassment: sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

- A. *Quid pro quo harassment.* An employee, agent or other person authorized by SUNY Downstate Health Sciences University's Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

- B. *Hostile environment harassment.* Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from SUNY Downstate Health Sciences University's Education Program or Activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - (i) the degree to which the conduct affected the Complainant's ability to access SUNY Downstate Health Sciences University's Education Program or Activity;
 - (ii) the type, frequency, and duration of the conduct;
 - (iii) the Parties' ages, roles within SUNY Downstate Health Sciences University's Education Program or Activity, previous interactions and other factors about each Party that may be Relevant to evaluating the effects of the conduct;
 - (iv) the location of the conduct and the context in which the conduct occurred; and
 - (v) other Sex-Based Harassment in SUNY Downstate Health Sciences University's Education Program or Activity;

Possible Sanctions include dismissal of charges, disciplinary warning, disciplinary probation, loss of privileges, fines, restitution, community service, permanent transcript notation, residence hall suspension, residence hall expulsion, university suspension; or university expulsion.

Sexual Assault: as defined in the Clery Act, meaning any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

Possible Sanctions include dismissal of charges, disciplinary warning, disciplinary probation, loss of privileges, fines, restitution, community service, permanent transcript notation, residence hall suspension, residence hall expulsion, university suspension; or university expulsion.

Dating Violence: as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act, is any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) the type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.

Possible Sanctions include dismissal of charges, disciplinary warning, disciplinary probation, loss of privileges, fines, restitution, community service, permanent transcript notation, residence hall suspension, residence hall expulsion, university suspension; or university expulsion.

Domestic Violence: any felony or misdemeanor crimes committed by a person who: (A) is a current or former partner of the victim under the family or domestic violence laws of the State of New York, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate

partner; (C) shared a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the State of New York.

Possible Sanctions include dismissal of charges, disciplinary warning, disciplinary probation, loss of privileges, fines, restitution, community service, permanent transcript notation, residence hall suspension, residence hall expulsion, university suspension; or university expulsion.

Stalking: engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress.

Possible Sanctions include dismissal of charges, disciplinary warning, disciplinary probation, loss of privileges, fines, restitution, community service, permanent transcript notation, residence hall suspension, residence hall expulsion, university suspension; or university expulsion.