



control or supervision and to set forth procedures by which such allegations shall be reported, investigated, and adjudicated.

The purpose of the procedures is to provide a prompt, fair, and impartial resolution of reports of discrimination and/or harassment based on race, color, religion, sex, national origin, age, disability, genetic information, sexual orientation, gender identity, marital status, military/veteran status, political affiliation, pregnancy, or any other status protected by law. The procedures also address any reports of retaliation against individuals who under this policy have filed reports, have testified or otherwise participated in investigations or proceedings, or have intervened to prevent a violation of this policy.

This policy also provides for full and fair notice to anyone accused of conduct in violation of it, including all allegations, and evidence and a full and fair opportunity to respond to such allegations and evidence.

### C. **Scope and Applicability**

This policy and related procedures apply to **on-campus** Prohibited Conduct involving all students, employees, and Third Parties (i.e. volunteers, visitors to campus including, but not limited to, students participating in camp programs, non-degree-seeking students, exchange students, and other individuals taking courses or participating in programs at CNU, and contractors working on campus who are not CNU employees).

This policy and related procedures apply to **off-campus** Prohibited Conduct at CNU-sponsored programs or activities involving all students, employees, and Third Parties. This policy and related procedures are also applicable to any conduct occurring off-campus if it may have continuing effects that create a hostile environment on-campus.

This policy contains two separate procedures:

1. **Process A** applies to reports of Title IX Sexual Harassment (including Sexual Assault, Dating Violence, Domestic Violence, and Stalking) involving students and employees when the Prohibited Conduct:
  - a. Occurs within the United States; and
  - b. Occurs in a building owned or controlled by a student organization that is officially recognized by CNU; or occurs at an off-campus location, event, or activity in which CNU exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurs and 2) any building owned or controlled by a student organization that is officially recognized by CNU); and
  - c. At the time of filing a Formal Complaint, a Complainant is participating in or
2. **Process B** applies to reports of (1



status, political affiliation, pregnancy, or any other status protected by law). Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.

Harassment violates this policy (except for Title IX Sexual Harassment, as defined below) when it creates a hostile environment, as defined below.

**Hostile Environment** may be conduct in any medium (e.g. oral, written, graphic, or physical) that is sufficiently severe, persistent or pervasive and objectionably offensive that interferes with, limits or denies the ability of an individual to participate in or benefit

employment access, benefits or opportunities. Mere subjective offensiveness is not enough to create a hostile environment. In determining whether conduct is severe, persistent or pervasive, and thus creates a hostile environment, the following factors will be considered:

4. **Title IX Sexual Harassment**<sup>1</sup> is conduct on the basis of sex that satisfies one or more of

(2) **Non-Forcible Sex Offenses:**

(a) **Incest:** Non-

5. **Sexual Misconduct** includes Non-Title IX Sexual Harassment, Title IX Sexual Harassment, Sexual Assault, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking.
6. **Sexual Violence**  
where a person is incapable of giving consent including the criminal acts of rape, sexual assault, sexual battery, sexual abuse, and sexual coercion as found under Virginia Law (Article 4 of Chapter 4 of Title 18.2).
7. **Consent** is given by voluntary words or actions that communicate a willingness to engage in a specific sexual activity. The existence of consent will be inferred from all of the facts and circumstances. Consent may be withdrawn at any time. Silence, in and of itself, is not consent. Lack of protest or resistance is not consent. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. A previous or current relationship does not imply consent to sexual activity. Past consent does not imply future consent. Consent cannot be obtained by the use of force to include physical violence, threats, intimidating behavior, and/or coercion.
  - a. **Physical Violence** means that a person is exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking, strangulation, and brandishing or using any object as a weapon.
  - b. **Threats** are words or actions that would compel a reasonable person to engage in unwanted sexual activity. Examples include threats to harm a person physically, to cause a person academic or economic harm.
  - c. **Intimidation** is an implied threat that menaces or causes reasonable fear in another person.  
can use their size or physical power in a manner that constitutes intimidation (i.e., by blocking access to an exit.)
  - d. **Coercion** is the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to engage in sexual activity. When a person makes clear that they do not want to participate in a particular form of sexual contact or sexual intercourse, that they want to stop or that they do not want to go beyond a certain sexual activity, continued

If an individual knows or reasonably should know someone is incapable of giving consent, it is a violation of this policy to engage in sexual activity with that person.

Incapacitation: An incapacitated person is incapable of giving consent. Incapacitation means that a person lacks the ability to make informed, reasonable judgments about whether or not to engage in sexual activity. An incapacitated person lacks the ability to understand the who, what, when, where, why, and/or how of the sexual interaction. A person is not necessarily incapacitated merely as a result of consuming alcohol, drugs, medications, and/or other substances. The impact of alcohol, drugs, medications, and/or other substances varies from person to person. Incapacitation is not synonymous with intoxication, impairment, blackout, and/or being drunk.

Alcohol, Medications, and Other Drugs: The use of alcohol, medications, and other drugs by the Respondent is not an excuse for being unable to assess if the Complainant gave consent.

8. **Sexual Exploitation** occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or badva711fit necDrue









**Confidential Resources:** The CNU Office of Counseling Services and the community resources listed in Section I are Confidential Resources. Confidential Resources will not disclose information about a report of a possible violation of this policy to CNU (including the Director University Police) without the Complainant the exceptions listed above under Confidentiality).

**Clery Act Reporting:** Pursuant to the Clery Act, CNU includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about the individuals involved in the incident. The Clery Act also requires CNU to issue timely warnings to the CNU community about certain crimes that have been reported and may continue to pose a serious or continuing threat to the campus. Consistent with the Clery Act, CNU will ensure, to every extent possible, that personally identifying information of Reporting Parties is not included in timely warnings.

**I. Confidential Resources and Procedures for Anyone Who Has Experienced Sexual Misconduct**

1. In a supportive manner, CNU will assist anyone who has experienced Sexual Misconduct by implementing the procedures set out herein. Due to the potential seriousness and sensitivity of the investigations involved, it is important to undertake these investigations properly. Preserving the evidence is often a key step of successful investigation of alleged Sexual Misconduct.
  
2. Recommended Steps

<u>Nearest Medical Facility or Emergency Room</u>	
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- c. **Confidential Resources (Support and Counseling)**: For professional and confidential counseling support, the following on-

<u>National Sexual Assault Hotline (RAINN)</u>	24-hour Hotline: (800) 656-HOPE (4673)
<u>Employee Assistance Program (EAP)</u>	<p>Counseling provided by all health plans offered to Commonwealth of Virginia employees and their dependents</p> <p>COVA CARE and COVA HDHP Anthem (855-223-9277)</p> <p>COVA HealthAware Aetna (888-238-6232)</p> <p>Optima Health Vantage HMO Optima (800-899-8174)</p> <p>Kaiser Permanente HMO Kaiser (866-517-7042)</p> <p><a href="http://www.dhrm.virginia.gov/employee_programs/employeeassistance">http://www.dhrm.virginia.gov/employee_programs/employeeassistance</a></p>

- d. Contact a trusted friend or family member.
- e. Preservation of Evidence: It is your right to have evidence collected and retained anonymously by law enforcement while you consider whether to pursue criminal charges. Pending a decision to report, it is strongly encouraged that you take immediate steps to preserve all evidence that might support a future report. Evidence preservation is enhanced in the following ways:

- (1) Do not wash your hands, bathe, or douche. Do not urinate, if possible.
- (2) Do not eat, blow your nose, drink liquids, smoke, or brush your teeth if oral contact took place.
- (3) Keep the clothing worn when the incident took place. If you change clothing, place the worn clothing in a paper bag (evidence deteriorates in plastic).
- (4) Obtain a forensic sexual assault examination by a Sexual Assault Nurse Examiner (SANE Nurse) within 120 hours of the incident. (Regardless of whether a forensic examination is obtained, you are strongly encouraged to seek care to address any medical concerns.)
- (5) Do not destroy any physical evidence that may be found in the vicinity of the incident and do not clean or straighten the location of the crime until law enforcement officials have had an opportunity to collect evidence.
- (6) Tell someone all the details you remember and/or write them down.



2. There is no time limit for filing a report under this policy. However, Complainants should report as soon as possible to maximize C Not reporting promptly may result in the loss of evidence and/or jurisdiction over the Respondent if they are is no longer affiliated with CNU and therefore limit the Resolution Process.
3. Any reports of Prohibited Conduct may be made to the Director, a Deputy Title IX Coordinator, or a Responsible Employee.

Title IX Coordinator: The Director of Title IX and Equal Opportunity (Michelle L. Moody) is the



confidentiality and share the information with a Confidential Resource either on campus or off campus as listed in Section I.

CNU is unable to acquire the information necessary to stop, remedy, and prevent Sexual Misconduct. As a result, the employee may face disciplinary consequences up to and including termination of employment.

5. **Online Reporting:** Any reports of Prohibited Conduct can be submitted through the [website for online reporting](#) by completing the [Title IX and EO Community Reporting Form](#). This form also allows for anonymous reporting.
6. **Reports of Other Discrimination/Harassment Not Sexual Misconduct:** CNU administrators, supervisors, faculty, coaches, and assistant coaches should report other conduct in violation of this policy without undue delay after the incident. Any such report may be made orally or in writing, including electronic mail to the Director or completing the [Title IX and EO Community Reporting Form](#) online.

**L. Reporting to External Agencies**

Inquiries or complaints concerning discrimination/harassment on the basis of race, color, national origin, sex including Sexual Misconduct, age, disability, or retaliation may be directed to the following agencies (OCR).

<p><u>OCR National Headquarters</u></p>	<p>U. S. Department of Education Office of Civil Rights Lyndon Baines Johnson Building 400 Maryland Avenue, SW Washington, D.C. 20202-1100 (800) 421-3481 Email: <a href="mailto:OCR@ed.gov">OCR@ed.gov</a> <a href="http://www2.ed.gov/about/offices/list/ocr/index.html">http://www2.ed.gov/about/offices/list/ocr/index.html</a></p>
<p><u>OCR Regional Headquarters</u></p>	<p>U.S. Department of Education Office of Civil Rights Lyndon Baines Johnson Building 400 Maryland Avenue, SW Washington, D.C. 20202-1475 (202) 453-6020 Email: <a href="mailto:OCR.DC@ed.gov">OCR.DC@ed.gov</a></p>

Inquiries or complaints concerning discrimination and harassment of **employees** may also be directed to the following:

<p><u>EEOC National Headquarters</u></p>	<p>U.S. Equal Employment Opportunity Commission 131 Main Street NE Washington, D.C. 20507 (800) 669-4000 Email: <a href="mailto:info@eoc.gov">info@eoc.gov</a> <a href="http://www.eoc.gov/">http://www.eoc.gov/</a></p>
<p><u>EEOC Local Office</u></p>	<p>U.S. Equal Employment Opportunity Commission 200 Granby Street Suite 739 Norfolk, VA 23510 (800) 669-4000 <a href="http://www.eoc.gov/field-office/norfolk/location">http://www.eoc.gov/field-office/norfolk/location</a></p>

<u>Commonwealth of Virginia:</u> <u>Department of Human Resource</u> <u>Management Office of Workforce</u> <u>Engagement (Diversity, Equity and</u> <u>Inclusion Unit)</u>	101 North 14 <sup>th</sup> Street, 12 <sup>th</sup> Floor Richmond, VA 23219 (800) 533-1414 <a href="https://www.dhrm.virginia.gov/employee-relations/equity-diversity-and-inclusion">https://www.dhrm.virginia.gov/employee-relations/equity-diversity-and-inclusion</a>
<u>Commonwealth of Virginia:</u> <u>Office of the Attorney General</u> <u>(Office of Civil Rights)</u>	202 North 9 <sup>th</sup> Street Richmond, VA 23219 (804) 225-2292 <a href="mailto:CivilRights@oag.state.va.us">CivilRights@oag.state.va.us</a> <a href="https://www.oag.state.va.us/programs-initiatives/civil-rights">https://www.oag.state.va.us/programs-initiatives/civil-rights</a>

**M. Timely Warning**

CNU is required by federal law, the Clery Act, to issue timely warnings for reported incidents that pose a substantial threat or danger to members of the campus community. CNU will ensure, to every extent possible, that identifying information is not disclosed, while still providing enough information for members of the campus community to make decisions to address their own safety in light of the potential danger.

**N. Initial Assessment**

Upon the receipt of a report, the Director will make an initial assessment of the reported information and respond to any immediate health or safety concerns. In this initial assessment, the Director will:

1. Inform the Complainant

- b. If Informal Resolution is preferred, the Director determines whether the Office has jurisdiction under the policy, whether the matter is suitable for Informal Resolution, and whether the alleged Prohibited Conduct falls within the scope of Process A or Process B.
  - c. If Formal Resolution is preferred, the Director determines whether the Office has jurisdiction under the policy and whether the alleged Prohibited Conduct falls within the scope of Process A or Process B; and
10. Communicate with appropriate CNU officials regarding possible Clery Act obligations.

The Director will ensure that the Complainant receives an explanation of available options and resources and is offered the opportunity to meet to discuss those options and resources. When a decision is made to take action under this policy and procedures that impacts a Respondent, the Director will ensure that the Respondent is notified, receives an explanation of available options and resources, and is offered the opportunity to meet to discuss those options and resources.

**O. Request for Confidentiality and Anonymous Reporting**

permission (subject to the exceptions listed above under Confidentiality in Section H).

Reports or Complaints Involving Minors: If the Complainant is (or was at the time of the incident) a minor (under 18), the University Police shall be notified.

2. Anonymous Report: A report online reporting by using the *Title IX and EO Community Reporting Form*. The report may be limited in its ability to respond and investigate an anonymous report unless sufficient information is furnished to enable the report to conduct a meaningful and fair investigation.

P. **Threat Assessment for Sexual Violence**: In addition to the steps taken during the initial assessment as stated in Section N, CNU shall submit every allegation of Sexual Violence that is alleged to have occurred (i) against any CNU student; or (ii) on campus, in or on a CNU building or property, or on public property that is within the campus or immediately adjacent to and accessible from campus to the Review Committee pursuant to Va. Code §23.1-806.

1. Review Committee  
Threat Assessment Team established under Va. Code §23.1-805 and shall include, at a minimum: (1) the Director or designee, (2) a representative of the University Police, and (3) a representative from the Office of Student Affairs. The Review Committee may also include a representative from the Office of Human Resources or the Office of the Provost or others as needed, depending on the status of the Respondent and the circumstances of the report.



proceed with any further investigation or adjudication allowed under state or federal law

which shall be maintained under applicable state and federal law.

**Q. Emergency Removal**

CNU may remove a Respondent who is a student or student-employee, entirely or partially, from its education programs and activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the

language is not intended to indicate a finding

**T. False Information**

CNU is a community grounded in honor; our Honor Code serves as a guide to our university experience. It provides clarity on behavior expected of all members of the community. Engaging in Prohibited Conduct is a serious offense against an individual and the community. It requires ever \_\_\_\_\_ s in order to address this unacceptable behavior. Those efforts are undermined by the presentation of false information.



3. This policy shall

## **Appendix A: Process A Procedures**

### **A. Scope**

These procedures apply to reports of Title IX Sexual Harassment (including Sexual Assault, Dating Violence, Domestic Violence, and Stalking) involving students and employees when the Prohibited Conduct:

1. Occurs within the United States; and
2. Occurs at any location, event, or other place under the control of CNU, or any building owned or controlled by a student organization that is officially recognized by CNU; and
3. At the time of filing a Formal Complaint, a Complainant is participating in or attempting to participate in the Prohibited Conduct.

All other reports of Prohibited Conduct including Non-Title IX Sexual Harassment and reports of Sexual Assault, Dating Violence, Domestic Violence, and Stalking when



## **E. Informal Resolution**

Informal Resolution resolves a Formal Complaint by the Parties reaching a mutually agreed upon resolution that does not involve a full investigation and adjudication. Informal Resolution is voluntary by both Parties. Under Informal Resolution, there is no disciplinary action taken against the Respondent, and the resolution will not appear on the Respondent's disciplinary record. Methods of Informal Resolution may include, but are not limited to: conflict resolution, mediation, facilitated conversations, counseling, training, and/or educational projects.

1. **Eligibility**: The Director has the discretion to determine whether the nature of allegation of Prohibited Conduct is appropriate for Informal Resolution and the method of Informal Resolution that may be appropriate in a specific case. Informal Resolution must adequately address the concerns of the Complainant and the Respondent and the overall interest of CNU addressing, remedying, and preventing the Prohibited Conduct. Informal Resolution is not available to resolve allegations that an employee sexually harassed a student.
2. **Initiation of Informal Resolution**: To initiate Informal Resolution, a Complainant must submit a Formal Complaint and inform the Director that Informal Resolution is the preferred resolution option. If a Respondent wishes to initiate Informal Resolution, the Respondent should contact the Director.

It is not necessary to pursue Informal Resolution first in order to pursue Formal Resolution. Any party participating in Informal Resolution may stop the process at any time before agreeing to a resolution and may begin or resume Formal Resolution.

3. **Notice of Informal Resolution**: Prior to beginning the Informal Process, the Director will provide the Parties with written notice disclosing: (1) the alleged Prohibited Conduct, (2) the requirements of the Informal Resolution including the circumstances under which it precludes the Parties from resuming a Formal Complaint arising from the same allegations, (3) the option of each Party to withdraw from the Informal Resolution and initiate or resume a Formal Resolution, and (4) any outcomes that may result from participating in Informal Resolution including information regarding any records that will be maintained or shared by CNU.

a Formal Resolution instead, such request shall be granted and every effort will be made to complete the Formal Resolution within ninety (90) business days of that decision.

5. Outcome: Any resolution of a Formal Complaint through the Informal Resolution must adequately address the concerns of the Complainant, as well as the interests of the Respondent and the responsibility of CNU to prevent, address, and remedy alleged violations of this policy. Any agreement reached during Informal Resolution must be acceptable to the Director, the Complainant, and the Respondent with both Parties receiving simultaneous written notification of the outcome.

Upon completion of Informal Resolution, the matter is considered resolved and closed. There shall be no right of appeal afforded to the Complainant or the Respondent following Informal Resolution.

Informal Investigation resolution remedies may include, but are not limited to, the following:

- a. Training;
- b. Adjustments to work, academic, or housing arrangements;
- c. Informal counseling with a Respondent whose conduct, if not ceased, could rise to the level of discrimination or harassment;
- d.

and allegation(s) to the Respondent upon commencement of Formal Resolution. The Complainant will receive a copy of the NOIA.

The NOIA will include:

- a. The identities of the Parties (if known);
- b. The specific section of the policy allegedly violated;
- c. The precise conduct allegedly constituting the potential violation;
- d. The date, or a reasonable approximate date, and location of the alleged incident (if known);
- e. A description of the applicable procedures including the Informal Resolution;
- f. A statement of the potential sanctions/remedies that could result;
- g. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Formal Resolution;
- h. A statement that Parties may have an Advisor of their choice, who may be, but is not required to be, an attorney;
- i. A statement that Parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the investigation;
- j. A statement that the policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process;
- k. A statement instructing the Parties to preserve and not destroy any potentially relevant evidence;
- l. \_\_\_\_\_ and
- m. Information on how a party may request disability accommodations during the interview process.

The Director may amend the NOIA as the investigation progresses and more information becomes available regarding the addition or dismissal of charges.

Notice will be made in writing and may be hand-account. Once received in-person or emailed, notice is presumed delivered.

3. Resolution Timeline

CNU will make a good faith effort to complete the Formal Resolution within ninety (90) business days after the issuance of the NOIA, excluding any appeal. This can be extended as necessary for appropriate good cause by the Director, who will provide notice and rationale for any extensions or delays to the Parties and the expected time frame.

4. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process (including the Director, Investigator(s), and Decision-Maker) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

Formal Resolution consists of an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation.

Credibility determinations may not be based solely on an

6. Investigation

a. Investigation Process

The Director will designate one or more I conduct a prompt, thorough, reliable, and impartial investigation of the Formal Complaint.

have an actual bias or conflict of interest in the matter, that person will not be allowed to participate in the investigation.

Investigations involve interviews with all relevant Parties and witnesses and obtaining fice shall explain to the Parties that each has the opportunity to suggest witnesses and questions to be asked of the witnesses, to provide evidence and expert witnesses, and to fully review and respond to all of the evidence on the record.

When participation of a party is expected, that party will be notified in writing of the date, time, and location of the meeting. Written notification will be by hand-delivery -person or emailed, notice is presumed delivered.

The Director may temporarily delay the investigation for good cause, including but not limited to, the absence of a party and/or witness, concurrent law enforcement activity, the need for language assistance, and/or accommodations for disabilities.

b. Presumption of Non-Responsibility

The investigation is a neutral fact-gathering process. The Respondent is presumed to be not responsible. This presumption may be overcome only where the Decision-Maker concludes that there is sufficient evidence, by a preponderance of the evidence, to support a finding that



d. Party and Witness Interviews

While in-person interviews for Parties and witnesses are ideal, circumstances may require individuals to be interviewed remotely. CNU will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

e. Investigation Evidentiary Considerations

The investigation does not consider: 1) incidents not directly related to the alleged policy violation unless they evidence a pattern of behavior; or 2) questions and evidence about the sexual predispositions or prior sexual behavior, unless such questions and evidence about the C prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the prior sexual behavior with respect to the Respondent and are offered to prove consent. In addition, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve other questions raised by the report or during the investigation. Prior sexual history shall not be used to prove character or reputation.

Within the boundaries stated above, the Investigator(s) can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

The Investigator(s) must not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

f.



b. Decision-Maker

The Director shall designate a Decision-Maker for the hearing. The Decision-Maker must be an individual that has not previously been involved in the investigation, is impartial, and free from actual bias or conflict of interest. The Director shall not serve as the Decision-Maker but may serve as the administrative facilitator of the hearing.

Prior to the hearing, the Decision-Maker shall be provided with the Final Investigation Report, the evidence obtained as part of the investigation that is directly related to the alleged policy violation, including relevant evidence upon which CNU does not intend to rely in reaching a determination, and any written responses regarding the Final Investigation Report.

c. Hearing Evidentiary Considerations

The Decision-Maker does not consider: 1) incidents not directly related to the alleged policy violation unless they evidence a pattern of behavior; or 2) questions and

unless such questions and evidence about the offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific spect to the Respondent and are offered to prove consent. In addition, prior sexual history may be relevant to



brief opening statements by the Complainant and/or the Respondent; Investigator(s) summary of the Final Investigation Report; direct and/or cross-examination of the Investigator(s), the Parties, and any witnesses by the Decision-Maker; cross-examination of the Parties, the Investigator(s), and any with Advisors; and brief closing statements by the Complainant and/or Respondent.

The Hearing Facilitator may oversee the following, but is not limited to, the logistics of rooms for the Parties and/or witnesses, the flow of Parties and/or witnesses to and from the hearing room, ensuring recording and/or virtual conferencing technology is as the Hearing Facilitator.

h. Investigator(s) Presentation of Final Investigation Report

The Investigator(s) will present a summary of the Final Investigation Report and will be subject to questions by the Decision-Maker and the Parties through their Advisors. The Investigator(s) will be present during the entire hearing except for the deliberations of the Decision-Maker.

Neither the Parties nor the Decision-Maker should ask the Investigator(s) their opinion on credibility, recommended findings, or determinations, and the Investigator(s), Advisors, and Parties must refrain from discussion of or questions about these assessments. If such information is introduced, the Decision-Maker must direct that it will be disregarded.

i. Direct Examination

The Decision-

The Decision-Maker may, but is not required to, allow arguments regarding relevance with the Advisors. The Decision-Maker will state the decision about the question on the record and advise the party/witness to whom the question was directed. The Decision-Maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-Maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious, or abusive. The Decision-Maker will not hear arguments from an Advisor on relevance once the Decision-Maker has ruled on a question.

(2) Refusal to Submit to Cross-Examination and Inferences

Any party or witness may choose not to answer questions at the hearing, either because they do not attend the hearing or because they attend but decline to participate in some or all questioning. The Decision-Maker is entitled to rely on relevant evidence gathered during the investigation from any such non-participating party or witness. The Decision-Maker shall make the determination regarding responsibility based on all relevant evidence gathered during the investigation and/or hearing.

The Decision-Maker will not rule on a question of relevance arising from the hearing or refusal to submit to cross-examination or other questions.

k. New Evidence Offered at Hearing

In the absence of good cause, information including the identification of witnesses that was discoverable through the exercise of due diligence, that was not provided to the Investigator(s) during the investigation, will not be considered during the Hearing. Unless the Decision-Maker agrees to the admission of new evidence offered at the Hearing, the Decision-Maker may delay the Hearing and instruct that the investigation needs to be re-opened to consider any new evidence.

In order to submit to Direct or Cross-Examination at the Hearing, any Party or witness must have first been interviewed during the Investigation.

l. Hearing Recording

The hearing (

Respondent will not be found in violation of the policy absent a finding by a preponderance of the evidence that the violation occurred.

supports a finding that it is more likely than not that the alleged policy violation occurred.

n. Determination of Hearing and Sanctions

The Decision-Maker will deliberate in private to determine whether the Respondent is responsible or not responsible for the alleged policy violation(s) on the basis of the preponderance of the evidence.

The Decision-

- ix. The procedure and permissible bases for any available appeal for either party.

**G. Sanctions**

Consequences for violating this policy will depend on the facts and circumstances of each particular situation, the frequency and severity of the offense, and any history of past misconduct. Sanctions may include penalties up to and including dismissal for students and termination for employees. In addition to sanctions that may be imposed on an individual found in violation of this policy, CNU will take any necessary steps to prevent the recurrence of any Prohibited Conduct



Resources, and the Director. Sanctions may include, but are not limited to, counseling, training, reassignment, suspension, or termination of employment.

5. Instructional Faculty: Sanctions for Instructional Faculty shall be determined by the Decision-Maker in consultation with the Provost and the Director. Sanctions may

All Respondents are expected to comply with remedies within the timeframe specified. Failure to abide by them may result in additional sanctions/disciplinary actions including suspension, dismissal, and/or termination from CNU.

When no policy violation is found, the Director may provide supportive measures and/or remedies to the Parties if deemed necessary and reasonable.

## **I. Appeals**

Appeals under this procedure will be heard by an Appeals Officer. Appeals may be filed by either party at the following junctures during the process:

1. Upon the dismissal of a Formal Complaint or any allegation therein.
2. Upon receiving the Notice of Outcome of the hearing.

Once the Notice of Outcome has been provided, both Parties have seven (7) business days from the date notice is hand- to file an appeal.

An appeal is available only based on one or more of the following grounds:

1. Procedural irregularity that affected the outcome of the matter; and/or
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or
3. The Director, Investigator(s), Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

The sufficiency of the evidence and the severity of the sanction are not available as grounds for an appeal.

A request for an appeal must be submitted in writing to the Director and must set forth the grounds upon which the appeal is based and the evidence supporting the appeal. Except for the grounds of newly discovered evidence, an appealing party is prohibited from submitting evidence that was available but not previously submitted to the Investigator or Decision-Maker. If a party files a timely appeal, the Director will promptly notify the other party in writing and provide a copy of the appeal. The non-appealing party may, but is not required to, submit a written response to the Director regarding the appeal within five (5) business



4. Any appeal and the result;
5. Any Informal Resolution and the result;
6. All materials used to train the Director, Investigators, Decision-Makers, and any person who facilitates an Informal Resolution; and
7. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of Title IX Sexual Harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserv

## **Appendix B: Process B Procedures**

### **A. Scope**

These procedures apply to reports of Prohibited Conduct not covered by Process A.

### **B. Resolution Process**

There are two possible methods for resolution of a report alleging violations of this policy:

1) Informal Resolution and 2) Formal Resolution (Investigation). The Director shall explain the Informal Resolution and Formal Resolution procedures to the Complainant and the Respondent, if known.

CNU will make every effort to avoid any actual bias or conflict of interest during the Resolution Process.

Recording of Meetings/Interviews: No unauthorized audio or video recording of any kind is permitted during any meetings and/or interviews information may be discussed, as it is not permitted. If the Director and/or video record any meeting or interview, all involved in the meeting or interview shall be made aware of the recording.

1.



If the student requests an academic transcript while involved in a Formal Resolution, the University Registrar shall place a prominent notation on the st

*Under Investigation Sexual Misconduct Under  
Investigation Discrimination/Harassment*

investigated. It shall also be noted on the academic transcript that the inclusion of this language is not intended to indicate a finding of responsibility for the pending







investigation report shall be provided to both Parties within ninety (90) business days after the issuance of the NOIA. If extension of the time frame for the Director to finalize the investigation report beyond ninety (90) business days is necessary, all Parties shall be notified in writing of the expected time frame for completion of the investigation report. Notice will be made in writing and may be hand-delivered or

privilege, restriction, deferred sanction, disciplinary probation, removal from CNU housing, suspension, and/or dismissal.

Transcript Notation: If the sanction is suspension or dismissal from CNU for a violation(s) of this policy, the Director shall notify the University Registrar who shall place a prominent notation on the Respondent *Suspended*

*Sexual Misconduct Dismissed Sexual Misconduct Suspended*  
*Discrimination/Harassment Dismissed Discrimination/Harassment*  
depending on the violation.

- a. Such notation for a suspension or a dismissal shall be removed if the Respondent is subsequently found not to have committed the offense.
- b. Such notation will be removed for a suspension or a dismissal pursuant to University Policy 9045 (Transcript Notation Policy).

## 2. Administrative/Professional Faculty



**E. Appeal**

Once written notification of the outcome of the Formal Resolution including the investigation and sanctions has been provided, the Complainant and the Respondent have seven (7) business days from the date notice is hand

Parties will be notified in writing of the expected time frame. The non-appealing party shall be notified separately but concurrently of the decision.

Notification will be made in writing and may be hand-delivered or emailed into the P email account. Once received in-person or emailed, it is presumed delivered.

If an appeal is not filed within the appeal period, the findings of the investigation become final and are not subject to further review.

Exceptions to Appeal Process: This appeal process is not available in addition to, or in lieu of, the processes already provided for Instructional Faculty and Classified Employees who are found responsible for a violation of this policy.

#### **F. Withdrawal or Resignation Before Conclusion of Formal Resolution**

If a party decides not to participate in the Formal Resolution, the process may proceed. A finding of responsibility and imposition of sanctions may occur without the participation of the Respondent.

If a student leaves while a Formal Resolution is pending, the investigation may be suspended or may proceed at the direction of the Director, and a finding of responsibility and imposition of s( )]5(y)20( pro)-6(c)4(e)B2 0 612 792Qq0.(a)4(v)-9(e)4(s wh)]TJfg, the inv(e)4(sti)-41 0 0 1 97fceETQ2