



Husson University Title IX Sexual Harassment Policy

I. Overview¹

Husson University is committed to providing and maintaining an environment that is safe, secure, and free from unlawful harassment and discrimination. The University prohibits discrimination against or harassment of any individual or group on the basis of race, color, sex, sexual orientation, gender identity and/or expression, religion, ancestry or national origin, age, physical or mental disability, citizenship, veteran status, or any other applicable legally protected status in the education, employment, housing, and all other programs and activities the University operates. This Policy applies to all University students, staff, and volunteers.

Consistent with this commitment, as well as federal and state laws, Husson University does not tolerate unlawful discrimination or harassment in any form.

Title IX of the Educational Amendments of 1972 protects individuals from sex discrimination in educational programs and activities at institutions, including Husson University, that receive federal financial assistance. Accordingly, Husson does not discriminate on the basis of sex and is committed to responding promptly and fairly to any reports or complaints of sexual misconduct, including sexual harassment.

“Sexual misconduct” is broad term used by the University to encompass a wide range of conduct of a sexual nature that is prohibited by Husson University. This policy (referred to as the University’s “Title IX Sexual Harassment Policy” or “Title IX Policy”) applies to certain forms of sexual misconduct – specifically, conduct that constitutes Sexual Harassment as defined under Title IX and which takes place in a Husson University education program and activity. Specifically, this policy addresses the following forms of misconduct:

- Quid pro quo Sexual Harassment;
- Hostile Environment Sexual Harassment;
- Sexual assault;
- Dating violence;
- Domestic violence;
- Stalking;

Although this Title IX Policy applies primarily to the types of misconduct listed above and defined in this Policy, sexual misconduct of any kind undermines the values and the mission of

¹ This policy is effective as of August 14, 2020 and covers all reports or formal complaints of Title IX Sexual Harassment (as defined in this policy) filed on or after that date.

the University. As such, the University maintains other policies to address sexual misconduct allegations that fall outside this Title IX Policy. Individuals are encouraged to speak with the University's Title IX Coordinator, Elizabeth Atkinson at 207-973-1017 or by email at titleix@husson.edu if they are not sure which policy applies to a particular situation, if they wish to make a report or file a complaint of misconduct, or if they have any questions concerning possible sexual misconduct or related University processes, services, or other supports.

It is the responsibility of every member of the Husson community to foster an environment free of such behavior. All members of our community are encouraged to take reasonable and prudent action to prevent, stop and report acts of sexual misconduct.

Glossary

- **Advisor** means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the Resolution Process, to advise the party on that process, and to conduct questioning for the party at the hearing, if any.
- **Appeal Decision-maker** means the person or panel who accepts or rejects a submitted appeal request, determines whether an error occurred that substantially affected the investigation or original determination, and directs corrective action, accordingly.
- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity.
- **Confidential Resource** means an employee who is not a Mandated Reporter of harassment and/or retaliation.
- **Day** means a business day when the University is in normal operation.
- **Decision-maker** means the person or panel who hears evidence, determines relevance, and makes the Final Determination of whether this Policy has been violated and/or assigns sanctions.
- **Directly Related Evidence** is evidence connected to the complaint, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and cannot be relied upon by the Decision-maker(s). Compare to Relevant Evidence, below.
- **Education Program or Activity** means locations, events, or circumstances where the University exercises substantial control over both the Respondent and the context in which the sexual harassment and/or retaliation occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- **Final Determination** is a conclusion by the preponderance that the alleged conduct did or did not violate policy.
- **Formal Complaint** means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging a Respondent engaged in sexual harassment or retaliation for engaging in a protected activity and requesting that the University investigate the allegation(s).
- **Formal Grievance Process** means a method of resolution designated by the University to address conduct that falls within the policies included below, and which complies with the

requirements of the Title IX regulations (34 C.F.R. § 106.45) and the Violence Against Women Act § 304.

- **Informal Resolution** means a complaint resolution agreed to by the parties and approved by the Title IX Coordinator that occurs prior to a formal Final Determination being reached.
- **Investigator** means the person(s) authorized by the University to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an investigation report of Relevant Evidence and a file of Directly Related Evidence.
- **Mandated Reporter** means a University employee who is obligated by policy to share knowledge, notice, and/or reports of sexual harassment and/or retaliation with the Title IX Coordinator.
- **Notice** means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- **Parties** means the Complainant(s) and Respondent(s), collectively.
- **Relevant Evidence** is evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint.
- **Remedies** are post-Final Determination actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's education program.
- **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity under this Policy.
- **Resolution** means the result of an Informal Resolution or Formal Grievance Process.
- **Sanction** means a consequence imposed on a Respondent who is found to have violated this Policy.
- **Sexual Harassment** is an umbrella category including the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence.
- **Student** means any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing educational relationship with the Recipient.
- **Title IX Coordinator** refers to the official designated by the Recipient to ensure compliance with Title IX and the University's Title IX program.

II. Resources

A. Title IX Coordinator

If you are the victim of sexual harassment, your safety and medical needs are paramount.

Seeking assistance immediately is important to protect yourself and the members of the University community and to preserve physical and other evidence. Husson University strongly encourages anyone who believes that an incident of sexual misconduct has occurred to report the incident as soon as possible to:

Elizabeth Atkinson
Director of Accessibility Services, Title IX
Husson University
207-973-1017
titleix@husson.edu
201 Peabody Hall

The Title IX Coordinator is available to assist students and other individuals in accessing resources available on campus and in the local community, including local law enforcement. The Title IX Coordinator can also explain the processes available through this Title IX Policy, and other applicable policies and procedures of the University.

Further information about Title IX and sexual harassment in education programs is available from the Office for Civil Rights (OCR). Inquiries can be referred to:

Office of Civil Rights (Boston Office), U.S. Department of Education, 8th Floor
5 Post Office Square
Boston, MA 02129-3921
(617) 289-0111 (telephone); (617) 289-0140 (fax)
OCR.Boston@ed.gov

B. *Emergency Resources*

The following emergency resources are available to all Husson University community members to address any immediate safety concerns. Please contact the following if you or others need immediate assistance or if you would like to pursue a court-issued protection order:

- Police (City of Bangor): dial 911 or 207-947-7382
- Husson Campus Safety and Security: dial 207-941-7770 – 106 Peabody Hall
- St. Joseph Hospital Emergency Department, Sexual Assault Forensic Examiner (SAFE)
Nurses: Visit St. Joseph Emergency Care: 360 Broadway, Bangor, ME 04401. Dial 207-907-3000.

C. *Confidential Resources*

If you wish to report or disclose information confidentially to an agency which will not release your name to any other University official without your consent, please contact one of the following resources:

- Husson Confidential Resource Advisors 207-992-1020

- Husson University Counseling Services 207-941-7625
- Husson University Health Services 207-941-7625
- Rape Response Services 1-800-310-0000
- Maine Coalition Against Sexual Assault 1-800-871-7741
- Partners for Peace 1-800-863-9909; 1-800-437-1220 (TTY)
- National Suicide Prevention Hotline 1-800-273-8255
- Maine Crime Victims' Compensation Program 207-624-7882; 1-800-903-7882

Individuals affiliated with agencies or organizations on the above list are considered confidential resources under Title IX. All other employees of the University must report incidents of sexual misconduct involving a student to the Title IX Coordinator, as described below.

Confidential Resources can assist individuals by explaining how the Title IX process and other University processes work; assist individuals with accessing supportive measures and services, accommodations, resources and other services available on and off-campus, and with contacting local law enforcement. The Confidential Resources can also assist individuals with contacting the Title IX Coordinator, if desired. In very rare circumstances, a Confidential Resource may have a professional obligation to share information disclosed to them, particularly if there is a serious risk of danger or a threat to people or property. In addition, such individuals must abide by requirements to report allegations of sexual and/or physical abuse of persons under the age of 18 under Maine law.

III. Reporting Options

Any individual who is required to make a report, and others who wish to make a report of Sexual Harassment should contact the Title IX Coordinator. There is no time limit on making reports of Sexual Harassment. Reports may be directed to:

Elizabeth Atkinson

Director of Accessibility Services, Title IX Coordinator

207-973-1017

atkinsone@husson.edu

Alternatively, reports can be made using the Eagle Safe app. Individuals making a report can select "Report a Tip" or "Support Resources." "Report a Tip" allows for anonymous reporting. The "Support Resources" option provides another means by which to contact the Title IX Coordinator. Reports can also be made at Husson University's Bias Reporting website: hureport.husson.edu.

Additionally, the University requires all University officers, faculty and staff, including coaches, all staff who work in residence life, including professional and student staff, to report any alleged incidents of sexual harassment to the Title IX Coordinator. University community

members should be aware that if they discuss an alleged violation of this policy (or other incident of sexual misconduct) with an employee of the University, who is not a confidential resource, that individual will be obligated to report the information to the Title IX Coordinator. University community members should be aware, however, that even if a University officer, faculty or staff member is required to make a report to the Title IX Coordinator, the individual still has the discretion whether or not to file a formal complaint and pursue resolution of the complaint through the Title IX policy or other University policies or procedures. Only Confidential Resources are exempted from this reporting requirement.

A. Privacy

The University makes every effort to preserve the Parties' privacy. The University will not share the identity of any individual who has made a report of discrimination, harassment, retaliation, or Other Prohibited Conduct; any Complainant; any individual who has been reported to be the perpetrator of discrimination, harassment, retaliation, or Other Prohibited Conduct; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures.

IV. Supportive Measures

The University will offer and implement appropriate and reasonable supportive measures to the impacted individuals upon notice of alleged sexual harassment and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered, without fee or charge to the parties, to restore or preserve access to the University's education program or activity, including measures designed to protect the safety of all parties and/or the University's educational environment and/or to deter sexual harassment and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving a report or a complaint. At the time that supportive measures are offered, the Recipient will inform the Complainant, in writing, that they may file a Formal Complaint with the Recipient either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

The University will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the University's ability to provide those supportive measures. The University will act to ensure as minimal an academic/occupational impact on the parties as possible. The University will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact limitations (no contact orders) between the parties
- Academic support, deadline extensions, or other course/program adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator]

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under this Policy.

V. Conduct Prohibited under Title IX

The terms defined in this subsection constitute Sexual Harassment prohibited under Title IX when they occur within the context of the University's programs and activities. Sexual Harassment can be committed by any person regardless of gender, sexual orientation or gender identity; and can be committed using technology. For other conduct, including other forms of sexual misconduct, that does not meet one of the following definitions, the University may consider taking action under another University policy.

B. Sexual Harassment

Sexual Harassment under Title IX means conduct on the basis of sex that includes:

1. *Quid Pro Quo Sexual Harassment*: A University employee conditions an aid, benefit, or service of the University on the participation by a student, an employee, or another

member of the University community in unwelcome sexual conduct.

2. *Hostile Environment Sexual Harassment*: Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a complainant equal access to the University's education program or activity.
3. *Sexual Assault*, defined as any sexual act directed against a person, without their consent, or instances in which the Complainant is incapable of giving consent.
 - i. *Rape*: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without their consent, including instances where they are incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - ii. *Fondling*: The touching of the private body parts of the Complainant (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against their will (non-consensually), or not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - iii. *Statutory Rape*: Statutory rape in Maine is defined as a sexual act with another person who is not the actor's spouse and who is under the age of 14, or who is 14 or 15 and the actor is at least 5 years older than the other person.
 - iv. *Incest*: Incest under Maine law is defined as an individual, at least 18 years of age, engaging in sexual intercourse with another person who the individual knows is related to the individual within the second degree of consanguinity (i.e., parents, children, grandparents, aunts, uncles, etc.)
4. *Dating Violence*: violence, on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - a. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - i. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - b. Dating violence does not include acts covered under the definition of domestic violence
5. *Domestic Violence*: violence, on the basis of sex, committed by a current or former

spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or

- a. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- b. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Maine or
- c. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Maine.

6. *Stalking*: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- a. Fear for their safety or the safety of others; or
- b. Suffer severe emotional distress.

For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

C. *Consent*²

Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word

² The definition of consent used in criminal proceedings in Maine differs from this Policy.

or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonably immediate time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

Proof of consent or non-consent is not a burden placed on either party involved in a complaint. Instead, the burden remains on the University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, thus the University’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

Force, Coercion, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me, I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Incapacitation: A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including due to alcohol or other drug consumption. As stated above, a Respondent violates this Policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

D. *Retaliation*

Neither Husson University nor any person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under Title IX, or because the individual has made a Report or filed a Formal Complaint, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding or hearing. Reports of retaliation should be made to the Title IX Coordinator and will be addressed either through this Title IX Policy or another appropriate University policy.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Additionally, if the University resolves allegations falling within this Policy’s scope using some other University Policy, such action could be considered retaliatory. Therefore, the University carefully vets all complaints to ensure complaints are routed to the appropriate process.

E. *False Reports and Statements*

False reports or making materially false statements in connection with this policy, to any University official or in the course of any University proceeding, is prohibited and will be addressed under an appropriate University policy. A report or complaint will not be assumed to be false based solely on the determination of responsibility.

Pursuing a code of conduct violation for making a materially false statement in bad faith does not constitute retaliation.

VI. Policy Jurisdiction

This Policy applies to the University's education program and activities, to conduct that takes place on property owned or controlled by the University, at University-sponsored events, and in buildings owned or controlled by the University's recognized student organizations. The Respondent must be a member of the University's community in order for this Policy to apply.

This Policy can also be applicable to the effects of off-campus misconduct that effectively deprives a person of access to the University's education program or activities. The University may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial University interest. If the Respondent is unknown or is not a member of the University community, the Title IX Coordinator will assist the Complainant in identifying appropriate institutional and local resources and support options. If criminal conduct is alleged, the University can assist in contacting local or institutional law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the University's community, supportive measures, remedies, and resources may be provided to the Complainant by contacting the Title IX Coordinator or a Confidential Resource.

In addition, the Recipient may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from Recipient property and/or events.

A. Amnesty

When addressing alleged misconduct under the Title IX Policy, the University's primary focus will be on addressing the alleged misconduct and not on other Husson University alcohol or other drug policy violations that may be discovered or disclosed. The University strongly encourages individuals to report alleged incidents of Sexual Harassment or other forms of sexual misconduct and seeks to remove any barriers to reporting. The University recognizes that an individual who is or was under the influence of alcohol or other drugs at the time of the incident may be hesitant to make a report because of potential Student Code of Conduct consequences for such behavior. An individual who reports Sexual Harassment or other sexual misconduct will generally not be subject to disciplinary action by the University for personal consumption of alcohol or other drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk.

Amnesty may be considered for minor policy violations outside the context of drug and alcohol use on a case-by-case basis. Decisions regarding amnesty under this paragraph will be made by the Title IX Coordinator in conjunction with the Dean of Student Life in light of the circumstances. The Title IX Coordinator, Dean of Student Life or other appropriate University officials, however, may hold an educational discussion with, or recommend other educational or therapeutic remedies regarding alcohol or other drugs for, the reporting individual(s).

VII. Procedures for Resolving a Complaint

A. Filing a Formal Complaint

An alleged victim of Sexual Harassment (i.e., the Complainant) may file a Formal Complaint of Sexual Harassment to the Title IX Coordinator. A Formal Complaint cannot be filed anonymously. The Formal Complaint may be a written document or through an electronic submission filed with the Title IX Coordinator and must include the Complainant's physical or digital signature (or otherwise indicate that the Complainant is the one filing the Formal Complaint).

The Formal Complaint must include: (1) Information about the alleged violation(s) – i.e., date, time, location, individual(s) who allegedly engaged in Sexual Harassment, a description of allegations (which need not be extensive); and (2) a request that the University investigate the allegation(s). Those filing a Formal Complaint should reach out to **Elizabeth Atkinson**; Director of Accessibility Services, Title IX Coordinator; 207-973-1017, atkinsone@husson.edu.

B. Formal Complaint Filed by Title IX Coordinator

In certain instances when the alleged victim chooses not to file a formal complaint, the Title IX Coordinator may determine that the specific circumstances warrant pursuing a Formal Complaint, such as the presence of a safety concern to the Complainant or larger University community and may file a Formal Complaint on behalf of the University. In such cases, the Complainant retains all the rights owed to them and may still fully participate in the grievance process.

C. Consolidation

The University may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

D. Collateral Misconduct

Collateral misconduct includes potential violations of other University policies that occur in conjunction with alleged violations of this Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations.

Collateral misconduct allegations may be charged along with potential violations of the Policy, to be resolved jointly under these procedures. In such circumstances, the Title IX Coordinator may consult with other University officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed. However, the inclusion of collateral charges under these procedures is within the discretion of the Title IX Coordinator. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through other University procedures.

E. *Dismissal*

- The Title IX Coordinator must dismiss a Formal Complaint if the alleged conduct:
 - a. Does not constitute Sexual Harassment defined under this Policy;
 - b. Did not occur within the scope of the University's education programs and activities;
or
 - c. Did not occur in the United States.
- The Title IX Coordinator may dismiss a Formal Complaint if:
 - a. The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or withdraw particular allegations within the Formal Complaint;
 - b. The Respondent is no longer enrolled in or employed by the University; or
 - c. If there are specific circumstances that prevent the University from gathering evidence sufficient to reach a determination regarding the Formal Complaint or any allegations within the complaint.

The Title IX Coordinator will inform the parties in writing of any dismissal pursuant to this section and explain the reasons for the dismissal. Each party may appeal a dismissal in accordance with the appeal procedures outlined in this Policy.

Additionally, even if a formal complaint is dismissed pursuant to this Section of the policy, any alleged misconduct that potentially violates another University policy may be addressed under the other policy and will be referred by the Title IX Coordinator to the appropriate University office or official(s) responsible for addressing such conduct.

F. *General Obligations of the University in the Grievance Process*

Throughout the Grievance Process, the University will:

- Treat Complainants and Respondents equitably;
- Not presume a Respondent is responsible until and unless such a determination of responsibility is made following a hearing as set forth in below;

- Objectively evaluate all relevant evidence;
- Ensure that any individuals involved in the grievance process (e.g., Title IX Coordinator, investigators, adjudicator) have appropriate training, and do not have a conflict of interest or bias for or against either party;
- Follow the reasonably prompt timelines specified in the grievance process and explain any reasons necessitating a delay;
- Provide all required notices of meetings and hearings;
- Provide opportunities for the parties to review and respond to relevant evidence, both favorable and unfavorable;
- Provide the parties with the opportunity to be accompanied to any meetings or hearings by an advisor of their choice;
- Provide the parties with the opportunity to present witnesses, as well as other evidence;
- Not restrict the parties from speaking about the case for their own emotional support or preparation;
- Assume the burden of gathering evidence and burden of proof (rather than such burdens resting with the parties); and
- Comply with all applicable confidentiality and privacy laws and regulations during the grievance process.

In general, the University will attempt to complete the grievance process within approximately 90 days of the date the Formal Complaint is filed. However, there may be circumstances when the process will take longer due to the absence of the parties or other individuals important to the process, difficulties in obtaining evidence, or other factors.

The filing of a Formal Complaint under this policy is independent of any criminal investigation or proceeding. Generally, the University will not wait for the conclusion of any criminal proceedings to commence its own investigation, but a temporary delay may be appropriate in certain circumstances.

G. Notice to Parties and Initial Steps

The Title IX Coordinator will provide written notice of the Formal Complaint and allegations of Sexual Harassment potentially constituting prohibited conduct under this policy. The notice will include:

- Notice of the grievance process and the availability of an informal resolution process;
- Sufficient details regarding the allegations known at the time (including identities of parties, if known; the conduct alleged; and the date and location of the alleged

incident, if known), with sufficient time to prepare before any initial interview (no less than five days).

- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination as to whether the Respondent is responsible for prohibited conduct will be made at the conclusion of the grievance process;
- Notice that the parties may have an advisor of their choice, who may be an attorney; and that the parties may inspect and review evidence obtained during the investigation;
- Notice of provisions in an applicable code of conduct or policy that prohibits knowingly making false statements or submitting false information during the grievance process;
- Notice that the University, not either party, has the burden of proof; and
- Notice of the name of the investigator, with sufficient time (no less than five days) to raise concerns of conflict of interest or bias.

If, during an investigation, additional allegations become known and the University decides to investigate the additional allegations, the University will provide written notice of the additional allegations to the parties whose identities are known. Following the filing of a Formal Complaint, the Title IX Coordinator will discuss Supportive Measures with each party and implement such measures as appropriate.

H. Emergency Removal/Administrative Leave

The University can act to remove a student Respondent accused of Sexual Harassment from its education program or activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator and may be done in conjunction with the other University officials using its standard objective violence risk assessment procedures.

Employees are subject to existing procedures for interim actions and leaves.

I. Informal Resolution Process

The Formal Grievance Process is the University's primary resolution approach unless all parties and the University agree to an Informal Resolution. The process considers the parties' preferences but is ultimately determined at the Title IX Coordinator's discretion.

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a Final Determination, or the Title IX Coordinator may offer the option to the parties. The University will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

Informal Resolution falls into three categories:

- 1) **Supportive Measures Resolution.** When the Title IX Coordinator can resolve the matter informally by providing supportive measures designed to remedy the situation. No disciplinary or punitive measures may be taken.
- 2) **Accepted Responsibility.** When the Respondent accepts responsibility for violating Policy and accepts the recommended sanction(s), and the Complainant(s) and University are agreeable to the resolution terms.
- 3) **Alternative Resolution.** When the parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.) resulting in an agreement.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, the University will provide the parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.

The parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Grievance Process, should Informal Resolution not be successful, unless agreed to by all parties.

If an investigation is already underway, the Title IX Coordinator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Formal Grievance Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). The results of Complaints resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, the University will initiate or continue an investigation and subsequent Formal Grievance Process to determine whether the Policy has been violated.

J. *Investigation*

The Title IX Coordinator will appoint a trained, independent investigator to investigate the allegations in a Formal Complaint. All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all available, relevant parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

After an interview, parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the parties or witnesses do not respond within the period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

Typically, the investigator will:

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the parties and witnesses.
- When participation of a party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible.
- Interview the Complainant and the Respondent and conduct any necessary follow-up interviews with each.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript or recording) of the relevant evidence/testimony from their respective interviews and meetings.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses. Document which questions were asked with a rationale for any changes or omissions in the Investigation Report.
- When possible, promptly complete the investigation without unreasonable deviation from the intended timeline.
- Provide the Parties regular status updates throughout the investigation.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors with a list of witnesses whose information will be used to render a finding.

- Write a Draft Investigation Report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and party and witness interviews, and provides all relevant evidence.
- Provide the parties and their respective Advisors an electronic or hard copy of the Draft Investigation Report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the University does not intend to rely in reaching a determination, for a ten (10) business-day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten (10) days.
- Incorporate any new, relevant evidence and information obtained through the parties' review of the Draft Investigation Report and any follow-up meetings into the Final Investigation Report.
- Respond in writing (typically within the Final Investigation Report) to the relevant elements of the parties' responses to the Draft Investigation Report and incorporate relevant elements of the parties' written responses, additional relevant evidence, and any necessary revisions into the Final Investigation Report.
- The Investigator will then provide the Title IX Coordinator with the Final Investigation Report and investigation file.

K. Evidentiary Considerations

The Investigator(s) and the Decision-maker(s) will only consider evidence that is deemed relevant or directly related.

Relevant Evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a Policy violation.

Neither the investigation nor the hearing will consider:

- 1) Questions or evidence about the Complainant's sexual predisposition.
- 2) Questions or evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct, or if the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- 3) Questions or evidence about a party or witness's records that are made or maintained by a physician, psychologist, or other recognized profession or paraprofessional in connection with the provision of treatment to the party or witness, unless the party or witness provides voluntary, written consent for the records to be considered.

Within the boundaries stated above, the investigation and the hearing can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates

to a pattern of conduct.

L. *Live Hearing*

Following the issuance of the Investigative Report, the University will hold a live hearing conducted by a Title IX Review Panel [i.e., the Decision-maker(s)] that will consider the evidence, make determinations of responsibility, and impose remedies, including, if warranted, disciplinary sanctions. Panels comprised of more than one member will have a designated Chairperson who will preside over the hearing, and any other Panel members, and decide on the relevance of questions and evidence during the hearing.

The hearing cannot be held less than ten (10) business days from the conclusion of the investigation – when the Final Investigation Report is transmitted to the parties and the Decision-maker – unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will send the parties a Notice of Hearing no less than ten (10) business days prior to the hearing. The notice will include:

- A description of the allegations
- A list of policies allegedly violated
- A description of the hearing procedures
- The time, date, and location of the hearing
- Relevant information regarding hearing logistics, pre-hearing meetings, the final investigation report, the individuals participating in the hearing, the Decision-maker(s)' identities, the role of Advisors, submitting impact or mitigation statements, and how to request disability accommodations
- Information about recording the hearing and parties' access to the recording

The Decision-maker will offer to convene a pre-hearing meeting(s) with the Parties and their Advisors to discuss the hearing, finalize the witness list, and discuss any relevance determinations.

Additional hearing information:

- Hearings will take place over Zoom unless the Title IX Coordinator determines otherwise.
- Both parties must have an advisor at the hearing if they wish to ask questions of any party or witness. If a party does not have an advisor at this stage of the process, the University will appoint one for the party at no cost to the party.
- The Panel Chairperson will establish and enforce rules of decorum that the parties and advisors must follow.
- The Panel member(s) may ask questions of the parties and any witnesses.

- The advisors (and not the parties) are permitted to directly question and cross-examine any parties or witnesses present at the hearing by asking relevant questions, including those challenging credibility.
- The Panel member(s) will not draw an inference about the determination regarding responsibility based solely on the party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- The Panel may request input from University officials and impact evidence from the parties after a finding that the Respondent is responsible for Sexual Harassment.
- The University's legal counsel is permitted to attend the hearing and to provide information or advice to the Review Panel if asked.
- A recording shall be made of the hearing and made available to the parties for inspection and review.

M. Standard of Proof and Determination of Responsibility

The University uses a preponderance of the evidence standard ("more likely than not") in making determinations of responsibility, for both students and employees. Following the live hearing, the Title IX Review Panel shall make a final determination of responsibility and, if warranted, remedies and sanctions. The Panel shall issue a written determination, which shall include the following:

- Identification of all the allegations potentially constituting Sexual Harassment as defined in this policy;
- A description of the procedural steps taken from receipt of the Formal Complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of this policy (prohibited conduct) to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education programs and activities will be provided to the Complainant;
- The University's procedure and permissible bases for the Complainant and Respondent to appeal as described below.

The written determination shall be provided to the parties simultaneously. The determination concerning responsibility becomes final either on the date that the University provides the parties with the written determination of the results of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

N. Remedies and Sanctions

Remedies are measures used to ensure that the Complainant has equal access to the University's education programs and activities following an adjudicator's determination. Such remedies may include one or more Supportive Measures described previously, and may include other appropriate measures, depending upon the determination and the needs of the Complainant. The Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the parties regarding implementation.

The following are examples of the types of sanctions that may be imposed on a Student Respondent when there is a determination that the Student Respondent is responsible for one or more violations of this policy. Sanctioning decisions will be based on relevant factors, including but not limited to: the nature of the conduct at issue; any prior disciplinary sanctions imposed on the Respondent based on a previous finding of responsibility for misconduct; the Respondent's willingness to accept responsibility for their actions; and previous University responses to similar conduct.

Warning: A formal written statement that the student's behavior was unacceptable and a warning that future violations of University policies and rules will result in more severe action.

Probation: A formal statement that any future violations of University policies and rules will result in possible suspension or expulsion. Terms of the probation will be specified and may include denial of social privileges; exclusion from activities; housing restrictions/loss; referral to counseling or other supports; and/or other measures deemed appropriate.

Suspension: Termination of student status for a defined period, or for an indefinite period with the right to re-apply after a specific length of time. Suspension may include specific conditions for the student's return. A student returning from suspension remains on disciplinary probation for the remainder of the student's Husson career. Other restrictions may be imposed as deemed appropriate.

Expulsion: Permanent separation from the University.

Withholding Diploma: The University may withhold a student's diploma for a specified period of time and/or prohibit participation in commencement and activities associated with commencement if the student has disciplinary charges pending, or as a sanction if the student is found responsible for an alleged violation.

Revocation of Degree: In extraordinary circumstances, the University reserves the right to revoke a degree awarded by the University for Sexual Harassment committed by a student prior to graduation if a finding of responsibility is not concluded until after graduation or in other aggravating circumstances.

Other Actions: Such other action as the Title IX Review Panel may reasonably deem

appropriate. Examples include, but are not limited to:

- Mandated counseling (including substance use counseling)
- Mandated training on, for example, sexual or relationship sensitivity, sexual harassment awareness and prohibitions
- No contact directives
- Changes in academic schedules
- Apology
- Volunteer or community service requirements
- Facilitated meeting with Complainant and/or other affected individuals (only with agreement of Complainant and other affected individuals)
- Campus or community service
- Housing sanctions (including, but not limited to, reassignment, or loss/revocation/restriction of privilege to live in University housing or specific types of housing, alteration of status in housing lottery)
- Loss of existing, or loss of opportunity for leadership positions, campus employment, extracurricular activities and/or off-campus study
- Loss of social privileges, such as the ability to attend or participate in social or extracurricular activities and events

The following are examples of the types of sanctions that may be imposed on an **Employee Respondent** when there is a determination that they are responsible for one or more violations of this policy:

- Written warning
- Probation
- Demotion
- Suspension with or without pay
- Termination
- Forfeiture of pay increase
- Loss of supervisory responsibilities
- Performance improvement/performance management plan
- Counseling
- Training

In addition to the sanctions above, a **Faculty Respondent** may also receive sanctions that include, but are not limited to:

- Loss of department, division or program chair
- Loss of research funds or other funds
- Loss of named chair
- Loss/relocation of office
- Restrictions on interaction with department/program
- Loss of other privileges

O. Appeals

Each party can appeal a determination regarding responsibility, or a dismissal of a Formal Complaint. Appeals are allowed on the following grounds:

- A procedural irregularity that affected the outcome of the matter;
- 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
- The Title IX Coordinator, investigator, or adjudicator had a conflict of interest or bias for or against complainants or respondents generally, or against the individual Complainant or Respondent, that affected the outcome of the matter; or
- The Decision-maker's final determination is substantially contrary to the weight of the evidence in the record (this appeals ground is only applicable to sanctions or suspension, expulsion, or termination).

An appeal must be filed in writing (e.g., email) to the Title IX Coordinator within five business days of receiving the determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and will not be considered.

Appeals shall be processed according to the following procedures:

1. Appeals will be reviewed and decided by the Appeal Decision-maker.
2. The Title IX Coordinator shall provide a copy of the appeal to the other party. That party shall have seven days to submit a written statement in support of or challenging the outcome of the matter, depending on the basis for the appeal.
3. The Appeal Decision-maker shall conduct an impartial review of the appeal, including consideration of the written record of the matter, and may consult with other University officials before reaching a decision.
4. The Appeal Decision-maker shall issue a written decision describing the result of the appeal and rationale for the result and will provide the written decision simultaneously to the parties.

VIII. Records

For a period of seven years, the University must maintain records of:

1. Each Sexual Harassment investigation including any determination regarding responsibility and any audio recording or transcript of hearings; any disciplinary sanctions imposed on the Respondent; and any remedies provided to the Complainant;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom;
4. All materials used to train Title IX Coordinators, advisors, investigators, adjudicators, individuals reviewing appeals, and any person who facilitates an informal resolution process; and
5. Records of any actions, including any Supportive Measures provided in response to a report or formal complaint of Sexual Harassment (and if Supportive Measures are not provided, the basis for such decision).

The University shall post links to training materials on the University website at the following URL: <https://www.husson.edu/about/human-resources/title-ix>

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Husson University reserves the right to amend this policy to better align with or to respond to changes in regulations or federal guidance, case law, or the expectations established by the United States Department of Education. Concerns, questions, or complaints regarding this policy may be directed to:

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