



IOWA WESLEYAN
UNIVERSITY
1842

EQUAL OPPORTUNITY, HARASSMENT,
AND NONDISCRIMINATION POLICY
FOR ALL STUDENTS, EMPLOYEES
AND THIRD-PARTIES

POLICY AND PROCEDURES

Table of Contents

1. Policy and Procedures	1
2. Policies	18
3. Other Civil Rights Discriminatory Offenses	29
4. Reporting Allegations	32
5. Process for Alleged Violations	40
6. Advisor.....	45
7. Resolution Processes	49
8. Formal Grievance Process.....	52
9. Resolution Timeline	56
10. Steps in the Investigation Process.....	58
11. Investigation and Hearings	60
12. Notice of Outcome.....	71
13. Sanctions	72
14. Withdrawal or Resignation While Charges Pending	75
15. Appeals	76
16. Long-Term Remedies/Other Actions	79
17. Appendix A: Statement of Rights of the Parties	82
18. Appendix B: Administrative or Informal Resolution Process For Alleged Violations (Process B).....	86

1. Policy and Procedures

Iowa Wesleyan University adheres to all federal, state, and local civil rights laws prohibiting discrimination in employment and education. The University does not discriminate in its admissions practices, except as permitted by law, in its employment practices, or in its educational programs or activities on the basis of sex, race, color, age, national origin, disability, genetics, religion, gender, gender identity, sexual orientation, veteran status, or creed.

As a recipient of federal financial assistance for education programs and activities, Iowa Wesleyan University is required by Title IX of the Education Amendments of 1972 to ensure that all of its education programs and activities do not discriminate on the basis of sex/gender. Sex includes [sex, sex stereotypes, gender identity, gender expression, sexual orientation, and pregnancy or parenting status].

Iowa Wesleyan University also prohibits retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process internal or external to the institution. Sexual harassment (Quid Pro Quo and/or sexual harassment-hostile environment), sexual assault, dating violence, domestic violence, and stalking are forms of sex discrimination, which are prohibited under Title IX and by University policy. Any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities and/or benefits of any member of the Iowa Wesleyan University community on the basis of sex is in violation of this Equal Opportunity, Harassment and Discrimination Policy.

Any person may report sex discrimination (whether or not the person reporting is the person alleged to have experienced the conduct), in person, by mail, by telephone, by video, or by email, using the contact information listed within this document for the Title IX Coordinator, or specifically at TitleIXCoordinator@iw.edu. A report may be made at any time, including during non-business hours.

Rationale for Policy and Applicable Scope

Iowa Wesleyan University is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from discrimination and harassment based on a protected category, and retaliation for engaging in a protected activity. To ensure compliance with federal, state and local civil

rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, Iowa Wesleyan University has developed internal policies and procedures that provide prompt, fair, and impartial processes for those involved in allegations of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. Iowa Wesleyan University values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

The core purpose of this policy is prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from or different treatment in activities, such as admission, athletics, or employment. At other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, it can encompass sexual harassment (Quid Pro Quo and/or sexual harassment-hostile environment), sexual assault, sexual exploitation, stalking, dating violence, or domestic violence.

When an alleged violation of this nondiscrimination policy is reported, the allegations are subject to resolution using Iowa Wesleyan University's "Process A" or "Process B," as determined by the Title IX Coordinator, and as detailed throughout this document (Process A) and in Appendix B (Process B). The described procedures may be applied to incidents, to patterns of conduct, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

When the Respondent is a member of the Iowa Wesleyan University community, a formal complaint may be filed and a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the Iowa Wesleyan University community. This community includes, but is not limited to, students.⁽¹⁾ student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, vendors, contractors, and campers.

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.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.

- *Complaint (formal)* means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the Iowa Wesleyan University investigate the allegation.
- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when the Iowa Wesleyan University is in normal operation.
- *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 investigation report.
- *Education program or activity* means locations, events, or circumstances where Iowa Wesleyan University exercises substantial control over both the Respondent and the context in which the sexual harassment, discrimination, and/or retaliation occurs and also includes any building owned or controlled by a student organization that is officially recognized by the Iowa Wesleyan University.
- *Final Determination*: A conclusion by the preponderance of the evidence standard of proof that the alleged conduct did or did not violate policy.
- *Finding*: A conclusion by the preponderance of the evidence standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
- *Formal Grievance Process* means “Process A,” a method of formal resolution designated by the Iowa Wesleyan University to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).
- *Grievance Process Pool/Title IX Team* includes any investigators, hearing panel members, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- *Hearing Panel* refers to those who have decision-making and sanctioning authority within the Iowa Wesleyan University’s Formal Grievance process.
- *Investigator* means the person or persons charged by Iowa Wesleyan University with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report of Relevant Evidence and file of Directly Related evidence.
- *Mandated Reporter* means an employee of the Iowa Wesleyan University who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator. ⁽²⁾
- *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.
- *Official with Authority (OWA)* means an employee of the Iowa Wesleyan University explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the Iowa Wesleyan

University.

- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Process A* means the Formal Grievance Process detailed below and defined above.
- *Process B* means the administrative resolution procedures detailed in Appendix B of this document that apply only when Process A does not, as determined by the Title IX Coordinator.
- *Relevant Evidence* is evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint.
- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the Iowa Wesleyan University's educational program.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by Iowa Wesleyan University on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment (Quid Pro Quo and/or sexual harassment-hostile environment), sexual assault, stalking, dating violence, and domestic violence.
- *Title IX of the Education Amendments of 1972* is a comprehensive federal law intended to end sex discrimination in all areas of education. Title IX states "No person in the United States shall on the basis of sex be excluded from participation in, be denied benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance." It also applies to educational program equity, such as athletics.
- *Title IX Coordinator* is the official designated by Iowa Wesleyan University to ensure compliance with Title IX regulations and the University's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Team* refers to the Title IX Coordinator, deputy coordinators, and any member of the Grievance Process Pool.

Role of the Title IX Coordinator

Tina Young serves as the Title IX Coordinator and oversees implementation of Iowa Wesleyan University's Policy on Equal Opportunity, Harassment, and Nondiscrimination, as well as resulting plans. The Title IX Coordinator has the primary responsibility for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remedy, and prevent discrimination, harassment, and retaliation prohibited under this policy.

Independence and Conflict of Interest

The Title IX Coordinator manages the Grievance Process Pool/Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions related to the 2020 Title IX Regulations under this policy and these procedures. Members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

Concerns of bias, potential conflict of interest, misconduct or discrimination by any Title IX Team member should be raised with the Title IX Coordinator. To address any concern involving bias, conflict of interest, misconduct or discrimination by the Title IX Coordinator, contact the Iowa Wesleyan University President.

Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made to:

Title IX Coordinator: Tina Young

Director of Diversity, Inclusion, Title IX, and Student Rights

John Wesleyan Holland Student Union; room 304

319-385-6361

TitleIX@iw.edu

<https://www.iw.edu/campus-safety/>

Deputy Title IX Coordinator: Kathy Moothart

Director of Human Resources

Third Floor, P.E.O. Building

319-385-6209

kathy.moothart@iw.edu

Other Pool/Title IX Team members, who are trained and may be responsible for participating in a case as an investigator, hearing panel member or chair, advisor, appellate officer, or provider of informal resolution services include:

Courtney Carl	Associate Athletic Director and Compliance Officer	courtney.carl@iw.edu
Nathan	Assistant Professor of Psychology	nathan.hough@iw.edu

Hough		
Clay Johnson	Internationals Student Advisor	clay.johnson@iw.edu
Roger Kerfoot	Assistant Professor of Business	roger.kerfoot@iw.edu
Amy Mabeus	Bookstore and Mailroom Manager	amy.mabeus@iw.edu
Kathy Schmidt	Assistant Professor of Education	kathy.schmidt@iw.edu

Iowa Wesleyan University has determined that the following administrators are Officials with Authority to address and correct harassment, discrimination, and/or retaliation. In addition to the Title IX Team members listed above, Officials with Authority may also accept notice or complaints on behalf of the Iowa Wesleyan University.

Chris, Plunkett, President

319-385-6206

chris.plunkett@iw.edu

DeWayne Frazier, PhD, University Provost

319-385-6202

dewayne.frazier@iw.edu

Derek Zander, Vice President for Advancement and Athletics

319-385-6349

derek.zander@iw.edu

Meg Richtman, Vice President for Enrollment, Marketing & Communications

319-385-6216

meg.richtman@iw.edu

Iowa Wesleyan University has also classified most employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation. The section below on Mandated Reporting details which employees have this responsibility and their duties, accordingly. Inquiries regarding Title IX policy may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education

400 Maryland Avenue, SW
 Washington, D.C. 20202-1100
 Customer Service Hotline #: (800) 421-3481
 Facsimile: (202) 453-6012
 TDD#: (877) 521-2172
 Email: OCR@ed.gov
 Web: <http://www.ed.gov/ocr>

For complaints involving employees: Equal Employment Opportunity Commission (EEOC) has jurisdiction over Title IX employment claims. Please contact the Milwaukee Area Office at 414-662-3680.

Notice/Formal Complaint of Sexual Harassment (Quid Pro Quo and/or Sexual Harassment-Hostile Environment), Sexual Assault, Dating Violence, Domestic Violence, Stalking, and/or Retaliation

A Formal Complaint means a document submitted or signed by the Complainant or by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that Iowa Wesleyan University investigate the allegation(s). As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that Iowa Wesleyan University investigate the allegations. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

Notice or formal complaints of sexual harassment (Quid Pro Quo and/or sexual harassment-hostile environment), sexual assault, stalking, dating violence, and domestic violence and/or retaliation may be made using any of the following options:

1. File a complaint with, or give verbal notice to, the Title IX Coordinator, a Deputy Title IX Coordinator, or Officials with Authority as listed above. Such a report may be made at any time (including during non-business hours) by using this email address: TitleIXCoordinator@iw.edu, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.
2. Report online, using the reporting form posted at <https://www.iw.edu/iw-safetyfirst>. Anonymous reports are accepted but may give rise to a need to investigate to determine if the parties can be identified. If not, no further formal action is taken, though measures intended to protect the IW Community may be enacted. The University tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report that does not identify the Complainant.

Because reporting carries no obligation to initiate a formal response, and because as the University respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of confidentiality by making a report that allows the University to discuss and/or provide supportive measures.

3. Report using the Campus Conduct Hotline, available 24 hours per day/7 days per week at 866-943-5787. This confidential, independent call-in service provides a way for a University community member to alert the administration to problems that may affect the entire campus community, such as behavior which appears harmful, unethical, or questionable, personal injury. Calls to the Hotline are confidential and anonymous, answered and recorded by a Masters-degree specialist in psychology or social services, handled with support and sensitivity. Within one (1) business day a summary of the interview will be forwarded to University administration for investigation, and assigned a five digit randomly generated case number for use in follow-up.

Supportive Measures

Iowa Wesleyan University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged misconduct 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 Iowa Wesleyan University's education program or activity, including measures designed to protect the safety of all parties and/or Iowa Wesleyan University's educational environment, and/or to deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time supportive measures are offered, Iowa Wesleyan University will inform the Complainant, in writing, that they may file a formal complaint with the University 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 taken into account with respect to the supportive measures that are planned and implemented.

Iowa Wesleyan University will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the University's ability to provide the supportive measures. The University will act to ensure as minimal an occupational or academic impact on the parties as possible and 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 accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Work with local authorities to put into place No Trespass, Persona Non Grata, or Be-On-the-Lookout orders
- 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 will be referred to appropriate student or employee conduct processes for enforcement.

Emergency Removal

Iowa Wesleyan University can act to remove a student Respondent entirely or partially from its education program or activities 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 in conjunction with the CARE (Campus Assistance, Response and Education) Team, using standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator and one other Official With Authority prior to such action being imposed, or as soon thereafter as reasonably possible, to show cause why the emergency removal should not be

implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested within two (2) calendar days, objections to the emergency removal will be deemed waived. This section also applies to any restrictions that an athletic administrator or coach may place on a student-athlete arising from allegations related to Title IX. There is no other appeal process for emergency removal decisions.

A Respondent may be accompanied to this meeting by an Advisor of their choice when meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

Iowa Wesleyan University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to:

- Removing a student from a residence hall
- Temporarily re-assigning a student-employee or employee
- Restricting a student's, student-employee's, or employee's access to or use of facilities or equipment
- Alternative coursework options may be pursued to ensure as minimal an academic impact as possible
- Allowing a student to withdraw or take grades of incomplete without financial penalty
- Authorizing an administrative leave
- Suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

When the Respondent is an employee, existing provisions for interim action, as outlined in the Employee Handbook, are applicable instead of the above emergency removal process.

The Title IX Coordinator has sole discretion under Title IX policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

Prompt Response

All allegations are acted upon promptly by Iowa Wesleyan University once it has received notice or a formal complaint. Complaints can typically take 60-90 business days to resolve. There are exceptions and extenuating circumstances that may cause a resolution to take longer, but the University will avoid all undue delays within its control.

Any time the general time-frames for resolution outlined in the University's procedures will be delayed, the Title IX Coordinator or designee will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the additional time needed as a result of the delay.

Confidential/Private Record Maintenance

This policy covers records maintained in any medium that are created pursuant to the University's Equal Opportunity, Harassment, and Nondiscrimination Policy for all Students, Employees and Third-parties and regular business of the Title IX Office. All such records are considered private or confidential by the Title IX Office, in accordance with FERPA and the directive from the Department of Education to maintain the confidentiality of records related to Title IX.

Every effort is made by Iowa Wesleyan University to preserve the confidentiality of reports. The University will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Iowa Wesleyan University reserves the right to determine which University officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA). Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: the Office of Student Development when relevant, Iowa Wesleyan University Campus Safety, and the CARE Team for threat assessment. Information will be shared as necessary with Investigators, Hearing Panel members,

Advisors, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

Iowa Wesleyan University may contact parents/guardians of students to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so.

Types of Records Covered Under this Policy

These records include, but are not limited to:

- Documentation of notice to the University including incident reports
- Anonymous reports later identified and/or linked to a specific incident involving known parties
- Any documentation supporting the initial assessment (e.g., incident reports, intake documentation, the written formal complaint, names of the Complainant, Respondent and any witnesses)
- Investigation-related evidence (e.g., physical and documentary evidence collected and logs, medical, mental-health and forensic record evidence obtained with consent during the investigation, police reports, expert sources used in consideration of the evidence, timelines, flowcharts and templates, witness lists, correspondence, telephone logs, interview notes, interview summaries)
- Dismissal-related documentation
- Documentation related to the grievance resolution process
- The final investigative report
- Remedy-related documentation, including actions taken to restrict or remove the Respondent, designed to restore or preserve equal access to the University's education program or activity
- Supportive measures-related documentation as implemented on behalf of the Complainant and/or Respondent designed to restore or preserve equal access to the University's education program or activity; If no supportive measures were provided to the Complainant, documentation of the reasons why such a response was not clearly unreasonable in light of the known circumstances
- Documentation of reported retaliatory behavior as well as all actions taken to address these reports
- Hearing recordings and records (e.g., documentation of outcomes and rationale, documentation of any sanction(s) resulting from the grievance resolution process)
- Appeal-related correspondence and documentation
- Informal resolution records and results
- Notices of Outcome
- Records documenting that Iowa Wesleyan's response was not deliberately indifferent
- Any other records typically maintained by the University as part of a case file
- All materials used to train Title IX Coordinators, Investigators, Advisors, Hearing

Panel members, and any person who facilitates an Informal Resolution process. Iowa Wesleyan University will make these training materials publicly available on Iowa Wesleyan University's website.

Drafts and Working Files

Preliminary drafts and "working files" are not considered records that must be maintained by the University, and these are typically destroyed during the course of an investigation or at its conclusion. They are preliminary versions of records and other documents that do not state a final position of the subject matter reviewed or are not considered to be in final form by their creator and/or the Title IX Coordinator. An example of a "working file" would be the investigator notes made during an interview with topics the investigator wants to revisit in subsequent interviews. Sole possession records maintained as such in accordance with FERPA are also included in this category. All drafts of investigation reports shared with the parties are maintained.

Attorney Work-Product

Communications from the Title IX Office or its designees with the University's legal counsel may be work product protected by attorney-client privilege. These communications are not considered records to be maintained by the Title IX Office or accessible under this policy unless the Title IX Coordinator, in conjunction with legal counsel as necessary, determines that these communications should be included as accessible records.

Record Storage, Access and Retention

Records may be created and maintained in different media formats and this policy applies to all records, irrespective of format. All records created pursuant to the policy, as defined above, must be stored in a database maintained by the Title IX Office and complete records should be transferred to the Office within fourteen (14) days of resolution of the complaint, including any appeal. Any extra (non-essential) copies of the records, both digital and paper, must be destroyed. Any records showing compliance with the Clery Act will be maintained as appropriate for reporting purposes.

All records created and maintained pursuant to this policy must be retained indefinitely by the Title IX Office unless destruction or expungement is authorized by the Title IX Coordinator, who may act under their own discretion, or in accordance with a duly executed and binding settlement of claim, and/or by court of government order.

Access to records created pursuant to the policy or housed in the Title IX Office is

strictly limited to the Title IX Coordinator and any individual the Coordinator authorizes in writing, or by the University President's Office. These persons are expected to only access records pertinent to their scope of work. Anyone who accesses such records without proper authorization may be subject to an investigation and possible discipline, at the discretion of the appropriate disciplinary authority consistent with other relevant University policies and procedures.

The parties may request access to their case file. The University will provide access or a copy within 45 days of the request. Appropriate redactions of personally identifiable information may be made before inspection or any copy is shared. During the investigation, materials may be shared with the parties and should be held confidential.

Jurisdiction of Iowa Wesleyan University

This policy related to sexual harassment (Quid Pro Quo and/or sexual harassment-hostile environment), sexual assault, dating violence, domestic violence, and/or stalking applies to the education program and activities of Iowa Wesleyan University, to conduct that takes place on the campus or 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 Iowa Wesleyan University's community in order for this policy to apply and the Formal Grievance Process (Process A) described in this document will be followed.

This overarching policy related to equal opportunity, harassment and nondiscrimination can also be applicable to the effects of off-campus misconduct that effectively deprive a person of access to Iowa Wesleyan University's educational program and the Administrative Resolution Process (Process B described in Appendix B) will be followed. The University may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator or other conduct official determines that the conduct affects a substantial Iowa Wesleyan University interest.

Regardless of where the conduct occurred, the University will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial University interest includes:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
2. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee or other individual;

3. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
4. Any situation that substantially interferes with the educational interests or mission of Iowa Wesleyan University.

If the Respondent is unknown or is not a member of the University community, the Title IX Coordinator or designee will assist the Complainant in identifying appropriate campus and local resources and support options. If criminal conduct is alleged, Iowa Wesleyan can assist in contacting local or law enforcement if the individual would like to file a police report.

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

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

All vendors serving Iowa Wesleyan University through third-party contracts are subject to the policies and procedures of their employers and/or to these policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator or designee can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an internship, study abroad program, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant through other avenues.

Time Limits on Reporting

There is no time limitation on providing notice/formal complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to Iowa Wesleyan University's jurisdiction and/or significant time has passed, the ability to investigate,

respond, and/or provide remedies may be more limited or impossible.

Acting on notice/formal complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/formal complaint is affected by significant time delay, the University may apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/ formal complaint. Typically, this policy is only applied to incidents that occurred after August 14, 2020. For incidents that occurred prior to August 14, 2020, previous versions of this policy will apply. Those versions are available from the Title IX Coordinator.

Online Harassment and Misconduct

This policy is written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on Iowa Wesleyan University's education program and activities or when they involve the use of University networks, technology, or equipment.

Although the University may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to the University, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the University community.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

Off-campus harassing speech by employees, whether online or in person, may be

regulated by Iowa Wesleyan University only when such speech is made in an employee's official or work-related capacity.

Footnotes

(1) For the purpose of this policy, Iowa Wesleyan University defines "student" as 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 relationship with the University.

(2) Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy.

2. Policies

Overarching Policy on Nondiscrimination

Iowa Wesleyan University adheres to all federal, state and local civil rights laws and regulations prohibiting discrimination in private institutions of higher education. The University does not discriminate against any employee, applicant for employment, student, or applicant for admission because of: race, color, sex (including pregnancy), genetic information, national origin (including ancestry), gender, physical or mental disability, age, religion, creed, sexual orientation, gender identity, veteran status, or any other protected status in accordance with applicable federal, state and local laws. Additionally, the University does not discriminate on the basis of hearing status, political affiliation, citizenship status, marital status, gender expression, or physical appearance.

Any form of discrimination or retaliation is not allowed. When brought to the attention of the University, any such discrimination will be promptly and fairly addressed and remedied by the University according to the grievance processes described in this document (Process A or B, depending on Title IX jurisdiction).

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the University community whose acts deny, deprive, or limit the educational or employment access, benefits, and/or opportunities of any member of the Iowa Wesleyan University community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of the University Policy on Nondiscrimination.

The University is an Equal Employment Opportunity (EEO) employer. All aspects of the employment relationship are covered by this policy and those found in the Employee and Faculty Handbooks, and all employees and applicants are protected from unlawful discrimination in recruiting, hiring, placement, training, evaluation, job assignments, pay, benefits, promotions, termination, layoffs, recall, transfer, leave of absence, compensation, or discharge.

Policy on Disability Discrimination and Accommodation (addressed by Administrative Resolution; see Process B in Appendix B)

Iowa Wesleyan University is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of

1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal, state and local laws and regulations pertaining to individuals with disabilities.

Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity.

The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by Iowa Wesleyan University, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

The Director of Accessibility has been designated as Iowa Wesleyan University's ADA/504 Coordinator responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability.

a. Students with Disabilities

Iowa Wesleyan University is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs, facilities, and activities of the University.

All accommodations are made on an individualized basis. A student requesting any accommodation should first contact the Director of Accessibility, who coordinates services for students with disabilities. The Director reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate for the student's particular needs and academic program(s) in accordance with the University's applicable policies.

b. Employees with Disabilities

Pursuant to the ADA, Iowa Wesleyan University will provide reasonable accommodation(s) to all qualified employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship to Iowa Wesleyan University.

An employee with a disability is responsible for submitting a request for an accommodation to the Director of Human Resources and providing necessary

documentation. The Director will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties in accordance with the University's applicable policies.

Policy on Relationships between Employees and Students (addressed by Director of Human Relations and the University President, unless any misconduct falls under the Jurisdiction of Title IX, Process A)

This policy applies to all full and part-time faculty, staff, administrators, those who teach (even if they do not have a faculty contract), guest lecturers, graduate students classified as employees (only with respect to the students they are currently directly teaching or supervising), athletic coaches, supervisors of student employees, residence hall advisors (only with respect to the students they are directly and currently advising), other advisors, and directors of student organizations (collectively referred to only for the purpose of this policy as "employees").

The University is committed to creating and maintaining a positive educational environment where students can develop and flourish. Dating, romantic, or sexual relationships between employees and students can negatively impact a student's learning environment. These relationships also raise questions as to bias and fairness for other students. In addition, relationships between employees and students have an inherent inequality of power and status, and students have a heightened vulnerability to actions by employees and are more easily subject to coercion by an employee. If an employee engages in a romantic or sexual relationship with a student, it can lead to an interference with a student's learning environment at the University and subject the employee and the University to potential liability.

It is the policy of the University that employees shall not have any romantic or sexual relationship with any students enrolled in any capacity at the University, even if the romantic or sexual relationship is believed to be consensual. This policy applies even if there is no direct supervisory or evaluative relationship between the employee and the student. This policy applies whether classes are in session or not, and applies when employees or students are on leave of any nature.

This policy also prohibits any employee from cohabiting in any way with any students of the University. However, the University recognizes that there may be times when an employee may be in a position to lease or rent a room or housing to a student. Prior written approval from the University is necessary for these arrangements, and any

employee seeking approval for such an arrangement must make a written disclosure and request for approval to the University Vice President in the employee's reporting structure. The University will use its sole discretion in deciding whether to approve such requests.

The University recognizes that prior to becoming an employee of the University, an employee may have a pre-existing relationship with an enrolled or prospective student of the University. If this situation occurs, the prospective University employee must disclose the relationship prior to accepting the job offer, and the University President will make the final decision as to whether the situation is a violation of this policy. If the situation is permitted, the University will create a management plan to avoid conflicts of interest. A prospective employee's failure to disclose a pre-existing relationship will constitute a violation of this policy.

Accommodations under this policy for pre-existing relationships (i.e., a marriage) between an employee and a prospective student may be considered on a case by case basis by the University President, who will make the final decision on any accommodation requests. A failure to comply with the required notification under this policy for any such situations is a violation of this policy.

Violations of this policy will result in discipline up to and including termination of employment of the employee. Due to the nature of the conduct governed by this policy, there may not be direct evidence establishing a violation of this policy. Therefore, it is recognized that the University will review and rely upon the best available evidence to determine whether there has been a violation of this policy, which may include indirect evidence.

Any violations of this policy should be immediately reported to The Director of Human Resources. If the Director of Human Resources is the person who is reported to have violated this policy, the report should be made to the President. Violation of this policy is a Human Resources matter and is not addressed under the Title IX grievance process unless the elements of the definition of harassment are met.

If the University determines that a violation of this policy has occurred, disciplinary action, including termination, will be taken in accordance with the disciplinary processes applicable to the situation potentially including handbooks, policies, and contracts.

Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to an employment and

educational environment that is free of discriminatory harassment. This policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under Iowa Wesleyan University policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of the University's policy, though supportive measures will be offered to those impacted. All offense definitions encompass actual and/or attempted offenses.

Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law.

Iowa Wesleyan University does not tolerate discriminatory harassment of any employee, student, visitor, or third-party and will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment."

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.³ This discriminatory effect results from harassing verbal, written, graphic, and/or physical conduct that is severe or pervasive and objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, Iowa Wesleyan University may also impose sanctions on the Respondent through application of the grievance processes described in this policy (Process A or B, depending on Title IX jurisdiction).

Iowa Wesleyan University reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct will not result in the imposition of discipline under University policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other informal resolution mechanisms.

Policy on Sexual Harassment (addressed through Process A-the grievance resolution process defined by the Department of Education as part of the 2020 Title IX Regulations)

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Iowa regard sexual harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Iowa Wesleyan University has adopted the following definition of sexual harassment in order to address the unique environment of an academic community. Sexual harassment, as an umbrella category, includes the offenses of sexual harassment (Quid Pro Quo and/or sexual harassment-hostile environment), sexual assault, dating violence, domestic violence, and/or stalking, and is defined as:

Conduct on the basis of sex/gender or that is sexual in nature that satisfies one or more of the following:

1) Quid Pro Quo occurs when an employee of Iowa Wesleyan University (including Graduate Assistants and Teacher Assistants when in authority over others) implicitly or explicitly conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct.

2) Sexual Harassment-Hostile Environment, defined as unwelcome conduct determined by a reasonable person to be so severe, and pervasive and objectively offensive that it effectively denies a person equal access to an Iowa Wesleyan University education program or activity.

Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

3) Sexual Assault, defined as:

a) Sex Offenses, Forcible is any sexual act (described below) directed against another person without the consent of the Complainant including instances in which the Complainant is incapable of giving consent.

An unwelcomed 'sexual act' is specifically defined by federal regulations to include one or more of the following:

Forcible Rape: 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 the consent of the Complainant.

Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age below 18 years, or because of temporary or permanent mental or physical incapacity.

Sexual Assault with an Object: The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age below 18 years, or because of temporary or permanent mental or physical incapacity.

Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age below 18 years, or because of temporary or permanent mental or physical incapacity.

b) Sex Offenses, Non-forcible:

Incest: Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Iowa law.

Statutory Rape: Non-forcible sexual intercourse, with a person who is under the statutory age of consent of the State of Iowa.

4) Dating Violence, defined as 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.

- b.** For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- c.** Dating violence does not include acts covered under the definition of domestic violence.

5) Domestic Violence, defined as 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 by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Iowa, or 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 Iowa.

*To categorize an incident as Domestic Violence under this policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

6) Stalking, defined as engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for the person's safety, or the safety of others; or suffer substantial emotional distress.

*For the purposes of this definition:

- a.** 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.
- b.** Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- c.** Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Force, Coercion, Consent, 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.

Consent: is knowing, 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 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. 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 reasonable 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.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. 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 incident occurred and any similar and previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to bondage, discipline/dominance, submission/sadism, and masochism (BDSM), non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the BDSM and thus consensual, so Iowa Wesleyan University’s evaluation of communication in BDSM situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-BDSM relationships as a default.

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

Footnotes

3 This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: [Department of Education Office for Civil Rights, Racial Incidents and Harassment Against Students At Educational Recipients Investigative Guidance](#).

3. Other Civil Rights Discriminatory Offenses

Other Civil Rights Discriminatory Offenses (addressed by either grievance process, depending on Title IX jurisdiction)

In addition to the forms of sexual harassment described above, which are covered by Title IX, Iowa Wesleyan University additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title IX jurisdiction when the act is based upon the Complainant's actual or perceived membership in a protected class.

- **Sexual Exploitation:** an individual taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:
 - Sexual voyeurism, such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed
 - Invasion of sexual privacy
 - Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography
 - Prostituting another person
 - Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the infection, virus or disease
 - Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
 - Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections
 - Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
 - Knowingly soliciting a minor for sexual activity
 - Engaging in sex trafficking
 - Knowing creation, possession, or dissemination of child pornography

- Threatening or causing physical harm; extreme verbal, emotional, or psychological abuse; or other conduct which threatens or endangers the health or safety of any person
- Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities, including disparate treatment
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the University community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity
- Bullying, defined as repeated and/or severe aggressive behavior, likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally, that is not speech or conduct otherwise protected by the First Amendment

Violation of any other University policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities. Sanctions for the above-listed Civil Rights Offenses range from reprimand through expulsion/termination.

Retaliation (addressed by either grievance process, depending on Title IX jurisdiction)

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy. The exercise of rights protected under the First Amendment does not constitute retaliation.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator or other conduct officer and will be promptly investigated. Iowa Wesleyan University will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Iowa Wesleyan University and any member of the University's community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Filing a complaint within administrative or informal procedures (Process B) could be considered retaliatory if those charges could be applicable under Title IX jurisdiction (Process A), when the Process B charges are made for the purpose of interfering with or circumventing any right or privilege provided afforded within Process A, that is not provided by Process B. Therefore, Iowa Wesleyan University vets all complaints carefully to ensure this does not happen, and to ensure that complaints are routed to the appropriate process.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

4. Reporting Allegations

Reporting Allegations: Confidentiality and Mandated Reporting

For the purpose of this policy, privacy and confidentiality have distinct meanings:

Privacy means that information related to a complaint will be shared with a limited number of University employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the University’s response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”) and privacy of employee records will be protected in accordance with Human Resources policies.

Confidentiality exists in the context of laws that protect certain relationships. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. Iowa Wesleyan University has designated individuals who have the ability to have privileged communications as Confidential Resources.

When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, and/or individuals with disabilities.

Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clery Act. Other information may be shared as required by law. For more information, see the section of this policy on Confidential Resources.

All Iowa Wesleyan University employees (faculty, staff, and administrators) are expected to report actual or suspected discrimination, harassment and/or retaliation to appropriate officials immediately, although there are some limited exceptions.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment in a way that identifies the parties. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported.

The following sections describe the reporting options at Iowa Wesleyan University for a Complainant or third-party (including parents/guardians when appropriate):

a. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors
- On-campus health service providers
- Off-campus (non-employees):
 - Licensed professional counselors and other medical providers
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains
 - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials or official designation except in extreme cases of immediacy of threat or danger or abuse of a minor/elder or person with a disability, or when required to disclose by law or court order.

Campus counselors and/or the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

Employees who have confidential privilege as described above will submit anonymous

statistical information for Clery Act purposes unless they believe it would be harmful to the client.

b. Mandated Reporters and Formal Notice/Complaints

All employees of Iowa Wesleyan University (including Graduate Assistants, Teaching Assistants and Resident Advisors), with the exception of those listed above who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

c. Anonymous Notice of Allegations via Mandated Reporters

At the request of a Complainant, notice may be given by a Mandated Reporter to the Title IX Coordinator anonymously, without identification of the Complainant. The Mandated Reporter cannot remain anonymous themselves.

If a Complainant has requested that a Mandated Reporter maintain the Complainant's anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Title IX Coordinator on that assessment without revealing personally identifiable information.

Anonymous notice will be investigated by Iowa Wesleyan University to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies could be provided.

However, anonymous notice typically limits the University's ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Title IX Coordinator. Mandated reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or

disabled

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the University. Supportive measures may be offered as the result of such disclosures without formal University action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of University policy and can be subject to disciplinary action for failure to comply.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though Iowa Wesleyan University is technically not on notice simply because when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place and/or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the University proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process usually upon completion of an appropriate violence risk assessment. The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the University to pursue formal action to protect the community. Often this would occur if there is a suspected pattern of unlawful conduct, a weapon was used, there is suspected predatory behavior, or an allegation that the

Respondent is an employee and the Complainant is a student.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Iowa Wesleyan University may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the University proceeds, the Complainant (and/or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that the University's ability to remedy and respond to notice may be limited if the Complainant does not want the University to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University's obligation to protect its community.

In cases in which the Complainant requests confidentiality and/or no formal action and the circumstances allow the University to honor that request, the University may offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by Iowa Wesleyan University, and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, Iowa Wesleyan University must issue timely warnings for reported incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The University will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under appropriate University policy.

Amnesty for Complainants and Witnesses

The Iowa Wesleyan University community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to University officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the University community that Complainants choose to report misconduct to University officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process. To encourage reporting and participation in the process, Iowa Wesleyan University maintains a policy of offering parties and witnesses amnesty from minor policy violations, such as underage consumption of alcohol or the use of illicit drugs, related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to alleged misconduct by the Complainant.

a. Students: Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to University authorities).

Iowa Wesleyan University maintains a policy of amnesty for students who offer help to others in need. Although policy violations cannot be overlooked, the Iowa Wesleyan University may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

b. Employees: Sometimes, employees are hesitant to report harassment or discrimination they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to Iowa Wesleyan University officials.

Iowa Wesleyan University may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis].

Federal Statistical Reporting Obligations

Campus Security Authorities include: student affairs/student conduct staff, campus security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

Campus Security Authorities have a duty to report the following for federal statistical reporting purposes (Clery Act):

1. All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;

2. Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
3. VAWA-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
4. Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Preservation of Evidence

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining orders, and is particularly time-sensitive. Iowa Wesleyan University will inform the Complainant of the importance of preserving evidence by taking the following actions:

1. Seek forensic medical assistance at the local hospital, ideally within 120 hours of the incident (sooner is better).
2. Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
3. Try not to urinate.
4. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
5. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence).
6. Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be reiterated, if timely.

5. Process for Alleged Violations

PROCESS A

RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON SEXUAL HARASSMENT (QUID PRO QUO AND/OR SEXUAL HARASSMENT-HOSTILE ENVIRONMENT), SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE AND/OR STALKING

Overview

Iowa Wesleyan University will act on any formal or informal notice/complaint that is received by the Title IX Coordinator involving students, staff, faculty members, or administrators, of violation of the policy on sexual harassment (Quid Pro Quo and/or sexual harassment-hostile environment), sexual assault, dating violence, domestic violence, and/or stalking (under the jurisdiction of the 2020 Title IX regulations) by applying these procedures, known as Process A.

If other policy definitions are invoked, such as policies on protected class harassment or discrimination as defined above, please see Appendix B for a description of the procedures applicable to the resolution of such offenses, known as Process B.

Process B can also apply to sexual harassment when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another), when alleged violations of the policy are being addressed at the same time. All other allegations of misconduct unrelated to incidents covered by the Title IX Policy will be addressed through procedures described in the student and employee handbooks.

Notice/Formal Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator or designee initiates a prompt initial assessment to determine the next steps the University needs to take.

The Title IX Coordinator or designee will initiate at least one of three responses:

1. Offering supportive measures because the Complainant does not want to file a formal complaint; and/or
2. An informal resolution (upon submission of a formal complaint, yet not for an allegation of an employee as responded to a student complainant); and/or
3. A Formal Grievance Process including an investigation and a hearing (upon submission of a formal complaint).

Iowa Wesleyan University uses the Formal Grievance Process to determine whether or not the Policy has been violated. If so, the University will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, and/or their effects.

Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator or designee engages in an initial assessment, typically within one (1) to five (5) business days. The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
 - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint themselves because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
 - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assesses their request(s), and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, and may seek to determine if the Respondent is also willing to engage in informal resolution. Informal resolution is not an option when the Respondent is an employee and the Complainant is a student.
 - If a Formal Grievance Process is preferred by the Complainant, the Title IX

Coordinator determines if the misconduct alleged falls within the scope of the 2020 Title IX regulations.

- If it does fall within the scope of Title IX, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address an incident, and/or a pattern of alleged misconduct and/or a culture/climate issue, based on the nature of the complaint.
- If alleged conduct does not fall within the scope of the 2020 Title IX regulations, the Title IX Coordinator determines that the regulations do not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies and refers the matter accordingly, including referring the matter for resolution under Administrative Resolution (Process B described in Appendix B) if applicable. Please note that dismissing a complaint under the 2020 Title IX regulations is solely a procedural requirement under Title IX which does not limit Iowa Wesleyan University’s authority to address a complaint with an appropriate process and remedies.

Violence Risk Assessment

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment should be conducted as part of the initial assessment. Such an Assessment can aid in ten critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to an individual or the IW Community’s physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether the scope of the investigation should include an incident, and/or pattern of misconduct, and/or climate of hostility/harassment;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and if so, what approach may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer institution about a Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.

A Violence Risk Assessment assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology. This Assessment occurs in collaboration with the CARE (Campus Assistance, Response and Education) Team and must be understood as an on-going process, rather than a singular evaluation or

meeting. A Violence Risk Assessment is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment.

Dismissal Determination (Mandatory and Discretionary)

Iowa Wesleyan University is mandated by the 2020 Title IX Regulations to dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; and/or
2. The conduct did not occur in an educational program or activity controlled by the University (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the Respondent; and/or
3. The conduct did not occur against a person in the United States; and/or
4. At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the Iowa Wesleyan University.

A Complainant is still entitled supportive measures, but the formal grievance process is not applicable.

Iowa Wesleyan University may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
2. The Respondent is no longer enrolled in or employed by the University; or
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

Upon any dismissal, the University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

Counterclaims

Iowa Wesleyan University is obligated to ensure that the grievance process is not abused for retaliatory purposes. The University permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith, but are, on occasion, made for purposes of retaliation, instead. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

6. Advisor

Right to an Advisor

The parties may each have one Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

Available means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Hearing Panel.

Iowa Wesleyan University may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

a. Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the Iowa Wesleyan University community.

The Title IX Coordinator will also offer to assign a trained Advisor to any party if the party so chooses. If the parties choose an Advisor from the pool available from the University, the Advisor will have been trained by the University and be familiar with the University's resolution process.

If the parties choose an Advisor from outside the pool of those identified by the University, the Advisor may not have been trained by the University and may not be familiar with University's policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

b. Advisor's Role in Meetings and Interviews

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

Iowa Wesleyan University cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the University is not obligated to provide an attorney.

c. Advisors in Hearings/Iowa Wesleyan University-Appointed Advisors

Under U.S. Department of Education regulations for Title IX, a form of indirect questioning is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, Iowa Wesleyan University will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party(ies) and witnesses.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, the University will appoint an Advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses may also be conducted by the Hearing Panel during the hearing.

d. Pre-Interview Meetings

Advisors may request to meet with the investigators conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and Iowa Wesleyan University's policies and procedures.

e. Advisor Violations of Iowa Wesleyan University's Policy

All Advisors are subject to the same University policies and procedures, whether they are attorneys or not, and whether they are selected by a party or assigned by the University. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address Iowa Wesleyan University officials or investigators in a meeting or interview unless invited to do so (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the

Investigator(s) or Hearing Panel members, except during a hearing proceeding during questioning.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

f. Sharing Information with the Advisor

Iowa Wesleyan University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

The University will provide a consent form that authorizes the University to share such information directly with a party's Advisor. The parties must either complete and submit this form to the Title IX Coordinator, or designee, or provide similar documentation demonstrating consent to a release of information to the Advisor before the University is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, Iowa Wesleyan University will not comply with that request.

g. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Iowa Wesleyan University. Iowa Wesleyan University may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

h. Expectations of an Advisor to Attend Meetings

Iowa Wesleyan University generally expects an Advisor to adjust their schedule to allow them to attend University meetings when planned, but Iowa Wesleyan may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University may, at the discretion of the Title IX Coordinator, make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

i. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor should be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

j. Assistance in Securing an Advisor

For representation, Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.
- The Time's Up Legal Defense Fund (<https://nwlc.org/times-up-legal-defense-fund/>)

7. Resolution Processes

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the confidentiality of the proceedings. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose as part of an Informal Resolution, discussed below. Iowa Wesleyan University encourages parties to discuss with their Advisors and sharing of information with their Advisors before doing so.

The Formal Grievance Process is the University's primary resolution approach, unless Informal Resolution is elected by all parties and Iowa Wesleyan. Three options for Informal Resolution are detailed in this section and the Formal Grievance Process is detailed starting in the next section.

a. Informal Resolution

- Supportive Resolution: When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- Alternative Resolution: When the parties agree to resolve the matter through an alternate resolution mechanism as described below (including mediation, restorative practices, facilitated dialogue, etc.), usually before a formal investigation takes place; see discussion in b., below.
- Accepted Responsibility: When the Respondent accepts responsibility for violating policy, and desires to accept a sanction(s) and end the resolution process (similar to above, but usually occurs post-investigation); see discussion in c., below.

To initiate Informal Resolution, a Complainant must submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator. The parties may agree as a condition of engaging in Informal Resolution that statements made or evidence shared during the Informal Resolution process will not be considered in any Formal Grievance Processes unless all parties consent.

Informal resolution is not an option for an employee Respondent student Complainant.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, Iowa Wesleyan University will provide the parties with written notice of the reported misconduct and any sanctions 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 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.

b. Alternative Resolution Approaches

Alternative Resolution is an informal approach by which the parties reach a mutually agreed upon resolution of an allegation. All parties must consent to the use of an Alternative Resolution approach.

The Title IX Coordinator may look to the following factors to assess whether Alternative Resolution is appropriate:

- The parties' amenability to Alternative Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Results of a Violence Risk Assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternative Resolution facilitator with this type of allegation;
- Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Alternative Resolution (time, staff, etc.)

The ultimate determination of whether Alternative Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator is authorized to negotiate a resolution that is acceptable to all parties, and/or to accept a resolution that is proposed by the parties, usually through their Advisors.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternative Resolution are not appealable.

c. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of Iowa Wesleyan University policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the misconduct, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

8. Formal Grievance Process

The Formal Grievance Process relies on a pool of trained persons to carry out the process. Members of the Pool/Team are announced in an annual distribution of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees.

a. List of Pool/Team Members

Title IX Coordinator: Tina Young

Director of Title IX and Chief Diversity Officer
John Wesleyan Holland Student Union; room 304
319-385-6361

TitleIXCoordinator@iw.edu

<https://www.iw.edu/campus-safety/>

Deputy Title IX Coordinator: Kathy Moothart

Director of Human Resources
Third Floor, P.E.O. Building
319-385-6209

kathy.moothart@iw.edu

Deputy Title IX Coordinator: Richard Buffington

Director of the Criminal Justice Institute, Chair of the Science Division
Adam Trieschmann Hall of Science
319-385-6341

richard.buffington@iw.edu

Courtney Carl	Associate Athletic Director and Compliance Officer	courtney.carl@iw.edu
Nathan Hough	Assistant Professor of Psychology	nathan.hough@iw.edu
Clay Johnson	Internationals Student Advisor	clay.johnson@iw.edu
Roger Kerfoot	Assistant Professor of Business	roger.kerfoot@iw.edu
Joy Lapp	Associate Professor of Religion	joy.lapp@iw.edu
Amy Mabeus	Bookstore and Mailroom Manager	amy.mabeus@iw.edu

Kathy Schmidt	Assistant Professor of Education	kathy.schmidt@iw.edu
Carmen Wycoff	Associate Professor of Nursing	carmen.wycoff@iw.edu

b. Pool/Team Member Roles

Members of the Pool are trained annually, and can serve in the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To serve in a facilitation role in Informal Resolution or Alternative Resolution if appropriately trained in the resolution practice
- To perform or assist with initial assessment
- To investigate complaints
- To serve as a Hearing Facilitator (process administrator, no decision-making role)
- To serve as a Hearing Panel member regarding the complaint
- To serve as an Appeal Decision-maker

c. Pool/Team Member Appointment

The Title IX Coordinator, in consultation with the University President, appoints the Pool/Team, which acts with independence and impartiality. Pool/Team members are usually appointed to three-year terms. Individuals who are interested in serving in the Pool are encouraged to contact the Title IX Coordinator.

Although members of the Pool/Team are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, the University can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

d. Pool/Team Member Training

The Pool members receive annual training. This training includes, but is not limited to:

- The scope of the Iowa Wesleyan University's Discrimination and Harassment Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability

- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner by individuals who receive annual training in conducting investigations of sexual harassment, trauma-informed practices and impartiality
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by the University with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Record keeping

Specific training is also provided for Appeal Decision-makers, intake personnel, Advisors (who are Iowa Wesleyan University employees), and Hearing Panel Chairs and members. All Pool/Team members are required to attend these trainings annually. The materials used to train members of the Pool are publicly posted here:

<https://www.iw.edu/campus-safety/>.

Formal Grievance Process: Notice of Investigation and Allegations

The Title IX Coordinator, or designee will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal

Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who will be given advance notice of when the NOIA will be delivered to the Respondent. The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the University's policy on retaliation,
- Information about the confidentiality of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that the University's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- A link to the University's VAWA Brochure,
- The name(s) of the Investigator(s), along with a process to identify to the Title IX Coordinator, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- Instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations.

Notice will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the parties' University-issued email or designated accounts. Once emailed and/or received in-person, notice will be presumptively delivered.

9. Resolution Timeline

Iowa Wesleyan University will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal if any, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Pool/Title IX Team member(s) to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

Ensuring Impartiality

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator(s), and Hearing Panel members, may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the resolution process, the parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool/Team member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Iowa Wesleyan President.

The Formal Grievance Process involves 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 individual's status or participation as a Complainant, Respondent, or witness. Iowa Wesleyan University operates with the presumption that the Respondent is not responsible for the reported

misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

Investigation Timeline

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. The University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

Delays in the Investigation Process and Interactions with Law Enforcement

The University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The University will communicate in writing the anticipated duration of the delay and reason to the parties, and provide the parties with status updates if necessary. The University will promptly resume its investigation and resolution process as soon as feasible. During such a delay, Iowa Wesleyan University will implement supportive measures as deemed appropriate.

Iowa Wesleyan University's action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

10. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

Recordings of interviews are not provided to the parties. Parties will have the ability to review the summary of the interview once the investigation report is compiled.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- In coordination with the Title IX Coordinator, initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator, if needed, with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- 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 all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement, if necessary
- Work with the Title IX Coordinator, as necessary, to prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations
 - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool/Title IX Team or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as

necessary

- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties and the Title IX Coordinator throughout the investigation
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence; Appendices including relevant physical or documentary evidence will be included
- The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured 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 days. Each copy of the materials shared will be notated on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report; The Investigator(s) should document all rationales for any changes made after the review and comment period
- The Investigator(s) may share the report with the Title IX Coordinator for their review and feedback
- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing; The parties and their advisors are also provided with a file of any directly related evidence that was not included in the report

11. Investigation and Hearings

Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of Iowa Wesleyan University are strongly encouraged to cooperate with and participate in the University's investigation and resolution process. Student witnesses and witnesses from outside of Iowa Wesleyan are encouraged to cooperate with the University's investigations and to share what they know about a complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Zoom, FaceTime, Google Meets, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness, efficiency, or other reasons dictate a need for remote interviewing. The University will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though is not preferred. If a witness submits a written statement but does not intend to be and is not present for questioning at a hearing, their written statement may not be used as evidence.

Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties should be made aware of [and consent to] audio and/or video recording.

Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; or 2) the character of the parties; or 3) questions and 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 conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the

Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a 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 Hearing Panel Chair, unless all parties and the Chair agree to an expedited timeline.

The Title IX Coordinator will select appropriate Hearing Panel members from the Pool/Team depending on whether the Respondent is an employee, student employee or a student, and provide a copy of the investigation report.

Hearing Panel Composition

The Title IX Coordinator will designate a three-member Hearing Panel from the Pool/Team and appoint One of the three members as Chair of the Panel.

The Hearing Panel will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool/Team sit in throughout the hearing process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Hearing Panel members. Those who are serving as Advisors for any party may not serve as Panel members in that matter.

The Title IX Coordinator may not serve as a member or Chair of the Hearing Panel in the matter, but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this facilitator role. The hearing will convene at a time and venue determined by the Chair or designee.

Evidentiary Considerations in the Hearing

Any evidence that the Hearing Panel determines is relevant and credible may be

considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and 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 conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, assuming Iowa Wesleyan University uses a progressive discipline system. This information is only considered at the sanction stage of the process, and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Hearing Panel at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Hearing Panel renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once emailed and/or received in-person, notice will be presumptively delivered. The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- Description of any technology that will be used to facilitate the hearing.
- Information about the likelihood the live hearing will occur with the parties located in separate rooms using technology that enables the Hearing Panel and parties to see and hear a party or witness answering questions.
- A list of all those who will attend the hearing, along with an invitation to object to any Hearing Panel member on the basis of demonstrated bias or conflict of interest. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for

the parties after the hearing.

- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Hearing Panel. For compelling reasons, the Chair or Title IX Coordinator may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the University will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Hearing Panel about the matter, unless they have been provided already as part of the final investigation report.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Hearing Panel will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Whether parties can bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the 60-90 business day goal for resolution.

Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the Chair at least five (5) business days prior to the hearing.

The Title IX Coordinator or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

Pre-Hearing Preparation

After any necessary consultation with the parties, The Chair will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have provided a written statement or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing.

The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and/or instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Hearing Panel at least five (5) business days in advance of the hearing. All objections to any Panel member must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two (2) days prior to the hearing. Panel members will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Hearing Panel a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Panel member who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Panel member is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at a pre-hearing meeting (if scheduled) or at the hearing and will be exchanged between each party by the Chair.

Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties and their Advisors and to invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration on a pre-hearing ruling by the Chair based on any new information or testimony offered at the hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Chair, only with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At any pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with the Title IX Coordinator, or even legal counsel, or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded. The pre-hearing meetings may be conducted as separate meetings with each party/advisor, with all parties/advisors present at the same time, remotely, or as a paper-only exchange. The Chair will work with the parties to establish the format.

Hearing Procedures

At the hearing, the Panel has the authority to hear and make determinations on all allegations misconduct under the jurisdiction of the 2020 Title IX regulations, and/or related retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert, even though those collateral allegations may not specifically fall under this jurisdiction.

Participants at the hearing will include the Chair, two (2) other Hearing Panel members,

the Investigator(s) who conducted the investigation, the parties, one (1) Advisor per parties, any called witnesses, possibly a hearing facilitator and/or the Title IX Coordinator and anyone providing authorized accommodations, interpretation, and/or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Hearing Panel and the parties, and then the witnesses will be excused.

Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation. When a student organization is the Respondent, no more than three (3) organizational representatives may be present at the hearing.

The Order of the Hearing: Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of Hearing Panel members on the basis of bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process may be managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. A hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/

or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

The Order of the Hearing: Investigator Presents the Final Investigation Report

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Hearing Panel and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Hearing Panel should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of, or questions for Investigators about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

The Order of the Hearing: Testimony and Questioning

Once the Investigator(s) present(s) the report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The Hearing Chair will facilitate questioning of parties and witnesses first by the Hearing Panel and then by the parties through their Advisors.

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request, if agreed to by all parties and the Chair), the proceeding will pause to allow the Chair to consider the question (and state it if it has not already been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may invite explanations or persuasive statements regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or

to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain arguments from the Advisors on relevance before or once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Hearing Panel member at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

Refusal to Submit to Questioning and Inferences

Cross-examination is an all or nothing proposition, meaning that if any relevant question is refused, no statements of that party or witness are admissible. Only if a party or witness is willing to submit to cross-examination, and answers all questions, will their statements prior to or at the hearing be fully admissible. If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questions, the Hearing Panel may not rely on any prior statement made by that party or witness at the hearing, including those contained in the investigation report, in the ultimate determination of responsibility. The Hearing Panel must disregard all such statements. Evidence provided that is something other than a statement by the party or witness may be considered.

Whether a party or witness does or does not answer questions from the Hearing Panel, their statements will be admissible as long as they are willing to submit to cross-examination questions, even if they are not asked such questions. The Hearing Panel may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If collateral charges of policy violations other than sexual harassment are considered at the same hearing, the Hearing Panel may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for questioning is afforded to all parties through their Advisors, and may draw reasonable inferences from any

decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with the University's established rules of decorum for the hearing, Iowa Wesleyan University may require the party to use a different Advisor. If a University-provided Advisor refuses to comply with the rules of decorum, the University may provide that party with a different Advisor to conduct questioning on behalf of that party.

An Advisor may not be called as a witness at a hearing to testify to what their Advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared. It is otherwise considered off-limits, and an Advisor who is a University employee is temporarily alleviated from mandated reporter responsibilities related to their interaction with their Advisee during the resolution process.

Recording Hearings

Hearings (but not deliberations of findings) are recorded by the University for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Hearing Panel, the parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording or review a transcript of the recording in a controlled environment determined by the Title IX Coordinator, upon request. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

The Order of the Hearing: Deliberation, Decision-making, and Standard of Proof

The Hearing Panel will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. A hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Hearing

Panel may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Hearing Panel may, at their discretion, consider the statements, but they are not binding.

The Hearing Panel will review the statements and any pertinent conduct history provided by the University and will determine the appropriate sanction(s), in consultation with other appropriate administrators, as necessary.

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions.

This report is typically three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

12. Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome letter. The Title IX Coordinator will then share the Notice of Outcome letter in writing, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors simultaneously, within five (5) business days of receiving the Hearing Panel's deliberation statement.

Notification may be delivered by one or both of the following methods: in person or emailed to the parties' University-issued email or otherwise approved account. Once emailed and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by Iowa Wesleyan University from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the University is permitted to share such information under state or federal law; any sanctions issued which the University is permitted to share according to state or federal law; and whether remedies will be provided to the Complainant designed to ensure access to Iowa Wesleyan University's educational or employment program or activity, to the extent the University is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by Iowa Wesleyan University to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

See Appendix A for a Statement of the Rights of the Parties

13. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the misconduct and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of misconduct and/or retaliation
- The need to remedy the effects of the misconduct and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Hearing Panel

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

a. Student Sanctions

Typical responsive actions imposed upon students or organizations singly or in combination who have engaged in misconduct under the jurisdiction of the 2020 Title IX regulations and/or retaliation include:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any Iowa Wesleyan University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either University-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student status for a definite period of time and/or until specific criteria are met. Students who return from suspension are automatically

placed on probation through the remainder of their tenure as a student at Iowa Wesleyan University.

- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend University-sponsored events.
- *Withholding Diploma*: Iowa Wesleyan University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including Iowa Wesleyan University registration) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, Iowa Wesleyan University may assign any other sanctions as deemed appropriate.

b. Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in misconduct under the jurisdiction of the 2020 Title IX regulations and/or retaliation include:

- Warning – Verbal or Written
- Performance Improvement Plan/Management Process
- Enhanced supervision, observation, or review
- Required Counseling
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Reassignment
- Delay of tenure track progress
- Assignment to new supervisor
- Restriction of stipends, research, and/or professional development resources
- Suspension with pay
- Suspension without pay
- Termination*
- *Other Actions*: In addition to or in place of the above sanctions/responsive actions, Iowa Wesleyan University may assign any other responsive actions as deemed appropriate.

*This policy does not provide the authority to terminate a tenured faculty member due to the contractual rights that accompany a faculty member's tenured faculty appointment. Accordingly, if the outcome of an adjudication under this policy results in a sanction calling for separation/termination from the University, a recommendation will be made

from the Title IX Coordinator to the University Provost to pursue the separation/termination.

14. Withdrawal or Resignation While Charges Pending

a. Students:

Should a Respondent decide not to participate in the resolution process, the process proceeds absent their participation, to a reasonable resolution. Should a student Respondent permanently withdraw from the University, the resolution process ends with a dismissal as the University no longer has disciplinary jurisdiction over the withdrawn student.

However, Iowa Wesleyan University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged misconduct and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the University in any capacity. Admissions and Human Resources will be notified.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to Iowa Wesleyan University unless and until all sanctions, if any, have been satisfied.

b. Employees:

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends with dismissal as Iowa Wesleyan University no longer has disciplinary jurisdiction over the resigned employee.

However, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination and/or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for admission or rehire with Iowa Wesleyan University, and the records retained by the Title IX Coordinator will reflect that status.

All Iowa Wesleyan University responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

15. Appeals

Any party may file a request for appeal, but it must be submitted in writing to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

An Appellate Officer chosen from the Pool will be designated by the Title IX Coordinator. No appeal panelists will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appellate Officer for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

a. Grounds for Appeal

Appeals are limited to the following grounds:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) 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(s), or a Hearing Panel member had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appellate Officer and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appellate Officer will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Hearing Panel Chair.

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Hearing Panel Chair will be emailed the request for an appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. All

responses, if any, will be forwarded by the Appellate Officer to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appellate Officer and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Hearing Panel Chair, as necessary, who will submit their responses, if any, within five (5) business days, which will be circulated for review and comment by all parties. If not approved, the parties will be notified accordingly, in writing.

Neither party may submit any new requests for appeal after this time period. The Appellate Officer will collect any additional information needed and all documentation regarding the approved grounds for appeal, and the subsequent responses will be reviewed and the Appellate Officer will render a decision in no more than seven (7) business days, barring exigent circumstances. All decisions are final and apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which Iowa Wesleyan University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent Iowa Wesleyan University is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the parties' University-issued email or otherwise approved account. Once emailed and/or received in-person, notice will be presumptively delivered.

b. Sanctions Status during the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a show-cause meeting on the justification for doing so must be permitted within 48 hours of implementation.

Iowa Wesleyan University may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

c. Appeal Considerations

- Appeals are not intended to provide for a full re-hearing of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- An appeal is not an opportunity for the Appellate Officer to substitute their judgment for that of the original Hearing Panel merely because they disagree with the finding and/or sanction(s).
- The Appellate Officer may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Hearing Panel for reconsideration. The results of a remand may not be appealed. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.
- In rare cases where an error cannot be cured by original Hearing Panel members (as in cases of bias), the Appellate Officer may order a new investigation with new investigators and/or a new hearing with a new Hearing Panel..
- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

16. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the misconduct and/or retaliation, remedy the effects, and prevent reoccurrence. These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the Iowa Wesleyan University to the Respondent to ensure no effective denial of educational access.

Iowa Wesleyan University will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the University's ability to provide these services.

Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final decision of the case (including appeal).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University and may be

noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to satisfaction of the Title IX Coordinator.

Disabilities Accommodations in the Resolution Process

Iowa Wesleyan University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the University's resolution process.

Anyone needing such accommodations or support should contact the Director of Accessibility if a student, and the Director of Human Resources if an employee, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

Revision of this Policy and Procedures

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation for incidents occurring on or after August 14, 2020, under Title IX and will be reviewed and updated annually by the Title IX Coordinator. Iowa Wesleyan University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally. This Policy and procedures are effective August 14, 2020.

ATIXA 2020 ONE POLICY, TWO PROCEDURES MODEL
USE AND ADAPTATION OF THIS MODEL WITH CITATION TO ATIXA IS
PERMITTED
THROUGH A LIMITED LICENSE
TO IOWA WESLEYAN UNIVERSITY
ALL OTHER RIGHTS RESERVED.
©2020. ATIXA

17. Appendix A: Statement of Rights of the Parties

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment, discrimination and/or retaliation made in good faith to Iowa Wesleyan University.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information by Iowa Wesleyan regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released by Iowa Wesleyan to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by Iowa Wesleyan University officials.
- The right to have Iowa Wesleyan University policy and these procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by Iowa Wesleyan University officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by Iowa Wesleyan University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by the University in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by Campus Security and/or other University officials.
- The right to be informed of available supportive measures, such as counseling;

advocacy; health care; student financial aid support, visa and immigration assistance; and/or other services, both on campus and in the community.

- The right to a University-implemented no-contact order [or a no-trespass order against a non-affiliated third party] when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
 - Relocating an on-campus student's housing to a different on-campus location
 - Assistance from University staff in completing the relocation
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Transportation accommodations
 - Visa/immigration assistance
 - Arranging to dissolve a housing contract and provide a pro-rated refund
 - Exam, paper, and/or assignment rescheduling or adjustment
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Campus safety escorts
 - Alternative course completion options.
- The right to have the University maintain such actions for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair the University's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to have the Investigator(s), Advisors and/or Hearing Panel members to identify and question relevant available witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Hearing Panel with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
- The right to have inadmissible prior sexual predisposition/sexual history or irrelevant character evidence excluded by the Hearing Panel.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.

- The right to a fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of the final investigation report, including all factual, policy, and/or credibility analyses performed, and to have at least ten (10) business days to review and comment on the report prior to the hearing.
- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Hearing Panel members who have received relevant annual training.
- The right to a Hearing Panel that is not single-sex in its composition.
- The right to preservation of confidentiality/privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any Iowa Wesleyan University representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- Use of the preponderance of the evidence standard of evidence to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Hearing Panel following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process (if any) and a detailed rationale of the decision (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.

- The right to be informed in writing of when a decision by the University is considered final and any changes to the final determination or sanction(s) that occur post Notification of Outcome.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by Iowa Wesleyan University.
- The right to a fundamentally fair resolution as defined in these procedures.

18. Appendix B: Administrative or Informal Resolution Process For Alleged Violations (Process B)

APPENDIX B: ADMINISTRATIVE OR INFORMAL RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION (PROCESS B)

Iowa Wesleyan University will act on any formal or informal allegation or notice of violation of the Policy on Equal Opportunity, Harassment and Nondiscrimination that is received by the Title IX Coordinator, a designee, or a member of the administration, faculty, or other employee, with the exception of confidential resources.

The procedures described below apply to all allegations of harassment, discrimination and/or retaliation on the basis of protected class status involving students, staff, faculty members, or third parties, and does not include allegations of misconduct covered under the 2020 Title IX Regulations: sexual harassment (Quid Pro Quo and/or sexual harassment-hostile environment), sexual assault, dating violence, domestic violence, and/or stalking (which are addressed through Process A).

- Process B is applicable when the Title IX Coordinator determines Process A is inapplicable, or offenses subject to Process A have been dismissed.
- If Process A is applicable, Process A must be applied in lieu of Process B.
- Iowa Wesleyan University may substitute any alternative process instead of Process B, if desired.
- These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another).
- All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

Initial Assessment

Following intake, receipt of notice, or a complaint of an alleged violation of the Policy on Equal Opportunity, Harassment and Nondiscrimination, which does not fall under the jurisdiction of the 2020 Title IX regulations, the Title IX Coordinator, Director of Human Resources, Director of Student Conduct, or any other Official With Authority (identified as Conduct Official throughout the remainder of Appendix B) engages in an initial

assessment, which is typically one (1) to five (5) business days in duration. The steps in an initial assessment can include:

- The Conduct Official reaches out to the Complainant to offer supportive measures.
- The Conduct Official may work with the Complainant to ensure they have an Advisor.
- The Conduct Official works with the Complainant to determine which option to pursue: a supportive response, an Informal Resolution or Administrative Resolution.
 - If a supportive response is preferred, the Conduct Official works with the Complainant to identify their wishes and then seeks to facilitate implementation. An Administrative Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.
 - If an Informal Resolution option is selected, the Conduct Official assesses whether the complaint is suitable for Informal Resolution and may seek to determine if the Respondent is also willing to engage in Informal Resolution. Informal resolution is not an option when the Respondent is an employee and the Complainant is a student.
 - If Administrative Resolution is selected, the Conduct Official initiates the investigation process and determines whether the scope of the investigation will address:
 - Incident, and/or
 - A potential pattern of misconduct, and/or
 - A culture/climate issue.
- In some cases, the Conduct Official may determine that a Violence Risk Assessment should be conducted as part of the initial assessment. A Violence Risk Assessment can aid in ten critical and/or required determinations, including:
 - Interim suspension of a Respondent who is a threat to health/safety;
 - Whether the Conduct Official should pursue Administrative Resolution absent a willing/able Complainant;
 - Whether to put the investigation on the footing of incident and/or pattern and/or climate;
 - Whether a complaint is amenable to Informal Resolution;
 - Whether to permit a voluntary withdrawal by the Respondent;
 - Whether to impose transcript notation or communicate with a transfer institution about a Respondent;
 - Assessment of appropriate sanctions/remedies;
 - Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.

A Violence Risk Assessment assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology. This Assessment occurs

in collaboration with the CARE (Campus Assistance, Response and Education) Team and must be understood as an on-going process, rather than a singular evaluation or meeting. A Violence Risk Assessment is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment.

Based on the initial assessment, the University will initiate one of these responses:

- Supportive Response: measures to help restore the Complainant's education access, as described in the policy.
- Informal Resolution: typically used for less serious offenses and only when all parties agree to Informal Resolution, or when the Respondent is willing to accept responsibility for violating policy. This can also include a remedies-only response.
- Administrative Resolution: investigation of policy violation(s) and recommended finding, subject to a determination by the Conduct Official and the opportunity to appeal.

The investigation and the subsequent Administrative Resolution determine whether the Nondiscrimination Policy has been violated. If so, the University will promptly implement effective remedies designed to end the discrimination, prevent recurrence, and address the effects.

The process followed considers the preference of the parties, but is ultimately determined at the discretion of the Conduct Official. At any point during the initial assessment or formal investigation, if the Conduct Official determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified.

The Complainant may request that the Conduct Official review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Conduct Official, but the request is usually only granted in extraordinary circumstances.

Resolution Process Pool

The resolution processes relies on a pool of officials for implementation. Members of the Pool may be the same as those listed for the Policy above. For allegations against employees, the Pool may include members of the Committee on Professional Grievances and Complaints.

When Administrative Resolution leads to a hearing, members of the Pool are trained in aspects of the resolution process, including a review of these policies and procedures, and can serve in any of the following roles, at the direction of the Conduct Official:

- To provide sensitive intake for and initial advice pertaining to the allegations
- To act as optional process Advisors to the parties
- To facilitate Informal Resolution
- To investigate allegations
- To serve as a Decision-maker
- To serve as an Appellate Officer

Counterclaims

Counterclaims by the Respondent may be made in good faith or may instead be motivated by a retaliatory intent. Iowa Wesleyan University is obligated to ensure that any process is not abused for retaliatory purposes.

The University permits the filing of counterclaims, but uses the initial assessment, described above in the Policy section, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after resolution of the underlying allegation. Counterclaims made with retaliatory intent will not be permitted.

A delay in the processing of counterclaims is permitted, accordingly. Occasionally, allegations and counterclaims can be resolved through the same investigation, at the discretion of the Conduct Official. When counterclaims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this Policy.

Optional Advisors to Complainants or Respondents

a. Expectations of an Advisor

Iowa Wesleyan University generally expects an Advisor to adjust their schedule to allow them to attend meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay in addressing the allegation.

The University may also make reasonable provisions to allow an Advisor who cannot attend meetings in person to attend by telephone, video conferencing, or other similar technologies as may be convenient and available.

Parties whose Advisors are disruptive or who do not abide by University policies and procedures may face the loss of that Advisor and/or possible Policy violations.

Advisors are expected to consult with their advisees without disrupting meetings or interviews. Advisors do not represent parties in the process; their role is only to advise.

b. Expectations of the Parties with Respect to Advisors

If advisors are allowed, each party may choose an Advisor who is eligible and available to accompany them throughout the process. The Advisor can be anyone but should not be someone who is also a witness in the process. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

Parties are expected to inform the conduct official, or investigator in case of a grievance hearing, of the identity of their Advisor at least two (2) business days before the date of their first meeting (or as soon as possible if a more expeditious meeting is necessary or desired). The parties are expected to provide timely notice if they change Advisors at any time.

If a grievance hearing is held, upon written request of a party, the University will copy the Advisor on all communications between the University and the party. The Advisor may be asked to sign a non-disclosure agreement (NDA) regarding private, sensitive records.

Resolution Options

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with University Policy.

While there is an expectation of privacy around what is discussed during interviews, the parties have discretion to share their own experiences with others if they so choose, but are encouraged to discuss with their Advisors first before doing so.

a. Informal Resolution

Informal Resolution is applicable when the parties voluntarily agree to resolve the matter through Alternative Resolution or when the Respondent accepts responsibility for violating Policy, or when the Conduct Official can resolve the matter informally by providing remedies to resolve the situation.

It is not necessary to pursue Informal Resolution first in order to pursue Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Administrative Resolution process. Further, if an Informal

Resolution fails after the resolution is finalized, Administrative Resolution may be pursued.

i. Alternative Resolution

Alternative Resolution is an informal process by which the parties mutually agree to resolve an allegation. It may be used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Administrative Resolution process (described below) to resolve conflicts. The parties must consent to the use of Alternative Resolution.

The Conduct Official determines if Alternative Resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to Alternative Resolution.

In an Alternative Resolution meeting, a Pool member facilitates a dialogue with the parties to an effective resolution, if possible. Institutionally-imposed sanctions are not possible as the result of an Alternative Resolution process, though the parties may agree to accept sanctions and/or appropriate remedies.

The Conduct Official maintains records of any resolution that is reached, and failure to abide by the resolution can result in appropriate enforcement actions.

Alternative Resolution is not typically the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the Administrative Resolution process is completed should the parties and the Conduct Official believe it could be beneficial. The results of Alternative Resolution are not appealable.

ii. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent accepts responsibility, the Conduct Official makes a determination that the individual is in violation of University Policy.

The Conduct Official then determines appropriate sanction(s) or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all of the alleged policy violations and appropriate sanction(s) or responsive actions have been determined and are promptly implemented, the process is over. The Complainant will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the Conduct Official has determined appropriate sanction(s) or responsive actions, which are promptly implemented, for those violations, then the remaining allegations will continue to be investigated and resolved through Administrative Resolution. The parties will be informed of this outcome. The parties are still able to seek Alternative Resolution on the remaining allegations, subject to the stipulations above.

iii. Administrative Resolution via an Investigation and Hearing

Administrative Resolution can be pursued for any behavior for which the Respondent has not accepted responsibility that constitutes conduct covered by the Equal Opportunity, Harassment, and Nondiscrimination Policy, yet does not fall under 2020 Title IX Regulations jurisdiction, at any time during the process. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the Conduct Official will provide written notification of the investigation to the parties at an appropriate time during the investigation. Typically, notice is given at least 48 hours in advance of an interview. Advanced notice may facilitate the parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Notification will include a meaningful summary of the allegations, will be made in writing, and may be delivered by one or more of the following methods: in person or emailed to the parties' Iowa Wesleyan University-issued or designated email account.

Once emailed and/or received in-person, notice will be presumptively delivered. The notification should include the policies allegedly violated, if known at the time. Alternatively, the policies allegedly violated can be provided at a later date, in writing, as the investigation progresses, and details become clearer.

Iowa Wesleyan University aims to complete all investigations within a sixty (60) business day time period, which can be extended as necessary for appropriate cause by the Conduct Official, with notice to the parties as appropriate.

Once the decision is made to commence an investigation, the Conduct Official appoints a Pool member(s) to conduct the investigation, typically within two (2)

business days of determining that an investigation should proceed.

The Conduct Official will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no conflicts of interest or disqualifying bias.

The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Conduct Official will determine whether the concern is reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the bias or conflict relates to the Conduct Official, concerns should be raised with University President.

Investigations are completed expeditiously, normally within 20 business days, though some investigations take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

Iowa Wesleyan University will make a good faith effort to complete the investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

The University may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges based on the same behaviors that invoke the University's resolution process are being investigated by law enforcement. The University will promptly resume its investigation and resolution process once notified by law enforcement that the initial evidence collection process is complete.

University action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence, on the record.

Investigation

The Investigators typically take the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Conduct Official and Pool members), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct
- Assist the Conduct Official with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated policy
- If there is insufficient evidence to support reasonable cause, the process is closed with no further action
- Commence a thorough, reliable, and impartial investigation by gathering a witness list, evidence list and order of interviews for all parties and witnesses
- Meet with the Complainant to finalize their statement, if necessary
- Prepare an initial Notice of Investigation and Allegation (NOIA) on the basis of the initial assessment. Notice may be one step or multiple steps, depending on how the investigation unfolds, and potential policy violations may be added or dropped as more is learned. Investigators will update the NOIA accordingly and provide it to the parties.
- Notice should inform the parties of their right to have the assistance of a Pool member as a process Advisor appointed by University or an Advisor of their choosing present for all meetings attended by the advisee
- When formal notice is being given, it should provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result
- Give an instruction to the parties to preserve any evidence that is directly related to the allegations
- Provide the parties and witnesses with an opportunity to review and verify the Investigator's summary notes from interviews and meetings with that specific party or witness
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- Interview all relevant individuals and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest questions they wish the Investigator(s) to ask of the other party and witnesses
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, summarize for the parties the list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation and

all evidence

- Provide the parties with a copy of the draft investigation report when it is completed, including all relevant evidence, analysis, credibility assessments, and recommended finding(s)
- Provide each party with a full and fair opportunity to respond to the report in writing within seven (7) business days and incorporate that response, if any, into the report
- Investigators may choose to respond in writing in the report to the responses of the parties, and/or to share the responses between the parties for their responses, while also ensuring that they do not create a never-ending feedback loop
- Write a formal investigation report of gathered, assessed, and synthesized evidence
- Provide the final report to the Conduct Official. Recommend a finding, based on the evidentiary standard as mandated by the Respondent's status as a faculty member, staff member or student (whether a policy violation is more likely than not).

Determination

Within two (2) to three (3) business days of receiving the Investigator's recommendation, the Conduct Official reviews the report and all responses, and then makes the final determination on the basis of the evidentiary standard as mandated by the Respondent's status as a faculty member, staff member or student.

If the record is incomplete, a re-opening of the investigation may occur, or the Conduct Official may direct or conduct any additional inquiry necessary, including informally meeting with the parties or any witnesses, if needed.

The recommendation of the investigation, if any, should be strongly considered but is not binding on the Conduct Official, who may invite and consider impact statements from the parties if and when determining appropriate sanction(s), if any.

The Conduct Official then timely provides the parties with a written Notice of Outcome to include findings, any sanction(s), and a detailed rationale, delivered simultaneously (without undue delay) to the parties

Additional Details of the Investigation Process

a. Witness responsibilities

Witnesses (as distinguished from the parties) who are faculty or staff of Iowa Wesleyan

University are expected to cooperate with and participate in the University's investigation and resolution process. Failure of a witness to cooperate with and/or participate in the investigation or resolution process constitutes a violation of Policy and may be subject to discipline.

b. Remote processes

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Conduct Official determine that timeliness, efficiency or other causes dictate a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, or respond to questions in writing, if deemed appropriate by the Investigator(s), though this approach is not ideal. When remote technologies are used, the University makes reasonable efforts to ensure privacy, and ensures that any technology does not work to the detriment of any party or subject them to unfairness.

c. Recording

No unauthorized audio or video recording of any kind is permitted during the resolution process, including investigative interviews. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of and consent to audio and/or video recording.

d. Evidence

Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct, subject to the limitations in (e) below. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

*

+e. Sexual history/patterns+*

Unless the Title IX Coordinator only determines it is appropriate, the investigation and the finding do not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern; (2) the irrelevant sexual history of the parties (though there may be a limited exception made with regard to the sexual history between the parties); or (3) irrelevant character evidence.

f. Previous allegations/violations

While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation, the Investigator(s) may supply the Conduct Official with information about previous good faith allegations and/or findings, when that information suggests potential pattern and/or predatory conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanction(s), if the University uses a progressive discipline system

Character witnesses or evidence may be offered. The investigation and potential hearing will determine if the character evidence is relevant. If so, it may be considered. If not, it will be excluded.

g. Notification of outcome

If the Respondent admits to the violation(s), or is found in violation, the Conduct Official (in consultation with other administrators, as appropriate) determines sanction(s) and/or responsive actions, which are promptly implemented in order to effectively to stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

The Conduct Official informs the parties of the determination within three (3) business days of the resolution, ideally simultaneously, but without significant time delay between notifications. Notifications are made in writing and may be delivered by one or more of the following methods: in person or emailed to the parties' University-issued or designated email account. Once emailed and/or received in-person, notice is presumptively delivered.

The Notification of Outcome specifies the finding for each alleged policy violation, any sanction(s) that may result which the University is permitted to share pursuant to state or federal law, and the rationale supporting the findings to the extent the University is permitted to share under state or federal law.

The notice will detail when the determination is considered final (see the section on Appeals below) and will detail any changes that are made prior to finalization.

Unless based on an acceptance of violation by the Respondent, the determination may be appealed by either party. The Notification of Outcome also includes the grounds on which the parties may appeal and the steps the parties may take to request an appeal of the findings. More information about the appeal procedures can be found below.

Sanctions

Factors considered when determining any sanction(s)/responsive action(s) may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Conduct Official

The sanction(s) will be implemented as soon as is feasible. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by outside authorities.

a. Student Sanctions

The following are the sanctions that may be imposed upon students or student organizations singly or in combination:

- **Warning:** A formal statement that the behavior was unacceptable and a warning that further infractions of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Probation:** A written reprimand for violation of the University Policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any University policy, procedure or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at Iowa Wesleyan University.
- **Expulsion:** Permanent termination of student status, revocation of rights to be on campus for any reason or attend Iowa Wesleyan University-sponsored events. This sanction will be noted as a Conduct Expulsion on the student's official transcript.
- **Withholding Diploma and/or Official Transcripts:** The University may withhold a

student's diploma and/or official transcripts for a specified period of time, and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.

- **Organizational Sanctions:** Deactivation, loss of recognition, loss of some or all privileges (including Iowa Wesleyan University registration), for a specified period of time.
- **Other Actions:** In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

b. Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- Warning – Verbal or Written
- Performance Improvement/Management Process
- Required Counseling
- Required Training or Education
- Probation
- Loss of Annual Pay Increase
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension with pay
- Suspension without pay
- Termination*
- Other Actions: In addition to or in place of the above sanctions/responsive actions, Iowa Wesleyan University may assign any other responsive actions as deemed appropriate.

*This policy does not provide the authority to terminate a tenured faculty member due to the contractual rights that accompany a faculty member's tenured faculty appointment. Accordingly, if the outcome of an adjudication under this policy results in a sanction calling for separation/termination from the University, a recommendation will be made from the Title IX Coordinator to the University Provost to pursue the separation/termination.

Withdrawal or Resignation While Charges are Pending

*+a. Students:+ *

Iowa Wesleyan University does not permit a student to withdraw if that student has an allegation pending for violation of the policy on Equal Opportunity, Harassment, and

Nondiscrimination. The University may place a hold, bar access to an official transcript, and/or prohibit graduation as necessary to permit the resolution process to be completed.

b. Employees:

Should an employee resign with unresolved allegations pending, the records of the Conduct Official will reflect that status, and any Iowa Wesleyan University responses to future inquiries regarding employment references for that individual will include the former employee's unresolved status.

Appeals

All requests for appeal consideration must be submitted in writing to the Conduct Official within five (5) business days of the delivery of the written finding of the Conduct Official. Any party may appeal the findings only under the grounds described below.

An Appellate Officer chosen from the Pool will be designated by the Conduct Official from those who have not been involved in the process previously. Any party may appeal, but appeals are limited to the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures, [failure to correctly apply the evidentiary standard as mandated by the Respondent's status as a faculty member, staff member or student]).
- To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in the appeal.
- The sanctions imposed fall outside the range of sanctions the Iowa Wesleyan University has designated for this offense and the cumulative record of the Respondent.

When any party requests an appeal, the Conduct Official will share the appeal request with the other party(ies) or other appropriate persons such as the Investigator(s), who may file a response within three (3) business days. The other party may also bring their own appeal on separate grounds.

If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within five (5) business days. These responses or appeal requests will be shared with each party. The Appellate Officer will review the appeal request(s) within three (3) business days of completing the pre-appeal exchange

of materials. If grounds are not sufficient for an appeal, or the appeal is not timely, the Appellate Officer dismisses the appeal.

When the Appellate Officer finds that at least one of the grounds is met by at least one party, additional principles governing the review of appeals include the following:

- Decisions by the Appellate Officer are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is compelling justification to do so.
- Appeals are not intended to be full re-hearings of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the investigation and pertinent documentation regarding the grounds for appeal.
- An appeal is not an opportunity for the Appellate Officer to substitute their judgment for that of the original Investigator(s) or Conduct Official merely because they disagree with the finding and/or sanction(s).
- Appeals granted based on new evidence should normally be remanded to the Investigator(s) for reconsideration. Other appeals should be remanded at the discretion of the Appellate Officer.
- Sanctions imposed as the result of the Administrative Resolution are implemented immediately unless the Conduct Official stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
 - For students: Graduation, study abroad, internships, etc., do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- All parties will be informed in writing within three (3) business days of the outcome of the appeal without significant time delay between notifications, and in accordance with the standards for Notice of Outcome as defined above.
- When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above, and in accordance with these procedures.
- In rare cases when a procedural [or substantive] error cannot be cured by the original Investigator(s) and/or Conduct Official (as in cases of bias), the Appellate Officer may recommend a new investigation and/or Administrative Resolution process, including a new resolution administrator.
- In cases in which the appeal results in Respondent's reinstatement to Iowa Wesleyan University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable.

Long-Term Remedies/Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Conduct Official may implement long-term remedies or actions with

respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Conduct Official, long-term remedies may also be provided to the Complainant even if no policy violation is found.

When no policy violation is found, the Conduct Official will address any remedial requirements owed by Iowa Wesleyan University to the Respondent.

Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/ Responsive Actions

All Respondents are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified by the Conduct Official.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s) and responsive/corrective action(s), including suspension, expulsion, and/or termination from Iowa Wesleyan University and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Conduct Official.

Recordkeeping

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept indefinitely, or as required by state or federal law or institutional

policy, by the Title IX Coordinator in the Title IX case database or Conduct Official in a similar conduct database.

See Appendix A for a Statement of the Rights of the Parties

Disabilities Accommodation in the Resolution Process

Iowa Wesleyan University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the resolution process at Iowa Wesleyan University. Students needing such accommodations or support should contact the Director of Accessibility and employees should contact the Director of Human Resources, who will review the request and, in consultation with the person requesting the accommodation, and the Conduct Official, determine which accommodations are appropriate and necessary for full participation in the process.

Revision

These policies and procedures will be reviewed and updated annually by Iowa Wesleyan University. The University reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect.

Iowa Wesleyan University may make minor modifications to these procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

The University may also vary procedures materially with notice (on the University website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure.

Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred.

Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy.

If government regulations change in a way that impacts this document, this document

will be construed to comply with the most recent government regulations.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This policy and procedure was implemented in August, 2020.