

Shenandoah University Procedures for Sexual Misconduct

Procedures for Sexual Misconduct Policy Violations	2
Overview	2
Reporting Misconduct	3
Preliminary Inquiry	3
Interim Remedies/Actions	4
Investigation	5
Conflict Resolution	9
Informal Resolution: Resolution without a Hearing Panel	9
Formal Resolution: Resolution with a Hearing Panel	11
A. Formal Resolution Process for Reports of Misconduct by Employees	11
B. Formal Resolution Process for Reports of Misconduct by Students	13
Additional Provisions for Formal Resolution Process	14
A. Closed Hearing Process and Confidentiality	14
B. Pre-hearing Meetings	14
C. Notification of Outcomes	14
D. Testimony during the Hearing and Alternative Testimony Options	15
E. Hearing Procedure	15
F. Past Sexual History/Character	16
G. Witness Participation in a Hearing	16
H. Admission of Responsibility	16
Sanctions	17
List of Sanctions For Employees if Found Responsible	17
List of Sanctions For Students if Found Responsible	17
Requesting an Appeal	19
Personnel Training	21
Conflicts of Interest and Bias	21
Record Keeping	22
A. Statement of the Reporting Party's Rights	22
B. Statement of the Responding Party's Rights	24
Annual Policy Review and Revisions	25

Procedures for Sexual Misconduct Policy Violations

Shenandoah University's Procedures for Dealing with an Alleged Violation of its Sexual Harassment, Discrimination, and Misconduct Policy Shenandoah University (the "University") will act on any formal or informal allegation or notice of violation of its Sexual Harassment, Discrimination, and Misconduct Policy (the "Policy") that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee. Any person may report a violation of the Policy, including faculty, students, staff, administration, guests, visitors, etc.

The procedures described below apply to all allegations of sexual misconduct, including without limitation, harassment or discrimination on the basis of sex involving students, staff or faculty members, or administration. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g.: vandalism, physical abuse of another, etc.). 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 catalogs and/or handbooks.

Reporting Party: In this process, the person alleging a violation of the Policy is referred to as the reporting party.

Responding Party: In this process, the person who is alleged to have violated the Policy is referred to as the responding party.

Business days: In this process, the University defines the word business days to mean when the school is open Monday through Friday 9am-5pm. The University is not open for business on days it is closed for holidays or as a result of weather.

Overview

Upon notice to the Title IX Coordinator, the University's resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the Policy has been violated. If so, Shenandoah University will initiate a confidential investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determines whether the Policy has been violated. If so, Shenandoah University will promptly implement effective remedies designed to end the harassment, discrimination, or sexual misconduct, prevent its recurrence and address its effects.

Reporting Misconduct

Any member of the community, guest or visitor who believes that the Policy has been violated should contact the Title IX Coordinator. It is also possible for employees to notify a supervisor, or for students to notify an administrative advisor or faculty member. Any member of the community, including visitors, may contact the Department of Public Safety to make a report. These individuals will in turn notify the Title IX Coordinator. The University website also includes a reporting form at

https://cm.maxient.com/reportingform.php?ShenandoahUniv&layout_id=1

which may serve to initiate the resolution process.

All employees receiving reports of a potential violation of the Policy are expected to promptly contact the Title IX Coordinator, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with the level of privacy permitted under the law: specific information on any allegations received by any party will be reported to the Title IX Coordinator, but, subject to Shenandoah University's obligation to redress violations, every effort will be made to maintain the privacy of those initiating an allegation. In all cases, Shenandoah University will give consideration to the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

Preliminary Inquiry

Following receipt of notice or a report of harassment, discrimination, or sexual misconduct, the Title IX Coordinator or designee engages in a preliminary inquiry to determine if there is reasonable cause to believe the Policy has been violated. The preliminary inquiry is typically 1-3 days in duration, however it may take longer if there are extenuating circumstances. This inquiry may also serve to help the Title IX Coordinator or designee to determine if the allegations evidence violence, threat, pattern, predation and/or weapon, in the event that the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapon is not evidenced, the Title IX Coordinator or designee may respect a reporting party's request for no action, and will investigate only so far as necessary to determine appropriate remedies. As necessary, Shenandoah University reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party. In cases where the reporting party wishes to proceed or the University determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the allegation will be resolved through one of three processes discussed briefly here and in greater detail below:

- Conflict Resolution – typically used for less serious offenses and only when both parties agree
- Informal Resolution – a resolution without a hearing panel, or
- Formal Resolution – a resolution of contested allegations with a hearing Panel.

The process followed considers the preference of the parties, but is ultimately determined at the discretion of the Title IX Coordinator or designee. Conflict Resolution may only occur if selected by all parties. The parties may elect for Informal Resolution, but Informal Resolution may also apply if the responding party accepts responsibility for all alleged violations of the Policy. If either party or both parties select Formal Resolution, or the Title IX Coordinator or designee determines that Formal Resolution is appropriate, the allegation will be addressed using the Formal Resolution process.

If Conflict Resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the University community or any of its members.

Once an official investigation is commenced, the Title IX Coordinator or designee will provide written notification of the investigation to the parties at the appropriate time. The university will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeals, which may be extended with appropriate cause by the Title IX Coordinator, with notice to the parties as appropriate. If, during the preliminary inquiry or at any point during the official investigation, the Title IX Coordinator or designee determines that there is no reasonable cause to believe that the Policy has been violated, the process will end unless the reporting party requests that the Title IX Coordinator or designee make an extraordinary determination to reopen the investigation or to forward the matter for a hearing. The Title IX Coordinator or designee may grant or deny the request in his or her sole discretion.

Interim Remedies/Actions

The Title IX Coordinator or designee may provide interim remedies intended to address the short-term effects of sexual misconduct, including harassment, discrimination and/or retaliation, i.e., to redress potential harm to the reporting party and the community and to prevent further violations. These remedies may include, but are not limited to:

- Referral to counseling and health services;

- Referral to the Employee Assistance Program;
- Education to the community;
- Altering the housing situation of a responding party (resident student or resident employee (or the reporting party, if desired));
- Altering work arrangements for employees;
- Providing campus escorts;
- Providing transportation accommodations;
- Implementing contact limitations between the parties;
- Offering adjustments to academic deadlines, course schedules, etc.;
- Assistance with or rescheduling an academic assignment (paper, exams, etc.) or otherwise implementing academic assistance;
- Taking an incomplete in a class;
- Assistance with transferring class sections;
- Temporary withdrawal; and/or
- Assistance with alternative course completion options.

Shenandoah University may interim suspend a student, employee or organization pending the completion of an investigation, particularly when in the judgment of the Title IX Coordinator or designee the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. The Title IX Coordinator or designee may also place an employee on administrative leave. In all cases in which an interim suspension or administrative leave sanction is imposed, the student, employee or student organization will be given the option to meet with the Title IX Coordinator or designee prior to such suspension or administrative leave being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension or administrative leave should not be implemented. The Title IX Coordinator or designee has sole discretion to implement or stay an interim suspension or administrative leave and to determine its conditions and duration. Violation of an interim suspension or administrative leave under this Policy will be grounds for expulsion or termination. During an interim suspension or administrative leave, a student or employee may be denied access to University housing and/or the University campus/facilities/events. As determined by the Title IX Coordinator or designee, this restriction may include classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Title IX Coordinator or designee, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party. The University will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the University's ability to provide the interim actions or protective measures.

Investigation

Once the decision is made to commence an official investigation, the Title IX Coordinator or designee, conducts the investigation, usually within two (2) days of determining that an investigation should proceed. Investigations are completed expeditiously, normally within ten (10) 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. Shenandoah University may undertake a short delay its investigation (several days to weeks, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The University will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. University action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.

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

- Ensure the safety and security of the reporting party and/or the victim if the victim is not the reporting party;
- Ensure the reporting party and/or victim has access to campus;
- Provide resources such as the [Not] Just Women's Center, on campus counseling services, and the The Laurel Center;
- In coordination with campus partners, initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all aspects of the Policy and/or other University policies allegedly violated;
- Begin an immediate preliminary inquiry to determine if there is reasonable cause to believe the responding party has violated the Policy;
 - If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action
- Meet with the reporting party to finalize his or her statement;
- Prepare the notice of investigation on the basis of the preliminary inquiry;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- If possible, provide written notification to the parties prior to their interviews that they may have the assistance of an advocate of their choosing present for all meetings attended by the advisee;
- Provide the parties with a written description of the alleged violation(s), a list of all aspects of

- the Policy or other University policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;
- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;
 - Allow each party the opportunity to suggest questions they wish the investigator(s) to ask of the other party and witnesses;
 - Provide the parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered;
 - Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
 - Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;
 - Once the investigative report is complete, the report is shared with the parties for their review and comment. The investigators may incorporate feedback from the parties as appropriate;
 - Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
 - The Title IX Coordinator or designee will finalize and present the findings to the responding party, who may accept the findings, accept the findings in part and reject them in part, or may reject all findings; and
 - Share the findings and update the reporting party on the status of the investigation and responding party's decision on the finding, without undue delay.

At any point during the investigation, if it is determined there is no reasonable cause to believe that the Policy has been violated, the Title IX Coordinator or designee has authority to terminate the investigation and end resolution proceedings.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the University's investigation and the resolution process. Any witness who declines to participate in or cooperate with an investigation will not be permitted to offer evidence or testimony later in a hearing (if a hearing is held). Failure of a witness to cooperate with and/or participate in the investigation or resolution process constitutes a violation of Policy and may subject the witness to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation will not have the opportunity to offer evidence during the hearing and/or appeal stages of the process if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence. No unauthorized audio or video recording of any kind is permitted during investigation meetings or other resolution process proceedings.

Participation of Advocates in the Resolution Process All parties are entitled to an advocate of their choosing to guide and accompany them throughout the Policy resolution process. The advocate may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is both eligible and available. People who will be called as witnesses may not serve as advocate. The parties are entitled to be accompanied by their advocate in all meetings and interviews at which the party is entitled to be present, including intake, interviews, hearings and appeals. Advocates should help their party prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The University cannot guarantee equal advocate rights, meaning that if one party selects an advocate who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide one.

Additionally, responding parties may wish to contact organizations such as:

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

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or the
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victims' Bar Association.

All advocates are subject to the same University rules, whether they are attorneys or not. Advocates may not present on behalf of their party in a meeting, interview or hearing and should request or wait for a break in the proceeding if they wish to interact with University officials. Advocates may confer quietly with their party as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advocates should ask for breaks or step out of meetings to allow for private conversation. Advocates will typically be given a timely opportunity to meet in advance of any interview or hearing with the administrative officials conducting the interview or meeting. This pre-meeting will allow advocates to clarify any questions they may have, and allows the University an opportunity to clarify the role the advocate is expected to take. Advocates are expected to refrain from interference with the University investigation and resolution process. Any advocate who steps out of their role in any meeting under the University resolution process will be warned once and only once. If the advocate continues to disrupt or otherwise fails to respect the limits of the advocate role, the advocate will be asked to leave the meeting. When an advocate is removed from a meeting, it will be in the discretion of the Title IX Coordinator or designee if that meeting will continue without the advocate present. Subsequently, the Title IX Coordinator or designee will determine whether the advocate may be reinstated, may be replaced by a different advocate, or whether the party will forfeit the right to an advocate for the remainder of the process. The University expects that the parties will wish the University to share documentation related to the allegations with their advocate. The University provides a consent form that authorizes such sharing. The

parties must complete this form before the University is able to share records with an advocate. The parties are not otherwise restricted from discussing and sharing information relating to allegations with others who may support them or assist them in preparing and presenting. Advocates are expected to maintain the privacy of the records shared with them by the University. These records may not be shared with 3rd parties, disclosed publicly, or used for purposes not explicitly authorized by the University . The University may seek to restrict the role of any advocate who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations. The University expects advocates to adjust their schedule to allow them to attend University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an advocate's inability to attend. The University will however make provisions to allow an advocate who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available. A party may elect to change advocates during the process, and is not locked into using the same advocate throughout. The parties must advise the investigators of the identity of their advocate at least two (2) business days before the date of their first meeting with the Title IX Coordinator or designee. The parties must provide subsequent timely notice to the investigators if they change advocates at any time. No audio or video recording of any kind other than as required by institutional procedure is permitted during meetings with campus officials. Conflict Resolution and Informal Resolution

Proceedings are private. All persons present at any time during the hearing are expected to maintain the privacy of the proceedings in accordance with the Policy. While the contents of the hearing are private; the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advocates.

Conflict Resolution

Conflict Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Informal or Formal Resolution processes to resolve conflicts. The Title IX Coordinator or designee will determine if Conflict Resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to Conflict Resolution. In a Conflict Resolution meeting, the Title IX Coordinator or designee will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a Conflict Resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the accord may result in appropriate responsive actions. Conflict Resolution will not be a resolution process available 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 formal process is completed should the parties and the Title IX Coordinator or designee believe that it could be beneficial. Conflict Resolution will not be used in cases of sexual violence. It is not necessary to pursue Conflict Resolution first in order to

pursue Informal or Formal Resolution, and either party participating in Conflict Resolution may stop that process at any time and request a shift to either Informal or Formal Resolution.

Informal Resolution: Resolution without a Hearing Panel

Informal Resolution may be pursued for any behavior that falls within the Policy, at any time during the process.

This option may be used when:

- A responding party admits responsibility for all or part of the alleged Policy violations at any point in the process;
- When the investigation reaches a finding that both parties accept;
- When both parties elect to resolve the allegation using the Informal Resolution process and the Title IX Coordinator or designee assents.

In Informal Resolution, the Title IX Coordinator or designee has the authority to address all collateral misconduct, meaning that they hear all allegations of discrimination, harassment, sexual misconduct, and retaliation, but also may address any additional alleged University policy violations that have occurred in concert with the discrimination, harassment, sexual misconduct, or retaliation, even though those collateral allegations may not specifically fall within the Policy. The university will obtain voluntary, written confirmation that the reporting and responding parties wish to resolve the matter through informal resolution.

Accordingly, investigations should be conducted with as wide a scope as the Title IX Coordinator or designee deem necessary. Any evidence that the Title IX Coordinator or designee believes is relevant and credible may be considered, including history and pattern evidence. The investigator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial. Unless the Title IX Coordinator or designee determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), or (3) the character of the reporting party.

While previous conduct violations by the responding party are not generally admissible as evidence relevant to the present allegation, the investigators may consider information about previous good faith allegations and/or findings as evidence of pattern and/or predatory conduct. The Title IX Coordinator or designee will not meet with character witnesses, but will accept up to two (2) letters supporting the character of each of the parties. The Title IX Coordinator or designee will base the determination(s) on the preponderance of the evidence, whether it is

more likely than not that the responding party violated the Policy as alleged. Typically, within ten (10) days of the close of an investigation which determines that a responding party is in violation of the Policy, the Title IX Coordinator or designee will meet with the responding party to explain the finding(s) of the investigation. Once informed, the responding party may choose to admit responsibility for all or part of the alleged Policy violations. If the responding party admits responsibility, in whole or in part, the Title IX Coordinator or designee will render a determination that the individual is in violation of the Policy for the admitted conduct, and will then proceed to convene a formal hearing on any remaining disputed violations.

If the responding party admits to the violation(s), the Title IX Coordinator or designee will determine an appropriate sanction or responsive action. If the sanction/responsive action is accepted by both the reporting party and responding party, the Title IX Coordinator or designee will implement the finding and sanction, and act promptly and effectively to stop the harassment, discrimination, or sexual misconduct, prevent its recurrence and remedy the effects of the misconduct. No appeal is permitted. If either party rejects the sanction/responsive action, a formal hearing will be held on the sanction/responsive action only, according to the Formal Resolution procedures below.

If alleged misconduct is resolved at this stage, the Title IX Coordinator or designee will inform the parties of the final determination, typically within three (3) days of the resolution, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University-issued email accounts. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged Policy violation, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. The notice will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization, and any appeals options that are available.

At any point during the Informal Resolution process, including at its conclusion, either party may request that the matter be referred to the Formal Resolution process.

Formal Resolution: Resolution with a Hearing Panel

For all contested allegations that are not resolved through either Conflict Resolution or Informal Resolution, or if either party requests a Formal Resolution process, the Title IX Coordinator or designee will initiate a formal hearing panel within ten (10) days of the conclusion of the investigation, barring unusual circumstances.

A. Formal Resolution Process for Reports of Misconduct by Employees

The Office of Human Resources is designated to formally investigate reports of discrimination, harassment, or sexual misconduct by employees, to address inquiries and coordinate the University's compliance efforts regarding employee-related reports. In particular, when a responding party is an employee, the Office of Human Resources Deputy Title IX Coordinator will handle the Complaint. Any member of the community may provide notice of discrimination, harassment, or sexual misconduct in person, by phone, via email or in writing to Chris Grant, Deputy Title IX Coordinator for Human Resources. His office is located in the Wilkins Building, Room 139. He can be reached by phone at 540-665-5597 and by email at cgrant2@su.edu. The University strongly encourages submission of written reports of discrimination, harassment, or sexual misconduct to Human Resources.

The following are recommended elements of a report:

- Clear and concise description of the alleged incident(s) (e.g.: when and where it occurred);
- Any supporting documentation and evidence;
- Clear demonstration of all informal efforts, if any, to resolve the issue(s) with the person involved and the person's supervisor;
 - This includes names, dates and times of attempted or actual contact along with a description of the discussion and the manner of communication made in the course of each effort;
 - If contacting the person involved and/or the supervisor is impracticable, the reporting party should state the reasons why;
- The desired remedy sought;
- Name and all contact information for the reporting party; and
- Signed by the reporting party.

The hearing panel consists of three (3) members: two (2) faculty/staff members and one (1) Deputy Title IX Coordinator from either Athletics or Human Resources. In addition, the Title IX Coordinator or designee will designate a hearing panel chair. The hearing panel will consider information presented from the reporting party, responding party, necessary witnesses, and the investigation report completed by the Title IX Coordinator or designee. The hearing will determine whether it is more likely than not that the responding party violated the policies forming the basis of the charge. The goal of the hearing is to provide an equitable resolution via an equitable process.

At the conclusion of the hearing, the panel will determine if the responding party is responsible or not responsible for the alleged violations. Where the responding party is found not responsible for the alleged violation(s), the investigation will be closed. Where a violation is

found, the University will act to end the harassment, discrimination, or sexual misconduct, prevent its recurrence, and remedy its effects on the victim and the University community. All parties will receive written notification of the outcome, to the extent permitted by or mandated by law. This written notification typically includes the finding, any resulting responsive actions, and the rationale for the decision. This written notification of final decision is delivered to the parties without undue delay and explains appeals options and procedures, and any changes to the results that could occur before the decision is finalized.

B. Formal Resolution Process for Reports of Misconduct by Students

The Title IX Coordinator is designated to formally investigate reports of discrimination, harassment, or sexual misconduct by students and to address inquiries and coordinate the University's compliance efforts regarding reports of such misconduct by students. In particular, when a responding party is a student the Title IX Coordinator or designee will handle the complaint. Notice of a formal report may be made by phone, via email, in writing, or online to Peter Kronemeyer, Title IX Coordinator. His office is located in Cooley Hall, room 210. He can be reached by phone at (540) 665-4921, via email at nosexualmisconduct@su.edu or pkroneme@su.edu, or through submission of the online reporting form at: https://cm.maxient.com/reportingform.php?ShenandoahUniv&layout_id=1. Upon receipt of a report, the Title IX Coordinator will take all remedial short term actions he or she deems necessary.

The hearing panel consists of three (3) members: two (2) faculty/staff members and one (1) Deputy Title IX Coordinator from either Athletics or Human Resources. In addition, the Title IX Coordinator will designate a hearing panel chair. The hearing panel will consider information presented from the reporting party, responding party, necessary witnesses, and the investigation report completed by the Title IX Coordinator (or designee). The hearing panel will determine whether it is more likely than not that the responding party violated the policies forming the basis of the charge. The goal of the hearing is to provide an equitable resolution. At the conclusion of the hearing, the panel will determine if the responding party is responsible or not responsible for the alleged violation(s). Where the responding party is found not responsible for the alleged violation(s), the investigation will be closed. The parties will receive written notification of the outcome, to the extent permitted or mandated by law. This written notification typically includes the finding, any resulting sanctions, and the rationale for the decision. This written notification of final decision is delivered to the parties without undue delay between the notifications, explains appeals options and procedures, and any changes to the results that could occur before the decision is finalized.

Where the responding party is found in violation as the result of a hearing, the hearing panel will impose appropriate sanctions for the violation. The University will act to end the harassment,

discrimination, or sexual misconduct, prevent its recurrence, and remedy its effects on the victim and the University community. Appeal proceedings as described below apply to all parties to the report.

Additional Provisions for Formal Resolution Process

A. Closed Hearing Process and Confidentiality

Hearings will be closed to the University community-at-large and the public. In addition to the Hearing Panel, the reporting party and the responding party, others present at the hearing may include: a) one advocate each for the complainant and accused individual, b) witnesses called by the complainant and the accused individual, and c) witnesses called by the Hearing Panel. Once a hearing panel member has been named to the panel, he or she may not discuss the merits of the complaint. The Chair will provide the hearing panel with a copy of the Notice of Hearing, the investigation report, and the list of witnesses submitted by the parties with an instruction to avoid discussion of the merits of the complaint.

B. Pre-hearing Meetings

The Title IX Coordinator or designee will schedule individual pre-hearing meetings with all parties. At the meeting, the Title IX Coordinator or designee will review hearing procedures, the complaint of alleged sexual misconduct, and will review the list of witnesses and pre-hearing submissions.

C. Notification of Outcomes

Findings and recommendations of the Hearing Panel must be based on a preponderance of the evidence presented and shall be the result of a majority vote of the Hearing Panel. In determining whether a violation(s) of the Policy occurred, the Hearing Panel will look at the facts and records of the case as a whole and at the totality of the circumstances. Following review of the Hearing Panel, the chair will communicate findings and sanctions in writing to the reporting party and the responding party within ten (10) calendar days following the conclusion of the hearing (or a longer time if the chair determines that circumstances dictate the need). Final outcome communications will be copied to the Title IX Coordinator. The outcome of a campus hearing is part of the education record of the responding party, and is protected from release under a federal law, FERPA. However, the University observes the legal exceptions as follows:

- Parties to non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment,

stalking, domestic violence, and dating violence incidents have an absolute right to be informed of the outcome, essential findings/rationale, and any sanctions that may result, in writing, without condition or limitation, and without substantial delay between notifications to each party.

- The University may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a the Policy that is a “crime of violence,” including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property, domestic violence dating violence, stalking and kidnapping/abduction. In doing so, the University will not release any information that could lead to the identification of the reporting party.

D. Testimony during the Hearing and Alternative Testimony Options

The parties shall not be permitted to question each other directly. The reporting party and the responding party must direct questions to the Hearing Panel Chair, who will repeat the questions to the appropriate party. If the reporting party is participating in the process via video conferencing, the Title IX Coordinator will request questions in advance of the responding student entering the hearing room process. For sexual misconduct reports, and other reports of a sensitive nature, whether the alleged victim is serving as the reporting party or as a witness, alternative testimony options will be offered, such as placing a privacy screen in the hearing room, or allowing the alleged victim to testify outside the physical presence of the responding party, such as by Skype or phone. The reporting party is not required to be present at the hearing as a prerequisite to proceed. While these options are intended to help make the reporting party more comfortable, they are not intended to work to the disadvantage of the responding party. The responding party has the option not to testify; however, the exercise of that option will not prevent the panel from the hearing process and determining the complaint on the basis of the evidence presented.

E. Hearing Procedure

The hearing will not follow a courtroom model, and formal rules of evidence will not be observed. The Chair will determine the order of the witnesses and resolve any questions of procedure arising during the hearing. The parties are responsible for ensuring that their proposed witnesses are present. The hearing panel will review in advance of the hearing all the written materials provided to them by the Chair. The parties will have received or been provided the opportunity to review these materials prior to the hearing. The parties will be expected not to repeat undisputed details or non-material circumstances that would merely duplicate the written materials. If the panel determines that unresolved issues exist that would be clarified by the presentation of additional evidence, the Chair may recess the hearing and reconvene it in a timely manner to receive such evidence. A recess may not be based on the failure of witnesses to appear.

F. Past Sexual History/Character

The past sexual history or sexual character of a party will not be admissible by the other party in the investigation or hearing unless such information is determined to be highly relevant by the Chair. If the Chair decides the information is highly relevant, the sexual history between the parties may be introduced to offer context. All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be reviewed in advance of the hearing by the Title IX Coordinator or designee. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the Title IX Coordinator or designee may supply previous reports of good faith allegations and/or findings to the investigators, the hearing officers, and the Vice President of Student Life to consider as evidence of pattern and/or predatory conduct.

G. Witness Participation in a Hearing

Each party is entitled to present witnesses and evidence on his or her behalf. The parties will provide the Title IX Coordinator or designee with a list of witnesses they propose to be called and copies of all documents and information they wish to propose to present at the hearing process on or before the date set by the Title IX Coordinator or designee. The Title IX Coordinator or designee will provide each party with a copy of the list of witnesses, identification or copies of documents or information submitted by each party. Any witness scheduled to participate in a hearing must have been interviewed first by Title IX Coordinator or designee (or have proffered a written statement), unless all parties consent to the participation of that witness in the hearing. All witness information must be made available to each party at least three business days prior to the scheduled hearing. In the absence of good cause, as determined by the Chair in his or her sole discretion, the parties may not introduce witnesses, documents, or other evidence at the hearing that were not provided to the Title IX Coordinator or designee by this deadline. The parties are also responsible for the attendance of their witnesses at the hearing.

H. Admission of Responsibility

If, at any time prior to the hearing, the responding party elects to acknowledge his or her actions and take responsibility for the alleged misconduct, he or she may request that the Chair propose a resolution to the charges and a sanction and, with the consent of the reporting party, resolve the complaint without a hearing.

Sanctions

In cases in which the responding party is an employee, the hearing panel will recommend sanctions or responsive actions to Human Resources. In cases in which the responding party is a student, the hearing panel will determine sanctions or responsive actions.

List of Sanctions For Employees if Found Responsible

An employee may be subject to one or more of the following sanctions, depending on the seriousness of the violation:

- Censure - A written condemnation by Shenandoah University administration of a negative action or behavior by an employee. It is placed in the employee's file and sets the expectation that such an action/behavior will not happen again.
- Probation – Places an employee in a probationary status for a predetermined period of time as a result of his or her previous negative actions. The employee would be made aware that for the duration of the probationary period he or she would be under close scrutiny, and any repeat of those past prohibited actions would result in further sanctions; in all likelihood dismissal.
- Educational Experience - As a consequence of the employee's actions, his or her continued employment is contingent on the employee submitting to and actively participating in mandatory education and/or counseling that addresses his or her particular behaviors; i.e. EAP counseling, education/training on topics such as sexual harassment, personal boundaries, gender respect, etc.
- Suspension – As a result of the employee's negative behavior, he or she would be prevented from conducting his or her job and from even being on campus property for a pre-determined amount of time. The suspension may be paid or unpaid depending on the circumstances. The employee is still considered an employee and would have his or her job once the term of suspension was ended. Suspension is generally recognized second only to dismissal in severity.
- Dismissal - This is the forced termination of the individual's employee relationship with Shenandoah University. It is the most severe sanction.

List of Sanctions For Students if Found Responsible

A student may be subject to one or more of the following sanctions, depending on the seriousness of the violation:

- Educational task: student must complete an assignment that benefits self, campus or community. This sanction may include training on sexual harassment and appropriate interactions with peers and partners.
- Referral: requires the student seek appropriate guidance or resources for his/her success.
- Community restitution project: work projects on or off campus.
- Restitution: reimbursement by the student to cover the cost of repair or replacement of damaged or misappropriated property.
- Relegation to final room selection: student loses the opportunity to participate in the annual room selection (lottery) process.
- Removal from University housing: required removal from University housing with final approval from the Dean of Students (or designee) and without the refund of room fees. Once assigned this sanction, a student must move within a designated time frame (usually 48 hours unless otherwise permitted), after which the removed student cannot enter University housing without permission from the Dean of Students (or designee).
- Removal of property: required removal of property that contributes to a harmful environment, for example a hostile sexual environment.
- University housing relocation: requires the student to move to another room, hall or quad with approval from the director of residence life & student conduct (or designee) Student must relocate within 24 hours, after which he/she cannot enter the building from which he/she was removed throughout the term of the sanction without permission from the Dean of Students (or designee).
- Written warning: official record that a student has been warned about behavior
- No-contact order: student is prohibited from having any direct or indirect contact or contact via a third-party with a particular person. Violation may result in suspension.
- Restriction of activities or privileges: participation in any and/or all organized University activities other than required academic endeavors are restricted for a designated period of time.
- Conduct probation: a period of self reflection during which a student is on official warning that subsequent violations of University rules, regulations or policies are likely to result in more severe sanctions, including suspension or dismissal from the University.
- Conduct suspension: a temporary cancellation of a student's enrollment at Shenandoah University with approval from the Vice President for Student Life (or designee). Once assigned this sanction, a student is immediately removed from classes and banned from University property. A student cannot enter University property during his/her term of suspension without prior permission from the Vice President for Student Life (or designee) nor graduate. Any classes taken at another institution while suspended typically cannot be transferred to Shenandoah University unless given special permission by the Vice President of Student Life and the Academic Dean. If a student lives in campus housing, he/she has 24 hours to vacate his/her campus residence.
- Campus ban: student is banned from being present on either the entire campus or specified areas of the campus.
- Dismissal from the University: a permanent cancellation of a student's enrollment at Shenandoah University with approval from the vice president for student life (or designee). Once assigned this sanction, students are immediately removed from classes and banned from

University property. A student cannot enter University property once dismissed without prior permission from the vice president for student life (or designee) nor re-enroll or graduate from Shenandoah University.

- Additional stipulations: additional sanctions a student must complete and/or follow.

Requesting an Appeal

The decision of the hearing panel may be appealed. A student may submit his or her request for an appeal to the Vice President of Student Life or designee. A faculty member may submit his or her request for an appeal to the Vice President of Academic Affairs or designee. A staff member may submit his or her request for an appeal to the Vice President of Finance and Administration or designee. The appellate officers may consult with other appellate officers about an appeal; however, the decision ultimately lies with the appellate officer to whom the appeal was originally assigned. In the event that the responding party accepts the findings of the investigation, those findings cannot be appealed. All sanctions imposed by the hearing panel or Title IX Coordinator or designee will remain in effect during the appeal. A request may be made to the appellate officer to delay implementation of the sanctions until the appeal is decided, but the presumptive stance of the institution is that the sanctions will go into effect immediately. Graduation, study abroad, internships/ externships, etc. do NOT in and of themselves constitute exigent circumstances, and the appellant may not be able to participate in those activities during his or her appeal. In cases where the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the student to his or her prior status, recognizing that some opportunities lost may be irreparable in the short term. Any party who files an appeal request must do so in writing to the correct appellate officer as listed above within five (5) business days of receiving the written decision for a review of the decision or the sanctions imposed. The appellate officer will share the appeal request with the other party (e.g., if the responding party files an appeal, the appeal is shared with the reporting party, who may also wish to file a response and/or bring his or her own appeal on separate grounds; this response or appeal will be shared with the initial appealing party).

The appellate officer may take one of four possible actions:

1. deny the request as untimely or ineligible;
2. affirm the findings and the sanction imposed;
3. grant the appeal and remand the finding and/or sanction for further investigation or reconsideration at the hearing level; or
4. modify a sanction.

Based on the written requests/responses and/or interviews, the appellate officer shall have ten (10) business days to render a written decision. The written decision will be provided in email, in person and/or mailed to the local mailing address of the respective party as indicated in

University records and emailed to the parties' University-issued email accounts. If there is no local address on file, mail will be sent to the parties' permanent address. Once received in person, mailed or emailed, the notice of decision will be deemed presumptively delivered. The original finding and sanction will stand if the appeal request is not timely or substantively eligible, and that decision is final. The party requesting an appeal must show clear error as the original finding and/or a compelling justification to modify a sanction, as both finding and sanction are presumed to have been decided reasonably and appropriately during the original hearing.

The appellate officer may decide to remand the case to the Title IX Coordinator or designee to re-open the investigation. At the discretion of the appellate officer, the results of a revised investigation may be subsequently forwarded for reconsideration at the hearing level. If the appeal remands to the hearing body for review, the reconsideration decision of the hearing body may not be appealed.

The ONLY grounds for appeal are as follows:

1. A serious procedural error occurred that significantly impacted the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures, etc.);
2. To consider new evidence, unavailable during the original hearing or 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 notice of appeal; and
3. The sanctions imposed fall outside the range of sanctions designated for this offense and the cumulative conduct history of the responding party.

In rare cases where a procedural error cannot be cured by the original hearing officers (as in cases of bias), the appellate officer may order a new hearing with a new body of hearing officers. The results of a reconvened hearing cannot be appealed. The results of a new hearing may be appealed, once, on any of the three applicable grounds for appeals.

The procedures governing the hearing of appeals include the following:

- All parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
- If upon appeal the case is remanded, every opportunity to return the appeal to the original hearing body for reconsideration should be pursued;
- Appeals are not intended to be full re-hearings of the allegation (de novo). In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal;
- Appeals decisions are to be deferential to the original hearing body, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so;
- An appeal is not an opportunity for the appellate officer or designee to substitute his or her

judgment for that of the original hearing body merely because he or she disagreed with its finding and/or sanctions.

- Sanctions imposed are implemented immediately unless the Title IX Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.

The appellate officer will typically render a written decision on the appeal to all parties within seven (7) business days from hearing of the appeal. The appellate officer's decision to deny an appeal request is final.

Personnel Training

Personnel tasked with implementing these procedures, (e.g., Title IX Coordinator, investigators, hearing officers, appellate officers, etc.) will be trained at least annually. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to sexual harassment, discrimination, and sexual misconduct allegations; the Policy and procedures; confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance.

Conflicts of Interest and Bias

The University is committed to ensuring that its resolution processes (e.g., investigation, hearing, appeal, etc.) are free from actual or perceived bias or conflicts of interest that would materially impact the outcome. A hearing panel member may remove him or herself from the panel for a particular case if he or she feels rendering of an objective decision is not possible due to a personal relationship with any of the parties involved.

Any party who feels that there is actual or perceived bias or conflict of interest that would materially impact the outcome may submit a written petition for the person's removal from the process. The petition should include specifics as to the actual or perceived bias or conflict of interest, as to why the petitioner believes the bias or conflict could materially impact the outcome. When the allegation involves a responding party who is an employee, petitions should be submitted promptly to the Director of Human Resources. Such petitions may also be made to the Vice President of Administration & Finance in the event the potential conflict or bias involves the Director or Human Resources. When the allegation involves a responding party who is a student, petitions should be submitted promptly to the Title IX Coordinator. Such petitions may also be made to the Vice President for Student Life or designee in the event that the potential conflict or bias involves the Title IX Coordinator.

Any panel member who cannot participate because of a conflict of interest must be replaced for that hearing by an appropriate member appointed by the Title IX Coordinator.

Record Keeping

In implementing these procedures, records of all allegations, investigations, and resolutions will be kept by the Title IX Coordinator indefinitely in Shenandoah University's Maxient database.

Statement of the Rights of the Parties

A. Statement of the Reporting Party's Rights

When a student or employee reports to the institution that there has been a violation of this Policy, the student or employee will be provided with a written explanation of the student or employee's rights and options.

- The right to an investigation, and appropriate resolution of all credible reports or notices of sexual misconduct made in good faith to a University official;
- The right to be informed in advance of any public release of information regarding the incident;
- The right of the reporting party not to have any personally identifiable information released to the public, without his or her consent;
- The right to be treated with respect by University officials;
- The right to have University policies and 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 University officials from reporting sexual misconduct to both on-campus and off-campus authorities;
- The right to be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the reporting party so chooses. This also includes the right not to report, if this is the victim's desire;
- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus law enforcement and other campus officials;
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services for victims of sexual assault, both on campus and in the community;
- The right to a campus no contact order (or a trespass order against a non-affiliated 3rd party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the victim and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
 - Change of an on-campus student's housing to a different oncampus

location;

- Assistance from University support staff in completing the relocation;
 - Transportation accommodations;
 - Arranging to dissolve a housing contract and pro-rating a refund;
 - Exam (paper, assignment) rescheduling;
 - Taking an incomplete in a class;
 - Transferring class sections;
 - Temporary withdrawal;
 - Working situations; and/or
 - Alternative course completion options.
- The right to have the institution maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures;
 - The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
 - The right to ask the investigators to identify and question relevant witnesses, including expert witnesses;
 - The right to review all documentary evidence available regarding the allegation, including the investigative report, subject to the privacy limitations imposed by state and federal law, at least 48 hours prior to the hearing;
 - The right to be informed of the names of all witnesses who will be called to give testimony, at least two business days prior to the hearing, except in cases where a witness' identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the alleged victim/reporting party, which will always be revealed);
 - The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing;
 - The right to regular updates on the status of the investigation and/or resolution;
 - The right to have reports heard by hearing and appeals officers who have received annual sexual misconduct training;
 - The right to a panel that is not single-sex in composition, if a panel is to be used;
 - The right to preservation of 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 member of the conduct body be recused on the basis of demonstrated bias;
 - The right to bring a victim advocate or advocate of the reporting party's choosing to all phases of the investigation and resolution proceeding;
 - The right to provide evidence by means other than being in the same room with the responding party;
 - The right to be present for all testimony given and evidence presented during any resolution-related hearing;
 - The right to make or provide an impact statement in person or in writing to the hearing officers following determination of responsibility, but prior to sanctioning;
 - The right to be informed of the outcome and sanction of the resolution process in writing, without undue delay between the notification to the parties; and

- The right to be informed in writing of when a decision of the University is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and/or sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University;

B. Statement of the Responding Party's Rights

- The right to an investigation, and appropriate resolution of all credible reports of sexual misconduct made in good faith to University administrators;
- The right to be informed in advance, when possible, of any public release of information regarding the report.
- The right to be treated with respect by University officials;
- The right to have University policies and procedures followed without material deviation;
- The right to be informed of and have access to campus resources for medical, health, counseling, and advisory services;
- The right to be fully informed of the nature, policies and procedures of the campus resolution process and to timely written notice of all alleged violations within the report, including the nature of the violation and possible sanctions;
- The right to a hearing on the report, including timely notice of the hearing date, and adequate time for preparation;
- The right to review all documentary evidence available regarding the allegation, including the investigative report, subject to the privacy limitations imposed by state and federal law, at least two (2) business days prior to the hearing;
- The right to be informed of the names of all witnesses who will be called to give testimony, at least two (2) business days prior to the hearing, except in cases where a witness' identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
- The right to have reports heard by hearing and appeals officers who have received annual training on sexual misconduct;
- The right to petition that any member of the conduct body be recused on the basis of demonstrated bias;
- The right to a panel that is not single-sex in composition, if a panel is to be used;
- The right to meetings, interviews and hearings that are closed to the public;
- The right to have an advocate of his or her choice to accompany and assist in the campus resolution process.
- The right to a fundamentally fair resolution, as defined in these procedures;
- The right to make or provide an impact statement in person or in writing to the hearing panel during the panel hearing;
- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;

- The right to be informed of the outcome and sanction of the resolution process in writing, without undue delay between the notification to the parties; and
- The right to be informed in writing of when a decision of the University is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the [finding and] sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.

Annual Policy Review and Revisions

University students are responsible for knowing the information, policies and procedures outlined in this document. These policies will be reviewed and annually updated by the Title IX Coordinator. The University reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. Students are encouraged to check online at

<https://www.su.edu/campuslife/shenandoah-universitys-stance-on-sexual-misconduct/> for the updated versions of all policies and procedures.

If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form. Reports of misconduct made after the fact may raise issues of policy and procedure application, if the policies and procedures have changed. Unless the parties accept current policies, all reports are governed by the policies that were in place at the time the alleged misconduct occurred. Procedures applicable are those that are in place at the time of resolution. This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

Revised June 2019