

Introduction

The Pennsylvania Academy of Fine Arts (PAFA) is committed to creating and maintaining a safe and non-discriminatory learning and work environment that is free from sexual and gender-based discrimination, harassment, and related misconduct. PAFA does not discriminate on the basis of sex, gender, or gender identity in any of its Programs or Activities. Moreover, recent regulatory guidance from the federal Department of Education indicates that “Title IX Misconduct” should be specifically defined and handled in a certain way.

The Policy Prohibiting Sexual and Gender-Based Discrimination, Harassment, and Related Misconduct (the “Policy”) prohibits the types of conduct listed below and defined in Section III (also referred to collectively as “Prohibited Conduct”):

1. **Sexual and Gender-Based Misconduct** (i.e., Sexual Assault; Sexual Exploitation, Non-Title IX Sexual Harassment; Gender-Based Harassment; Sex and/or Gender-Based Stalking; Dating Violence; Domestic Violence; and Sex- and Gender-Based Discrimination);
2. **Title IX Misconduct** (i.e., Quid Pro Quo Sexual Harassment; Severe, Pervasive and Objectively Offensive Sexual Harassment; Sexual Assault; and Sex-Based Dating Violence, Domestic Violence, and Stalking, as each is defined by and specifically articulated to be within the scope of Title IX);
3. **Intimidation**; and
4. **Retaliation**.

PAFA adopts this Policy with a commitment to: (1) deter, eliminate, and address the effects of Prohibited Conduct; (2) foster an environment where all individuals are well-informed and supported in reporting Prohibited Conduct; and (3) provide a prompt, fair, and impartial process pursuant to which alleged violations of this Policy will be evaluated.

This Policy is intended to meet PAFA’s obligations under Title IX of the Education Amendments of 1972 (Title IX); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA), with respect to its application to sex and gender-based misconduct; Title VII of the Civil Rights Act of 1964 (Title VII) with respect

to its application to sex and gender-based misconduct; and other related and applicable law, including Pennsylvania's Act 16 of 2019.

PAFA encourages students, faculty and staff to familiarize themselves with the Policy, including the procedures for addressing reports of Prohibited Conduct. We invite you to ask questions, make recommendations, and do your part to foster an environment free of Prohibited Conduct.

PAFA's Title IX Coordinator is responsible for administering the Policy, including the procedures for resolving Formal Complaints. PAFA's Title IX Coordinator is Lisa Biagas, Senior Vice President of Human Resources.

Dr. Biagas may be contacted at:

128 N. Broad Street

Samuel MV Hamilton Building

3rd floor, Room 357

Philadelphia, PA 19102

Telephone: (215) 972-2038

lbiagas@pafa.org or titleix@pafa.org

Policy Scope and Jurisdiction

The Policy applies to all members of the PAFA community (students, faculty, and staff), as well as to certain third parties (e.g., individuals who are neither students nor employees, including but not limited to guests, contractors and consultants).

The Policy covers acts of **Sexual and Gender-Based Misconduct** (as defined in Section III below) committed by or against students, employees, and third parties when the Prohibited Conduct occurs:

- On PAFA's campus or other property owned or controlled by PAFA;
- In the context of a PAFA Program or Activity, including, but not limited to, research, internship programs, or employment; or
- Outside of PAFA Program or Activity but poses a serious threat of harm; has a continuing adverse effect on; or creates a hostile environment for PAFA students, employees, or third parties while on PAFA's campus or other property owned or controlled by PAFA, or in any PAFA Program or Activity. In determining whether PAFA has jurisdiction over off-campus or online conduct that did not occur in a PAFA Program or Activity, PAFA will consider the severity of the alleged conduct; the risk of ongoing harm; whether both parties are members of the PAFA community; the impact on PAFA Programs or Activities; and whether the off-campus conduct is part of a series of actions that occurred both on and off campus.

The Policy also covers acts of **Title IX Misconduct** (as defined in Section III below) committed in the United States by or against PAFA students or employees participating or seeking to participate in a PAFA Program or Activity.

PAFA students and employees who violate this Policy may face, as appropriate, disciplinary action up to and including termination and expulsion; third parties who violate this Policy also face responsive action as appropriate and available.

This Policy supersedes any conflicting information in any other PAFA policy with respect to the definitions or procedures relating to Prohibited Conduct.

Definitions

Key Policy Definitions

Key terms used in the Policy are defined as follows. Additional terms are defined within the text of the Policy.

1. **Complainant:** The student, employee, or third party who is reported to have experienced Prohibited Conduct in violation of this Policy.

2. **Formal Complaint:** A document signed by a Complainant or by the Title IX Coordinator alleging that a Respondent engaged in Prohibited Conduct and requesting initiation PAFA's resolution process.
3. **Official With Authority (OWA):** an individual with the authority to institute corrective action on behalf of PAFA and notice to whom causes PAFA to respond to Title IX Misconduct. For a full list of PAFA officials that meet this definition, see [Section 6.1.3](#).
4. **Mandated Reporter:** PAFA employees who are required by PAFA to report to the Title IX Coordinator information about alleged Prohibited Conduct. For a full list of PAFA officials that meet this definition, see [Section 6.1.4](#).
5. **PAFA Program or Activity:** Includes: (1) PAFA's campus and any other property owned PAFA; (2) any location, event, or circumstance where PAFA exercises substantial control over both the Respondent and the context in which the conduct occurs, including all education programs/activities offered by PAFA; and (3) any building owned or controlled by a student organization recognized by PAFA. Conduct that occurs off campus in locations or at events with no connection to PAFA is unlikely to occur in a PAFA Program or Activity.
6. **Prohibited Conduct:** An umbrella term referring to both Sexual and Gender-Based Misconduct and Title IX Misconduct, as those terms are defined below.
7. **Protected Activity:** Includes most elements of participation in PAFA's processes related to this Policy, including but not limited to reporting Prohibited Conduct, pursuing resolution of a report of Prohibited Conduct, providing evidence in any investigation or hearing, or intervening to protect others who may have suffered Prohibited Conduct.
8. **Reasonable Person:** A person using average care, intelligence, and judgment in the known circumstances.
9. **Respondent(s):** The individual(s) who is reported to have engaged in conduct that could constitute Prohibited Conduct in violation of this Policy.
10. **Witnesses:** Persons who have factual information about alleged violation(s) of this Policy.
11. **Inquiry:** A request from a member of the PAFA community for information about the Policy or the procedures for resolving a situation that involves conduct prohibited by this Policy.

Prohibited Conduct & Related Definitions

Prohibited Conduct under this Policy includes **Sexual and Gender-Based Misconduct** (i.e., Sexual Assault; Sexual Exploitation, Non-Title IX Sexual Harassment;

Gender-Based Harassment; Sex and/or Gender-Based Stalking; Dating Violence; Domestic Violence; and Sex- and Gender-Based Discrimination) and **Title IX Misconduct** (i.e., Quid Pro Quo Sexual Harassment; Severe, Pervasive and Objectively Offensive Sexual Harassment; Sexual Assault; and Sex-Based Dating Violence, Domestic Violence, and Stalking, each as defined by and within the scope of Title IX), as defined below.

Whether someone engaged in Prohibited Conduct under this Policy will be assessed under a Reasonable Person standard, as defined above.

Consent

Some forms of Prohibited Conduct involve the issue of Consent. For purposes of this Policy, Consent is a clear and unambiguous agreement, expressed outwardly through mutually understandable words or actions, to engage in Sexual Activity.

Sexual Activity for purposes of this section refers to any conduct of a sexual nature for which Consent is required under this Policy (e.g. Sexual Assault). A person who initiates Sexual Activity is responsible for obtaining Consent for that conduct.

Consent is active. Consent cannot be inferred from silence, passivity, or a lack of resistance, and relying on non-verbal communication alone may not be sufficient to determine consent.

An affirmative statement or action does not constitute consent if it is given by a person who is unable to make a reasonable judgment concerning the nature or harmfulness of the activity because of his or her Incapacitation due to intoxication, unconsciousness, mental disability, or if the Consent is the product Force or coercion.

Consent cannot be inferred from an existing or previous relationship or consent does not imply consent to future Sexual Activity.

Consent to engage in one form of Sexual Activity does not imply Consent to engage in a different form of Sexual Activity nor does it imply Consent to engage in the same Sexual Activity on a later occasion. Consent to engage in Sexual Activity with one person does not imply consent to engage in Sexual Activity with another.

Consent can be withdrawn at any time. An individual who seeks to withdraw Consent must communicate, through clear words or actions, a decision to cease the Sexual Activity. Once Consent is withdrawn, the Sexual Activity must cease immediately.

Being impaired by alcohol or other drugs is not a defense to a failure to obtain the Consent of another.

In evaluating Consent under this Policy, the following will be considered: (1) Did the person initiating Sexual Activity know that the conduct in question was not consensual? and (2) If not, would a Reasonable Person who is unimpaired by alcohol or drugs have known that the conduct in question was not consensual? If the answer to either of these questions is "Yes," Consent was absent and the conduct is likely a violation of this Policy.

Force

Force includes the use of physical violence, threats, and/or coercion.

Physical violence means that a person is exerting physical control over another person through the use of physical force (e.g. hitting, punching, slapping, kicking, restraining, strangling, and brandishing or using any weapon).

Threats are words or actions that would compel a Reasonable Person to engage in Sexual Activity. Threats may be implicit or explicit but must be of such a nature that they would cause fear to a reasonable person. Examples include threat to harm a person physically or to cause a person academic, employment, reputational, or economic harm.

Coercion

Coercion is the use of an unreasonable amount of pressure that would overcome the will of Reasonable Person. Coercion is more than effort to persuade, entice, or attract another person to engage in Sexual Activity. When a person makes clear a decision to not participate in a particular Sexual Activity, a decision to stop, or a decision not to go beyond a certain sexual interaction, continued pressure can become coercive.

Incapacitation

Incapacitation is the inability, temporarily or permanently, to give Consent because the individual is mentally and/or physically helpless, asleep, unconscious, or unaware that Sexual Activity is occurring.

Incapacitation may result from the use of alcohol and/or drugs. When alcohol or other drugs are involved, Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily Incapacitated solely as a result of drinking or using drugs; the

level of impairment must be significant enough to render the person unable to give Consent.

Evaluating Incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's decision-making ability; awareness of consequences; ability to make informed judgments; or capacity to appreciate the nature and the quality of the act. Although the impact of alcohol and other drugs varies from person to person, warning signs that a person may be approaching Incapacitation may include slurred or incoherent speech, vomiting, unsteady gait, odor of alcohol, combativeness, or emotional volatility.

Sexual and Gender-Based Misconduct

Sexual Assault

Sexual Assault is Sexual Contact that occurs without Consent. Sexual Contact includes:

- Intentional sexual touching of another person's breasts, buttocks, or genitals, whether clothed or unclothed (including intentional touching with ejaculate);
- Intentional sexual touching with one's breast, buttocks, or genitals (including touching with ejaculate);
- Making a person touch another person or themselves with or on any of these body parts; and/or
- Vaginal, oral, or anal penetration or contact by a penis, tongue, finger, or other object.

Sexual Exploitation

Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute Sexual or Gender-Based Misconduct or Title IX Misconduct under the Policy. Examples of Sexual Exploitation include, but are not limited to: non-consensual observation of individuals who are undressed or engaging in sexual acts; non-consensual video or audio-taping of sexual activity; prostituting another person; going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex); or knowingly transmitting an STD or HIV to another.

Non-Title IX Sexual Harassment

Non-Title IX Sexual Harassment, sometimes referred to as “Sexual Harassment” herein, is unwelcome conduct of a sexual nature, whether verbal, graphic (e.g. pictures, videos), physical or otherwise, when:

- Submission to such conduct is made, either explicitly or implicitly, a term or condition of a person’s employment, education, living environment, or participation in any PAFA Program or Activity;
- Submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual’s employment, education, living environment, or participation in a PAFA Program or Activity; and/or
- Such conduct creates a hostile environment. A hostile environment exists when the conduct of a sexual nature is sufficiently severe, persistent, or pervasive that it unreasonably interferes with an individual’s participation in a PAFA Program or Activity. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, PAFA will consider the totality of known circumstances, including the nature, frequency, intensity, location, context, and duration of the behavior. Although a hostile environment is generally created through a series of incidents, for purposes of this Policy, a severe incident, even if isolated, can be sufficient.

Gender-Based Harassment

Gender-Based Harassment includes harassment based on actual or perceived sex, sexual orientation, gender identity, gender expression, or pregnancy. Such harassment may include acts of aggression, intimidation, or hostility, whether verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when the behavior:

- Adversely affects a term or condition of an individual’s employment, education, living environment, or participation in a PAFA Program or Activity;
- Is used as the basis for or a factor in decisions affecting that individual’s employment, education, living environment, or participation in a PAFA Program or Activity; and/or
- Creates a hostile environment for that individual’s participation in a PAFA Program or Activity. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with an individual’s

participation in a PAFA Program or Activity, or creates an intimidating, hostile, offensive, or abusive environment for that individual's employment, education, living, or participation in a PAFA Program or Activity. Conduct must be deemed severe, persistent, or pervasive from both a subjective and objective standard. In evaluating whether a hostile environment exists, PAFA will consider the totality of known circumstances, including the nature, frequency, intensity, location, context, and duration of the behavior. Although a harassing hostile environment is generally created through a series of incidents, for purposes of this Policy, a severe incident, even if isolated, can be sufficient to constitute a hostile environment.

In some cases, harassment may be based on multiple protected class bases included in PAFA's [Equal Opportunity – Nondiscrimination Policy](#). In general, harassment involving protected class bases other than actual or perceived gender, sexual orientation, gender identity, or gender expression might fall under other PAFA policies. For matters involving Student Respondents, this would include the [Student Code of Conduct in the Student Regulations and Policies Guide \(pages 6-8\)](#).

For matters involving Employee or Third-Party Respondents, this could include, but is not limited to the [Anti-Harassment Policy](#). Where reported harassment may be based on both sex or gender (including actual or perceived sex, sexual orientation, gender identity, gender expression or pregnancy) and another protected class basis (e.g., race, color, national origin, age, marital status, disability, religion, height, weight, or veteran status), the Title IX Coordinator will consult with other PAFA officials, as needed, to determine whether the matter is most appropriately addressed under this Policy or another University Policy, or whether different aspects of the matter should be addressed separately under each.

Dating Violence

Violence committed by a person:

- who is or has been in a social relationship of a romantic or intimate nature with the alleged victim; noting that
- The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the following factors: a) the length of the relationship; b) the type of relationship; and c) the frequency of interaction between the persons involved in the relationship.

Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence, for purposes of this Policy, does not include emotional abuse.

Domestic Violence

A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the alleged victim shares a child in common, by a person who is cohabitating with or who has cohabitated with the alleged victim as a spouse, by a person similarly situated to a spouse of the alleged victim under the domestic or family laws of the Commonwealth of Pennsylvania, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the Commonwealth of Pennsylvania.

Sex or Gender-Based Stalking

Engaging in a course of conduct directed at a specific person under circumstances that would cause a Reasonable Person to (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.

Course of conduct means two or more acts including, but not limited to, acts in which a person 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 in a way prohibited as described above, or interferes with a person's property.

Sex and Gender-Based Discrimination

Sex and Gender-Based Discrimination is conduct that is based upon an individual's sex, sexual orientation, gender identity, gender expression, or pregnancy that:

1. Adversely affects a term or condition of an individual's employment, education, living environment, or participation in a PAFA Program or Activity; and/or
2. Is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a PAFA Program or Activity.

Title IX Misconduct

While this may seem similar to definitions above, Title IX Misconduct is a very specific concept under federal law. Title IX Misconduct, or Title IX-defined "Sexual Harassment"

is conduct that occurs (1) in the United States; (2) in a PAFA Program or Activity or to a Complainant who is seeking to engage in such a Program or Activity; and (3) on the basis of sex, in which:

- A PAFA employee conditions the provision of a PAFA aid, benefit, or service on an individual's participation in unwelcome sexual conduct (sometimes called quid pro quo sexual harassment);
- A PAFA student, employee, or third party engages in unwelcome conduct determined by a Reasonable Person to be so severe, pervasive, and objectively offensive that it effectively denies another person equal access to a PAFA Program or Activity (sometimes called severe, pervasive, and objectively offensive sexual harassment); or
- A PAFA student, employee, or third party in the United States engages in: Sex or Gender-Based Stalking (defined above); Dating Violence (defined above); Domestic Violence (defined above); or Sexual Assault as defined for purposes of the FBI's Uniform Crime Reporting (NIBRS) program, as below:
 1. Rape
 1. The carnal knowledge of a person (i.e., penile-vaginal penetration), without the Consent of that person, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity (it should be noted that either females or males could be Complainants under this definition);
 2. Oral or anal sexual intercourse (i.e., penile penetration) with another person, without the consent of that person, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
 3. To use an object or instrument (e.g., an inanimate object or body part other than a penis) to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of that person, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
 2. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (for purposes of this definition, "private body parts" includes breasts, buttocks, or genitals, whether clothed or unclothed);

3. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
4. Statutory Rape: Sexual intercourse with a person who is under the statutory age of Consent.

To the extent that a Complainant wishes PAFA to commence a formal or informal resolution for Prohibited Conduct, a Formal Complaint must be filed.

Intimidation

Any act to deter an individual from making a report of an alleged violation of this Policy by imposing fear through threats of physical or emotional harm to the reporter or their associates.

Retaliation

Any adverse action, directly or through others, taken against a person for engaging in Protected Activity. Retaliation may include intimidation, threats, coercion, or discrimination including adverse employment or educational actions that would discourage a Reasonable Person from engaging in activity protected under this Policy. Any individual or group of individuals, not just a Complainant or Respondent, can engage in Retaliation. A finding of Retaliation under this Policy is not dependent on a finding that the underlying Prohibited Conduct occurred.

The exercise of rights protected under the First Amendment does not constitute Retaliation. Pursuit of civil, criminal, or other legal action, internal or external to PAFA does not constitute Retaliation.

Initiating disciplinary proceedings against an individual for making a materially false statement in bad faith in the course of a proceeding under the Policy does not constitute Retaliation under this Policy; however, a determination regarding responsibility, alone, is insufficient to conclude that any party made a materially false statement in bad faith.

Statement on Privacy

PAFA is committed to protecting the privacy of all individuals involved in a report of Prohibited Conduct.

Privacy, confidentiality and privilege have distinct meanings under this Policy. Privacy generally means that information related to a report of Prohibited Conduct will only be shared with a limited circle of individuals, including individuals who “need to know” in order to assist in the review, investigation, or resolution of the report or to deliver resources or support services. While not bound by confidentiality or privilege, these individuals will be discreet and respect the privacy of all individuals involved in the process.

All participants in an investigation of Prohibited Conduct, including advisors and witnesses, will be informed that privacy helps enhance the integrity of the investigation and protect the privacy interests of the parties and will be asked to keep any information learned in an investigation meeting or hearing private as explained in more detail below.

Resources

Confidential Resources

Confidentiality means that information related to a report of misconduct cannot be revealed to any other individual without the permission of the reporting party, if different. There are no confidential resources on campus, but there are such resources available to the PAFA community.

- Individuals who wish to seek confidential assistance may report to the off-campus licensed mental health professionals in the Employee Assistance Program (for employees) and Student Health Services provided by Penn Behavioral Health (888-321-4433, for students). Such discussions are confidential (unless excepted by state law). Please note that such discussions do not serve as notice to PAFA to address the alleged conduct.
- Student Services can provide a list of other off-campus organizations to which inquiries may be made confidentially.

Medical Attention

If medical attention is needed, PAFA will contact 911 or the Philadelphia Police Department Special Victims Unit at (215) 685-3251 for transportation to the Philadelphia Sexual Assault Response Center (PSARC), 24-hour answering service at (215) 425-1625.

Other Off-Campus Support Resources

Inquiries regarding the level of confidentiality, if any, that each location can provide must be addressed with the particular resource. These resources may also provide other advocacy, legal, or counseling assistance.

[National Sexual Violence Resource Center](#)

Phone: (717) 909-0710

Toll-Free Hotline: (877)
739-3895

[Pennsylvania Coalition Against Rape](#)

Toll-Free Hotline: (888)
772-7227

[Women Organized Against Rape](#)

Phone: (215) 985-3315

Hotline: (215) 985-3333

[National Domestic Abuse Hotline](#)

Toll-Free Hotline: (800)
799-7233

[Pennsylvania Coalition Against Domestic
Violence](#)

Phone: (717) 545-6400

Toll-Free Hotline: (800)
932-4632

[Women Against Abuse](#)

Toll-Free Hotline: (866)
723-3014

[Family Law Unit of Philadelphia Legal Aid](#)

Hotline: (215) 981-3800

Reporting Prohibited Conduct

PAFA encourages all members of the PAFA community to make a report of suspected Prohibited Misconduct directly to the Title IX Coordinator through any of the reporting methods outlined below. Reports can also be made to Officials with Authority, but PAFA strongly encourages direct reports to the Title IX Coordinator so that the Title IX Coordinator can promptly discuss the availability of Supportive Measures and available processes with the Complainant, including by contacting the Complainant when another person makes a report.

Recognizing that some forms of Prohibited Conduct may also constitute crimes, PAFA also strongly encourages any individual who experiences, witnesses, or learns of possible criminal conduct to report to PAFA's Security Department or local law enforcement. Prompt reporting allows law enforcement to collect and preserve evidence. Victims of crime also have certain rights under Pennsylvania Crime Victims' Bill of Rights.

Reporting to PAFA

Any individual may report Prohibited Conduct. It is not necessary for a reporting party or Complainant to determine in advance whether the behavior at issue meets the definition of Prohibited Conduct. Upon receipt of a report, the Title IX Coordinator will undertake an assessment to determine the form of Prohibited Conduct at issue.

When the Title IX Coordinator receives a report of Prohibited Conduct, the Title IX Coordinator will in all cases where the Complainant is identified, contact the Complainant to: (1) discuss the availability of Supportive Measures; (2) ask about the Complainant's wishes with respect to Supportive Measures; (3) inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, and (4) explain to the Complainant the process for filing a Formal Complaint. ([See Section 8 for more information on Supportive Measures](#)).

The process for filing a Formal Complaint is described in greater detail in [Section 7](#), but a Formal Complaint may be filed by a Complainant when a report is made or at another time thereafter, and may be filed with respect to conduct that constitutes Sexual and Gender-Based Misconduct or Title IX Misconduct. In some cases, as explained in further detail in [Section 7](#), the Title IX Coordinator may decide to sign a Formal Complaint even where the Complainant has not decided to do so.

Options for making a report to PAFA are as follows. These reporting options are not mutually exclusive.

Contact the Title IX Coordinator

Reports of Prohibited Conduct, whether Sexual and Gender-Based Misconduct or Title IX Misconduct, should when at all possible be made to the Title IX Coordinator.

Individuals may also contact the Title IX Coordinator to ask about this Policy or to otherwise inquire about PAFA's responses to Prohibited Conduct in its Programs and Activities.

The Title IX Coordinator can be contacted by telephone or in person by appointment during regular office hours Monday through Friday, 9am to 5pm, or by emails 24 hours a day, 7 days a week. Online reporting is also available on a 24/7 basis as explained below.

Contact information for the Title IX Coordinator is as follows:

Dr. Lisa Biagas

Senior Vice President of Human Resources

Samuel MV Hamilton Building, 3rd floor, Room 357

128 N. Broad St.

Philadelphia, PA 19102

(215) 972-2038

lbiagas@pafa.org or titleix@pafa.org

Make an Online or Anonymous Report

Reports may be made to the Title IX Coordinator online by visiting the website, <http://pafa.ethicspoint.com/>.

[Anonymous reports may be made by contacting PAFA's Ethics Hotline at \(844\) 796-6532 or by making an anonymous report in the online reporting system as described above.](#) An individual may report the incident to the Ethics Hotline without disclosing one's name, identifying the Respondent, or requesting any action. However, please understand that the level of information available about the incident or the individuals involved may impact PAFA's ability to respond or take further action.

Report to an Official With Authority

In addition to the Title IX Coordinator, the following PAFA employees are Officials With Authority (OWA):

Clint Jukkala

Dean of the College

Samuel M.V. Hamilton
Building

3rd Floor, Room 337

(215) 972-7623

cjukkala@pafa.edu

Anne Stassen

Dean of Students

Samuel M.V. Hamilton
Building

3rd Floor, Room 338

(215) 972-2039

astassen@pafa.edu

Ronke Oke, PhD

Director of DEIB & Deputy IX
Coordinator

Samuel M.V. Hamilton
Building

3rd Floor, Room 333

(215) 972-2047

roke@pafa.org

These individuals have internal reporting obligations. Specifically, Officials with Authority are required to report to the Title IX Coordinator all information about Prohibited Conduct that they receive, regardless of how and when they learned of the information; e.g. whether the information was shared with them in the scope of their employment or in some other capacity.

Only a report to the Title IX Coordinator or an OWA will trigger PAFA's obligation to respond to an allegation of Prohibited Conduct. In the case of a report of Prohibited Conduct to an OWA, the Title IX Coordinator will contact the Complainant.

Report to a Mandated Reporter

All PAFA employees are Mandated Reporters. This includes any student-employees who act in leadership roles, such as floor leaders, orientation leaders, etc.

Mandated Reporters must report to the Title IX Coordinator as soon as possible, but in no case more than 48 hours after observing or receiving information about Prohibited Conduct. The report must include all relevant details about alleged/possible Prohibited Conduct including the names of the Complainant, Respondent, and any witnesses, and the date, time, and location of the alleged incident. Failure by a Mandated Reporter to promptly share with the Title IX Coordinator all details they receive about Prohibited Conduct may subject them to appropriate discipline, up to and including termination of employment, in accordance with an applicable process.

Mandated Reporters are not obligated to report matters that arise outside of the scope of their employment or in classroom, research activity, awareness event, or other exempt disclosures. This means that Mandated Reporters are not obligated to report to the Title IX Coordinator information communicated/disclosed during a classroom discussion, in an assignment for a class and in discussions outside of class time (e.g., during office hours related to the assignment), or as part of a research project directly associated with the class, even when such disclosure would otherwise be considered within the scope of the Mandated Reporter's employment. Mandated Reporters also are not required to report information about Prohibited Conduct disclosed: (1) at sexual misconduct public awareness events (e.g., Take Back the Night, candlelight vigils,

protests, or survivor speak-outs in which participants may disclose incidents of Prohibited Conduct).

Only a report to the Title IX Coordinator or an OWA will trigger the PAFA's obligation to respond to an allegation of Prohibited Conduct. When the Title IX Coordinator receives a report of Prohibited Conduct from a Mandated Reporter, the Title IX Coordinator will in all cases where the Complainant is identified, contact the Complainant to: (1) discuss the availability of Supportive Measures; (2) ask about the Complainant's wishes with respect to Supportive Measures; (3) inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, and (4) explain to the Complainant the process for filing a Formal Complaint.

Reporting to Law Enforcement

Any individual who experiences, witnesses, or learns of possible criminal conduct is also strongly encouraged to contact law enforcement immediately by calling PAFA's Security Department at (215) 972-2083 and/or local police (911). If the reporting party so desires, the Security Department will assist in contacting the local police.

Related Considerations about Reporting

No Time Limit for Reporting

Reporters are encouraged to report Prohibited Conduct as soon as possible in order to maximize PAFA's ability to respond promptly and effectively. PAFA does not, however, limit the timeframe for reporting. If the Respondent is no longer a student or employee, PAFA may not be able to take action against the Respondent, but it will still endeavor to take steps to end the Prohibited Conduct, prevent its recurrence, and address its effects, and it will also provide Supportive Measures to a Complainant to the best of its ability. PAFA is unlikely to be able to pursue disciplinary action against an individual who is no longer affiliated with the institution. Under those circumstances, when appropriate and permitted by applicable law and regulations, PAFA will still conduct an investigation.

Limited Amnesty for Students who Report Prohibited Conduct

PAFA seeks to remove any barriers to reporting. PAFA recognizes, however, that a student who has been drinking or using drugs at the time of the incident may be hesitant to make a report because of potential consequences for their own conduct. A student who reports conduct in violation of this Policy will not be subject to disciplinary action by

PAFA related to the personal ingestion of alcohol or other drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. PAFA may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

False Reporting

No person shall make an allegation that they know to be untrue or knowingly provide false information during the course of an investigation or hearing. Making a false report or giving false information is a violation of this Policy and may be a basis for discipline, including expulsion or termination.

Formal Complaints

When the Title IX Coordinator receives a report of Prohibited Conduct, the Title IX Coordinator will in all cases contact the Complainant, if their identity is known, and explain the process for filing a Formal Complaint.

A Formal Complaint is submitted by the Complainant to the Title IX Coordinator in person, by mail, or by email. The Formal Complaint must contain the Complainant's physical or digital signature or otherwise indicate that the Complainant is the person filing the Formal Complaint.

When a Formal Complaint is filed, the Title IX Coordinator will evaluate it for a number of things, including whether the complained-of conduct occurred in the United States and whether the Complainant, at the moment of submission, is participating in a PAFA Program or Activity or attempting to participate in a PAFA Program or Activity (e.g. a job applicant, an applicant for admission to an academic program, a recent graduate who is applying to a different academic program at PAFA, etc.).

The Title IX Coordinator has discretion to sign a Formal Complaint even if the Complainant chooses not to, and even if the Complainant chooses not to participate in a PAFA resolution process at all. In general, the Title IX Coordinator will seek to respect the Complainant's wishes not to file a Formal Complaint; however, when the Respondent is an employee, when a significant safety concern is presented, or when the Title IX Coordinator concludes that failure to pursue a Formal Complaint may fail to

meet PAFA's duties under the law, the Title IX Coordinator will usually sign a Formal Complaint.”

After a Formal Complaint has been filed by the Complainant or signed by the Title IX Coordinator, PAFA will commence the appropriate grievance process.

Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party to the grievance process (formal or informal resolution).

Supportive Measures

Supportive Measures are individualized services, accommodations, and other assistance that PAFA offers and may put in place, without fee or charge. Supportive Measures are designed to restore or preserve equal access to PAFA's Programs and Activities, protect the safety of all parties and PAFA's educational environment, and/or deter Prohibited Conduct, without being punitive or disciplinary in nature or unreasonably burdening the other party.

Supportive Measures are available regardless of whether the matter is reported to PAFA for the purpose of initiating a proceeding under this Policy and before, after, and regardless of whether a Formal Complaint is filed. A Complainant who requests Supportive Measures has the right to file a Formal Complaint, either at the time the Supportive Measure is requested or at a later date. Any Complainant who requests Supportive Measures will be informed in writing of their right to simultaneously or subsequently file a Formal Complaint under this Policy.

When the Title IX Coordinator receives a report of possible Prohibited Conduct—regardless of whether that report is made by the Complainant, a witness, or other party or is provided to the Title IX Coordinator by an Official With Authority—they will contact the Complainant (1) to discuss the availability of Supportive Measures and (2) to explain that Supportive Measures are available with or without filing a Formal Complaint. When the report involves a PAFA employee, the Title IX Coordinator will also explain PAFA's obligation to investigate or otherwise respond to the report.

Supportive Measures may also be requested by and made available to Respondents, witnesses, and other affected members of the PAFA community.

To determine the appropriate Supportive Measure(s) to be implemented, the Title IX Coordinator conducts an individualized assessment based on the facts and circumstances of a situation. Supportive Measures will not be disciplinary or punitive in nature, will be provided without fee or charge, and will not unreasonably burden, or unreasonably interfere with, the PAFA Program or Activity pursuits of the other party. Whether a possible Supportive Measure would unreasonably burden the other party is a fact-specific determination that takes into account the nature of the programs, activities, opportunities, and benefits in which an individual is participating.

Examples of Supportive Measures include:

- Ability to move residences;
- Change in work schedules;
- Alterations to academic schedules;
- Withdrawals or permission to retake classes without penalty;
- Access to academic support;
- Modification or relief regarding financial aid;
- On-campus escort services;
- Counseling;
- Mutual restrictions on contact between the parties;
- Assistance in access community health resources; *and*
- Any combination of these measures.

PAFA will maintain Supportive Measures provided to the Complainant or Respondent as confidential to the extent that doing so would not impair PAFA's ability to provide the Supportive Measures.

Emergency Removal and

Administrative Leave

Emergency Removal of a Student Respondent

Where there is an immediate threat to the physical health or safety of any member of the PAFA community or other individual arising from alleged Prohibited Conduct, PAFA can remove a student Respondent from PAFA's Program or Activity and issue any necessary related no-trespass and no-contact orders. PAFA will make the decision to remove a student Respondent from PAFA's Program or Activity based on an individualized assessment and risk analysis.

If PAFA makes such a decision, the student Respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal.

Administrative Leave of an Employee

Respondent

PAFA place an employee Respondent on administrative during the pendency of an investigation and resolution process as outlined below. An employee alleged to have committed Prohibited Conduct will not be placed on administrative leave unless and until a Formal Complaint has been filed with PAFA.

PAFA, in its discretion and based on the circumstances, will determine whether any administrative leave imposed is to be imposed with or without pay or benefits.

Process for Addressing

Reports and Formal

Complaints under this Policy

PAFA uses the following Procedures to address allegations of Prohibited Conduct and to impose sanctions, as appropriate, for violations of the Policy.

At all times, it is within PAFA's discretion to determine which policies and procedures apply and under which policy or policies action may be taken. Some Prohibited

Conduct may result in separate and additional proceedings under multiple PAFA policies.

Coordination

The Title IX Coordinator has primary responsibility for coordinating efforts for investigation, resolution, implementation of sanctions, and monitoring the educational environment and workplace related to violations of this Policy. The Title IX Coordinator may coordinate with other PAFA administrators to investigate certain complaints and to implement and monitor sanctions.

Initial Assessment & Intake

Initial Assessment

When alleged Prohibited Conduct is first reported to the Title IX Coordinator, the Title IX Coordinator will:

1. Assess the nature and circumstances of the report—including whether the names and/or other personally identifying information for the Complainant, Respondent, any witnesses, and/or any other individual with knowledge was provided—to facilitate appropriate follow-up; and
2. Assess the nature of the allegations to identify the grievance process or resolution options that might be available.

Where the Title IX Coordinator determines that this Policy does not apply, such as when the report does not describe possible Prohibited Conduct, the Title IX Coordinator may refer the report to another PAFA office or process for resolution, including referral to Student Services, Dean's office or the President's office for review.

Intake

After receiving a report of possible Prohibited Conduct, the Title IX Coordinator will promptly contact the Complainant, if one is identified or identifiable, to (1) discuss the availability of Supportive Measures; (2) ask about the Complainant's wishes with respect to Supportive Measures; (3) explain that Supportive Measures are available

with or without the filing of a Formal Complaint; and (4) explain how to file a Formal Complaint.

The Title IX Coordinator will also provide the Complainant with a written explanation of available resources, options, and other important Policy information, including the following:

1. Support and assistance available through PAFA and community resources, including the Complainant's option to seek Supportive Measures regardless of whether they choose to participate in a PAFA or law enforcement investigation;
2. The Complainant's option to seek medical treatment and information on preserving potentially key forensic evidence and/or other potential evidence;
3. The process for filing a Formal Complaint;
4. PAFA's procedural and grievance options, including formal investigative resolution and informal resolution, if available;
5. The Complainant's right to an advisor of the Complainant's choosing who may be, but is not required to be, an attorney;
6. PAFA's prohibition of Retaliation against the Complainant, the Respondent, the witnesses, and the reporting parties; how to report acts of Retaliation; and confirmation that PAFA will take prompt action when Retaliation is reported;
7. The opportunity to discuss with the Title IX Coordinator or designee the Complainant's resources, rights, and options;
8. A copy of or a link to this Policy; and
9. An explanation that parties and witnesses are prohibited from knowingly making false statements or knowingly submitting false information during the grievance process.

If a Formal Complaint is filed, the Title IX Coordinator will provide the Respondent with a written explanation of available resources, options, and other Policy information, including the following:

1. Notice of the allegations potentially constituting Prohibited Conduct, including the identities of the parties (if known), the date and location of the alleged incident (if known), and potential Policy violations;
2. Notice that a determination regarding responsibility is made at the conclusion of the proceeding and the Respondent is presumed not responsible for the alleged Prohibited Conduct prior to the determination;

3. Support and assistance available through PAFA and community resources;
4. The Respondent's right to an advisor of the Respondent's choosing who may be, but is not required to be, an attorney;
5. PAFA's prohibition of Retaliation against the Complainant, the Respondent, the witnesses, and the reporting parties, how to report acts of Retaliation, and that PAFA will take prompt action when Retaliation is reported;
6. The opportunity to discuss with the Title IX Coordinator the Respondent's resources, rights, and options.
7. A copy of or link to this Policy; and
8. An explanation that parties and witnesses are prohibited from knowingly making false statements or knowingly submitting false information during the grievance process.

Resolution Options Following an Initial Assessment

Upon completion of an initial assessment, the Title IX Coordinator will undertake one of the following actions, with the understanding that as a matter progresses, the action warranted can change, as described in these Procedures.

Matters Involving a Formal Complaint

If a Formal Complaint alleging behavior that could constitute Prohibited Conduct is filed, the Title IX Coordinator will initiate the grievance process, which includes both the formal resolution and informal resolution, both of which are discussed at a high level here:

Formal Resolution Process

This process generally results in a written report containing a summary of the relevant evidence, a hearing that results in a finding and, if appropriate, corrective action as determined by the appropriate PAFA official, and an appeal process. PAFA will strive to complete such matters within 180 days of the filing of the Formal Complaint. The parties will be provided with updates on the progress of the resolution process, as needed, and will be alerted, in writing, if the process will go beyond that timeframe.

Informal Resolution

Informal resolution includes a spectrum of facilitated, structured, and adaptable processes that seek to identify and meet the needs of the Complainant while providing an opportunity for the Respondent to acknowledge harm and seek to repair the harm (to the extent possible) experienced by the Complainant and/or the PAFA Community. Informal resolution does not include an investigation, hearing, or formal disciplinary action against a Respondent. However, remedies may include any appropriate and reasonable educational, restorative, and accountability-focused measures as agreed to by the parties and approved by the Title IX Coordinator. PAFA will strive to complete the informal resolution process within 30 business days of when it is commenced.

In all cases, the final decision on whether, how, and to what extent PAFA will proceed in response to a report, and whether other measures will be taken in connection with any report of possible Prohibited Conduct, rests with the Title IX Coordinator.

Though distinct from Supportive Measures under the Policy, an individual engaged in either resolution option under these Procedures may also request reasonable accommodations related to a disability at any phase in the applicable resolution process through PAFA's normal disability accommodation process by contacting the Vice President of Human Resources.

Matters Involving Third Parties or Non-Participating

Complainants

There are some matters in which a Formal Complaint involves a Respondent unaffiliated with PAFA, or the Complainant does not wish to file a Formal Complaint after a report is made. These matters will be addressed as outlined below.

1. **Formal Complaints Against Unaffiliated third parties:** Generally, if a report of Prohibited Conduct is made against someone who has no affiliation with PAFA, PAFA's ability to take direct action against such a person may be limited. PAFA will still take steps to inform the Complainant of support and assistance available through PAFA resources and resources available from entities outside of PAFA (including law enforcement).
2. **Complainant Request for No Investigation or to Not Participate in an Investigation:** In some instances, the Complainant may not wish to file a Formal Complaint or participate in any process (Complainants are encouraged, but not required, to participate in this process). PAFA will consider the Complainant's

wishes, though PAFA retains the discretion to determine whether to proceed without the Complainant's participation. PAFA generally will proceed when the Respondent is an Employee.

In all cases, including those in which the Title IX Coordinator decides to sign a Formal Complaint, the Title IX Coordinator shall remain impartial and is not a Complainant or otherwise a party to the matter.

In cases where PAFA investigates without a participating Complainant, the Title IX Coordinator will notify the Complainant that PAFA intends to initiate a process, and that the Complainant is encouraged, but not required, to participate. Generally, a decision not to participate as a Complainant means that the Complainant waives the rights generally afforded to a participating Complainant under the Sexual and Gender-Based Misconduct Process. However, under limited circumstances, PAFA may provide some or all of the rights of a Complainant as defined in the Policy, as deemed appropriate by the Title IX Coordinator, or as otherwise required by law. A Complainant who is not participating in the grievance process will be treated like a party to the process; this means that the Complainant is entitled to the same rights afforded to them under the Policy as if they were participating (e.g. a right to a copy of evidence).

If a Complainant declines to participate in an investigation, PAFA's ability to fully investigate and respond to a report of Prohibited Conduct may be limited. Even so, PAFA may pursue other steps to limit the effects of the Prohibited Conduct and prevent its recurrence.

Ongoing Assessment & Dismissals

Throughout the handling of a report or Formal Complaint of Prohibited Conduct, the Title IX Coordinator will continue to assess the most appropriate procedures for addressing the allegations.

Consolidation or Severance of Proceedings

The Title IX Coordinator has the discretion to consolidate or sever claims of Title IX Misconduct and Sexual and Gender-Based Misconduct. Specifically, the Title IX Coordinator may consolidate multiple Formal Complaints of Title IX Misconduct and Sexual and Gender-Based Misconduct into a single investigation if where the

allegations of Prohibited Conduct arise out of the same facts or circumstances. Consolidation might involve a single or multiple Complainants, a single or multiple Respondents, and/or when the conduct is temporally or logically connected. If investigations involving multiple Complainants and/or multiple Respondents are consolidated, each party will have access to all of the information that is directly related to the allegations; including information as provided by all involved Complainants, all involved Respondents, and all involved witnesses. The Title IX Coordinator also has the discretion to sever multiple Formal Complaints of Title IX Misconduct and Sexual and Gender-Based Misconduct into separate investigations, hearings, or appeals. In every circumstance, however, grievance proceedings shall proceed consistent with the Title IX regulations, 34 C.F.R. Part 106.

Concurrent Legal Proceedings

At the request of law enforcement, and subject to the provisions in these Procedures pertaining to notifying the Respondent of a Formal Complaint, PAFA may agree to temporarily defer proceeding with part or all of its processes until after some or all of the law enforcement investigation is complete (e.g., deferring until the initial law enforcement evidence gathering phase is complete).

Required Dismissal of Allegations of Title IX Misconduct

If at any time before or during the resolution process involving an allegation of Title IX Misconduct the Title IX Coordinator determines that:

- The conduct alleged in the Formal Complaint would not constitute Title IX Misconduct if proved;
- The conduct alleged in the Formal Complaint did not occur in a PAFA Program or Activity or to a Complainant who was participating or endeavoring to participate in such a Program or Activity; or
- The conduct alleged in the Formal Complaint did not occur against a person in the United States;

The parties will be notified in writing that the allegations of Title IX Misconduct are being dismissed, with an explanation of the reason for dismissal.

In the case of such a dismissal, The Title IX Coordinator will determine whether the alleged conduct would still, as alleged, constitute Sexual or Gender-Based Misconduct

and, if so, PAFA will proceed to address the Formal Complaint under the grievance process. Where the Title IX Coordinator determines that the alleged conduct, as alleged, would not constitute Sexual or Gender-Based Misconduct, the Title IX Coordinator may refer the report to another PAFA office or process for resolution, including referral to Student Services, Dean's office or the President's office for review.

If allegations of Title IX Misconduct are dismissed for one of the above reasons, the parties may appeal that dismissal using the process described below.

Other Dismissal and Closure

In addition to the reasons stated above for the mandatory dismissal of allegations of Title IX Misconduct, the Title IX Coordinator may dismiss a Formal Complaint of Sexual or Gender-Based Misconduct and/or Title IX Misconduct, if at any time during the investigation or hearing:

- The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw their Formal Complaint, or any allegations therein;
- The Respondent is no longer enrolled as a student or employed by PAFA; or
- Specific circumstances prevent PAFA from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If Title IX Misconduct is dismissed pursuant to this provision, the parties may appeal that dismissal using the process described below. Dismissal of Sexual or Gender-Based Misconduct pursuant to this provision is not subject to appeal.

Appeal of Dismissal of Title IX Misconduct

If allegations of Title IX Misconduct are dismissed for a reason set forth above, either party may appeal that dismissal on the following bases only:

- Procedural irregularity that materially affected the dismissal determination;
- New evidence that was not reasonably available at the time the determination regarding dismissal was made, that could materially affect the determination; and/or
- The Title IX Coordinator or designee making the dismissal decision had a conflict of interest or bias for or against Complainants or Respondents generally or the

individual Complainant or Respondent that materially affected the dismissal decision.

An appeal of the dismissal of a Formal Complaint must be filed no later than 5 calendar days after the date on which PAFA transmitted the written determination of dismissal to the parties. The appeal shall consist of a plain, concise, and complete written statement of no more than 10 pages, outlining the basis for appeal and all relevant information to substantiate the appeal.

PAFA will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. The other party may then have a period of 10 calendar days from the date of notice to submit a statement in support of the written determination and/or in opposition to the appeal. This statement will be limited to 5 pages. Any such statement will be shared with the party who filed the appeal and their advisor.

The appeal review will be conducted by an appellate decision-maker (see [Section 11.7](#)). The appellate decision-maker will review the matter based on the issues identified in the appeal(s) materials. The appellate decision-maker may consult with or request additional information from the Title IX Coordinator and other PAFA administrators or agents as necessary. The parties may object to the service of the appellate decision-maker by providing a written statement within their appeal or response to the appeal as to why the party believes that the appellate decision-maker has a conflict of interest or bias. The Title IX Coordinator or designee will make decisions regarding such objections and the appointment of an alternate decision-maker, as necessary.

The appellate decision-maker will strive to complete the appeal review within 14 calendar days of receipt of all documents. The appellate decision-maker will issue a written decision describing the result of the appeal and the rationale for the result, and the Title IX Coordinator will provide the written decision simultaneously to both parties.

Acceptance of Responsibility

The Respondent may, at any time in the formal resolution process, elect to accept responsibility for the Prohibited Conduct. In such circumstances, and with the written consent of both the Respondent and Complainant, the matter will be removed from the Formal Resolution process and finalized instead as a form of Informal Resolution. The investigator will issue a brief investigation report and/or the hearing officer (as applicable) will issue a brief outcome notice summarizing the allegations and stating

that the Respondent has accepted responsibility. The matter will then be referred to the appropriate PAFA official to determine sanctions.

If the parties both do not consent, the Formal Resolution process will continue.

Timelines

The Title IX Coordinator has authority to extend the timelines/timeframes identified below for good cause. Good cause may include, but is not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; travel and unavailability; a pandemic or other emergency; or the need for language assistance or accommodation of disability. In the case of such an extension, the Title IX Coordinator will notify the affected parties of the extension, including the reason(s) for the extension.

Core Principles for Resolution

The following core principles apply to all procedural options under the Policy.

Impartiality. As applicable, the Title IX Coordinator, investigator, hearing officer, facilitator of informal resolution, and the appellate decision-maker each must be impartial and free of any actual conflict of interest or bias.

A Complainant or a Respondent who has concerns that the Title IX Coordinator, investigator (if different than the Title IX Coordinator), hearing officer, facilitator of informal resolution, and the appellate decision-maker cannot conduct a fair and unbiased review (e.g., has a personal connection with one of the parties or witnesses, etc.) may report those concerns to the Title IX Coordinator. This individual will assess the circumstances and determine whether a different investigator, hearing officer, facilitator of informal resolution, or appellate decision-maker should be assigned to the matter.

Presumption of Good Faith Reporting. PAFA presumes that reports of Prohibited Conduct are made in good faith. As a reminder, making a false report or giving false information is a violation of this Policy and may be a basis for discipline.

Presumption of Non-Violation and Standard of Proof – Preponderance of the Evidence. The Respondent is presumed not to have violated the Policy unless it is

determined through applicable procedures that a preponderance of the evidence supports a finding of a Policy violation.

Expectations of Complainant, Respondent, and Witnesses. The Complainant, the Respondent, the Witnesses, and others sharing information with the investigator are expected to provide all relevant information at the time of their interview, or as soon as otherwise possible, and to be truthful and complete in their responses throughout the process. A party or Witness who participates in the process is expected to participate in a live interview if requested. Similarly, a person who elects to participate is expected to participate in all aspects of the process (e.g., a witness who participates in a live interview is expected to make themselves available for a hearing if requested to do so).

Advisors. Throughout the process, a Complainant or a Respondent may have an advisor of their choice. An advisor is an individual chosen by a party to provide support and guidance to them during the investigation process. An advisor may, but is not required to be, be an attorney.

A party may request to consult with their advisor at any point. However, the advisor may not represent or otherwise speak for the party they are supporting, except when a hearing occurs as part of the formal resolution process. In such hearings, the advisor may ask the other party and witnesses relevant questions. If a party does not have an advisor available at the hearing, PAFA will provide for an advisor to ask questions on behalf of that party, as described in the formal resolution process in [Section 11](#) of this Policy.

Investigators, decision-makers, and the Title IX Coordinator have the right at all times to determine what constitutes acceptable behavior on the part of an advisor and to take appropriate steps to ensure compliance with the Policy.

Prior Sexual Conduct of the Complainant. Questions and evidence about the Complainant's prior sexual behavior are not relevant, unless 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. For example, if the question being determined is whether consent was given through mutually understandable words or actions, information about the manner in which Consent has previously been communicated between the parties may be relevant in determining whether Consent was sought and given during the incident in question. The decision-maker (e.g., the hearing officer or the investigator, as applicable) will determine the relevance of such information. Prior sexual contact

between a Complainant and a Respondent is not relevant to prove character or reputation and will never be used for those purposes.

Prior or Subsequent Conduct of the Respondent. Prior or subsequent conduct of the Respondent is not relevant to prove character or reputation and will never be used for these purposes, but may be considered for other purposes, such as determining pattern, knowledge, intent, or the Respondent's reasons for taking the alleged action. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, may be deemed relevant to the determination of whether the Respondent violated the Policy or engaged in inappropriate behavior. A finding in a previous investigation that the Respondent violated the Policy by engaging in similar conduct may be relevant evidence of a pattern of behavior. Likewise, evidence in a previous investigation that the Respondent engaged in similar behavior, but the behavior was not at that time determined to be at a sufficient level to constitute a Policy violation, may be relevant to assessing severity, persistence and/or pervasiveness, as applicable, or relevant evidence of a pattern, in a subsequent investigation.

The relevance of pattern evidence will generally be determined based on an assessment of whether the previous or subsequent conduct was similar to the conduct under investigation or indicates a pattern of Prohibited Conduct. The decision-maker (e.g., the hearing officer or the investigator, as applicable) will determine the relevance of such information.

The Formal Resolution

Process

In the Formal Resolution Process, after an investigation, a live hearing occurs in which the parties' advisors have the opportunity to ask questions of the other party and the witnesses. The finding may be appealed.

The Investigation

An investigation affords both the Complainant and the Respondent an opportunity to submit information and other evidence and to identify witnesses. To be clear, although the parties have the option to submit evidence and suggest witnesses to be interviewed, the burden of gathering information in the investigation ultimately lies with PAFA. There is a presumption in every investigation that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

When the formal resolution process is initiated, the Title IX Coordinator will designate an investigator who will be responsible for gathering evidence directly related to the allegations raised in a Formal Complaint. The investigator must be impartial, free of any actual conflict of interest, and have specific and relevant training and experience. Specifically, the investigator will be trained on (1) issues of relevance; (2) the definitions in the Policy; (3) the scope of PAFA's Education Program or Activity; (4) how to conduct an investigation; and (4) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Investigation Timeframe

The investigation of a Formal Complaint will be usually concluded within 60 to 90 days of the filing of the Formal Complaint. The parties will be provided with updates on the progress of the investigation, as needed, and will be alerted, in writing, if the process will go beyond that timeframe.

Additional time beyond 60 to 90 days may be necessary to ensure the integrity and completeness of the investigation to: (1) comply with a request by law enforcement for a temporary delay to gather evidence; (2) accommodate the availability of parties and/or witnesses; (3) address the need for language assistance or accommodation of disabilities; (4) account for PAFA breaks or vacations; (5) account for case complexities including the number of witnesses and volume of information provided by the parties; or (6) for other legitimate reasons.

Interviews and Gathering Evidence

Interviews. The investigator will interview the Complainant and Respondent in order to review the disciplinary process and to hear an overview of each party's account of the allegations. Each party may have an advisor present. Before any interview, the individual being interviewed will be informed in writing of the date, time, location, participants, and purpose of the interview. Such notice will be provided with sufficient

time for the individual to prepare for the interview. The Respondent will be informed in writing if, during the investigation, additional information is disclosed that may constitute additional Prohibited Conduct under the Policy.

Following the interview, each party will be provided with a draft summary of their statement so that they have the opportunity to comment on the summary and ensure its accuracy and completeness. The parties' feedback may be attached or otherwise incorporated into the final investigative report to the extent deemed relevant by the investigator.

Evidence. During the interview, and as the investigator is gathering evidence, each party will be given the opportunity to identify witnesses and to provide other information, such as documents, communications, photographs, and other evidence. Although PAFA has the burden of gathering evidence sufficient to reach a determination regarding responsibility, all parties are expected to share any relevant information and/or any information that is requested by the investigator. Such information shared by the parties with the investigator may include both inculpatory and exculpatory evidence.

The investigator will review all information identified or provided by the parties, as well as any other evidence they obtain. Evidence obtained as part of the investigation that is directly related to the allegations in the Formal Complaint will be shared with the parties for their review and comment, as described below.

Draft Investigative Report and Opportunity to Inspect and Review Evidence

After all the evidence is gathered, and the investigator has completed witness interviews, the investigator will prepare a draft investigative report. The investigator will send each party, and the party's advisor, if any, the draft investigative report.

The investigator will also provide the parties, and their advisors, if any, with copies of all evidence directly related to the allegations of the Formal Complaint that was gathered during the investigation. This must include all directly related evidence, even evidence upon which PAFA does not intend to rely in reaching a determination regarding responsibility, and must include directly related inculpatory and exculpatory evidence whether obtained from a party another source. The evidence may be provided in either an electronic format or a hard copy. Before providing the evidence to the parties, the investigator may redact information in the evidence that is not directly related to the

allegations of the Formal Complaint; information prohibited from disclosure pursuant to a recognized legal privilege; and/or a party's medical or mental health information/records unless the party consents in writing to the disclosure of that information.

The parties will have ten (10) days to review any draft investigative report and the above-described evidence and to submit a written response. The parties' written responses must include any comments, feedback, additional documents, evidence, requests for additional investigation, names of additional witnesses, or any other information they deem relevant to the investigation. Any party providing new evidence in their written response should identify whether that evidence was previously available to them, and if so, why it was not previously provided. The parties' feedback will be attached to the final investigation report so that the other party may review it before any hearing.

The investigator will review the feedback to the draft report, collect additional evidence (as the investigator deems appropriate), and interview additional relevant witnesses (as the investigator deems appropriate). This additional activity may require extensions of the anticipated timelines for the investigation.

Final Investigative Report

After the time has run for both parties to provide any written response to the draft investigative report and evidence, and after the investigator completes any additional investigation, the investigator will complete a final investigative report. The investigator may exclude and/or redact information or evidence from the final investigative report as follows:

- Information that is not relevant to the allegations raised in the Formal Complaint;
- Information about a Complainant's prior or subsequent sexual activity, unless such information falls into one of the exceptions described above; and
- Medical or mental health information, treatment and/or diagnosis, unless the treated party consents.

The final investigative report will be shared with the Complainant, Respondent, and their advisors. The parties will have ten (10) business days to respond in writing to the final investigative report.

The Complainant and Respondent must also submit in writing to the Title IX Coordinator, before the end of that ten (10) business-day review period, the names of any witnesses the Complainant/Respondent wishes to testify at the hearing and a summary of information each witness would provide through their testimony. Names of witnesses provided by the Complainant/Respondent will be shared with the other party.

After the ten-business-day deadline, the Complainant and Respondent may not provide any additional written information for the hearing, unless that information was not reasonably available prior to the closing of the ten-business-day window. The Hearing Officer determines whether to grant exceptions to this ten-business-day deadline.

Generally, only information that is provided to, or otherwise obtained by, the investigator during the course of the investigation will be considered in the determination of whether a Policy violation occurred. Any and all information for consideration by the Hearing Officer must be provided to the investigator prior to the final investigation report and will not be allowed during the hearing unless it can be clearly demonstrated that such information was not reasonably available to the parties at the time of the investigation or that the evidence has significant relevance to a material fact at issue in the investigation. If, after the final investigation report is issued, a party provides or identifies evidence that they did not previously provide or identify despite that evidence being reasonably available to them during the investigation process, the Hearing Officer may, at their discretion, draw a negative inference from the party's delay in providing or identifying the evidence.

Hearing Procedure

Following issuance of the final investigation report, a live hearing will be provided. If at any point the Title IX Misconduct allegations are dismissed, as provided for in [Section 10.4](#), the matter will continue to be addressed as appropriate as Sexual and Gender-Based Misconduct.

The Hearing Officer

Hearings will be facilitated by a Hearing Officer, who will make the decision as to whether or not the Respondent violated the Policy using a preponderance of the evidence standard. The Hearing Officer has broad authority to determine the process, timing, and conduct of a hearing. This includes the order of presentation, timing, and overall duration of the hearing, what information and questions are relevant to the

determination of the matter, and what cross-examination questions will or will not be permitted. The Hearing Officer is responsible for maintaining an orderly, fair, and respectful hearing and has broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending person(s).

Notice

The Hearing Officer will be informed of the identities of the parties so they can identify any conflict of interest or bias. The parties will be notified of the identity of the selected Hearing Officer in advance of the hearing; and parties may, within three (3) calendar days of such notice, object to the Hearing Officer by providing a written statement (which may be transmitted electronically) as to why the party believes that the hearing officer has a conflict of interest or bias. The Title IX Coordinator (or designee) will make decisions regarding such objections and the appointment of an alternate hearing officer, as appropriate. If a potential conflict of interest is discovered outside of the three days, the Title IX Coordinator (or designee) has discretion to appoint an alternate hearing officer.

Pre-Hearing Procedures and Ground Rules

The Hearing Officer and/or the Title IX Coordinator may establish pre-hearing procedures relating to issues such as scheduling, hearing structure and process, witness and advisor participation and identification, and advance determination of the relevance of certain topics or propriety of certain anticipated cross-examination questions. The Hearing Officer will communicate with the parties prior to the hearing with respect to these issues and establish reasonable, equitable deadlines for party participation/input.

The Hearing Officer also has wide discretion over matters of decorum at the hearing, including the authority to excuse from the hearing process participants who are unwilling to observe rules of decorum.

Participation of Advisors

Both parties must be accompanied by an advisor to the hearing. If a party does not have an advisor for the hearing, PAFA will provide an advisor of PAFA's choice for that party.

Each party's advisor must conduct any cross-examination of the other party and any witnesses. Apart from conducting cross-examination, the parties' advisors do not have

a speaking role at the hearing; an advisors' participation is limited to conferring with the party at intervals set by the Hearing Officer.

Participation of Parties and Witnesses

As explained above, a party or witness who elects to participate in a PAFA process is expected, although not compelled, to participate in all aspects of the process.

If a party or witness elects to not participate in the live Title IX Misconduct hearing or participates in the hearing but refuses to answer questions posed by the other party through their advisor, the Hearing Officer will not rely on any statement of the non-participating party or witness in reaching a determination regarding responsibility. The Hearing Officer will never draw any inferences based solely on a party's or witness's absence or refusal to answer questions.

"Statements" for purposes of the hearing means factual assertions made by a party or witness. Statements might include factual assertions made during an interview or conversation, written by the individual making the assertions (including those found in a Formal Complaint), and memorialized in the writing of another (e.g. in an investigative report, police report, or medical record). Where evidence involves intertwined statements of both parties (e.g. a text message exchange or an email thread) and one party refuses to participate in the hearing or submit to questioning about the evidence while the other does participate and answer questions, the statements of only the participating party may be relied on by the Hearing Officer.

If a party does not appear for the hearing, their advisor may still appear for the purpose of asking questions of the other party and witnesses. If a non-participating party's advisor also does not appear for the hearing, PAFA will appoint an advisor to participate in the hearing for the purpose of asking questions of the other party on behalf of the non-participating party.

Parties are reminded that, consistent with the prohibition on Retaliation, Intimidation, threats of violence, and other conduct intended to cause a party or witness to not appear for a hearing are expressly prohibited.

Witnesses

The Hearing Officer may, at their discretion, exclude witnesses or witness testimony the Hearing Officer considers irrelevant or duplicative. The Hearing Officer will explain any decision to exclude a witness or testimony as not relevant.

Electronic Devices and Record the Hearing

A Respondent, Complainant, advisor, and/or witness may not bring electronic devices that capture or facilitate communication (e.g., computer, cell phone, audio/video recorder, etc.) into a hearing room, unless authorized by the Hearing Officer.

The Title IX Coordinator will arrange for there to be an of the hearing, which will be made available to the parties for review and kept on file by PAFA for seven years.

Hearing Location and Use of Technology

The hearing will be live, with all questioning conducted in real time. Upon request, the parties may be located in separate rooms (or at separate locations) with technology enabling the Hearing Officer and the parties to simultaneously see and hear the party or witness answering questions. A hearing may be conducted entirely virtually through the use of remote technology so long as the parties and Hearing Officer are able to hear and see one another in real time and any cross-examination can be conducted in real time.

Hearing Structure

The Hearing Officer has general authority and wide discretion over the conduct of the hearing. Although the Hearing Officer has discretion to modify the hearing structure, the general course of procedure for a hearing is as follows:

- Introductions;
- Respondent's statement accepting or denying responsibility;
- Opening Statement from the Complainant;
- Opening Statement from the Respondent;
- Questioning of the Complainant by the Hearing Officer;
- Cross-examination of the Complainant by the Respondent's advisor;
- Questioning of the Respondent by the Hearing Officer;
- Cross-examination of the Respondent by the Complainant's advisor;
- Hearing Officer questioning of other witnesses (if applicable);
- Cross-examination of other witnesses by the parties' advisors;
- Closing comments from the Complainant; and,
- Closing comments from the Respondent.

A Complainant or Respondent may not question each other or other witnesses directly; they must conduct the cross-examination through their advisors. Before a party or witness answers a cross-examination or other question, the Hearing Officer will first determine whether the question is relevant. The Hearing Officer may exclude irrelevant information and/or questions. The Hearing Officer will explain any decision to exclude a question or information as not relevant. That decision and the related explanation will be noted in the transcript of the hearing.

The evidence collected as part of the investigative process will be made available at the hearing to give each party an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Determination Regarding Responsibility

Following the hearing, the Hearing Officer will consider all relevant evidence and make a determination, by a preponderance of the information/evidence, whether the Respondent has violated the Policy.

A preponderance of the evidence standard means that, based on the information acquired during the investigation and the hearing, it is more likely than not the Respondent engaged in the alleged conduct.

Remedies and Sanctions

In the event the Hearing Officer finds the Respondent responsible for a violation of PAFA's policies, appropriate remedies and sanctions will be determined by the Hearing Officer. Remedies are designed to resort or preserve equal access to PAFA's Education Program or Activity and may be disciplinary or punitive.

Upon a finding of responsibility, the Complainant will be provided with remedies designed to restore access to PAFA's Programs and Activities.

Written Notice Regarding Outcome and, if applicable,

Sanctions/Remedies

After a determination regarding responsibility and, if applicable, a determination regarding appropriate remedies and/or sanction has been made, the Complainant and Respondent will receive a simultaneous written notification including the decision regarding responsibility and, as applicable, remedies and sanctions. The written notification, which will be prepared by the Hearing Officer, will include the following:

- Identification of the allegations potentially constituting Title IX Sexual Harassment;
- A description of the procedural steps taken from the receipt of the Formal Complaint with parties and witnesses, interviews, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions PAFA imposes on the Respondent, and whether remedies designed to restore or preserve equal access to PAFA's Program or Activity will be provided by PAFA to the Complainant; and
- PAFA's procedures and permissible bases for the Complainant and Respondent to appeal.

The written notification of outcome becomes final seven days after it is sent to the Parties, unless an appeal is filed on or before that day.

Appeals

A Respondent and Complainant both have the right to appeal the Hearing Officer's decision regarding responsibility.

A party wishing to appeal must file a written appeal statement within five business days of the date the written decision is sent to the parties. Appeal statements are limited to ten pages. The written appeal statement must identify the ground(s) upon which the appeal is being made.

The only grounds for appeal are:

- New evidence not reasonably available at the time of the decision/hearing that could affect the outcome of the matter;
- The Title IX Coordinator, investigator, or Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent specifically that affected the outcome of the matter; and/or

- Procedural irregularity that affected the outcome of the matter.

An appeal is not a re-hearing of the case. PAFA may summarily deny an appeal if it is not based on one of the enumerated grounds for appeal.

Appellate decision-maker. If PAFA does not summarily deny the appeal, PAFA will appoint an appellate decision-maker. The appellate decision-maker's role is limited to reviewing the underlying record of the investigation and hearing, the appealing party's ("Appellant") written appeal statement, any response to that statement by the other party ("Appellee"), and information presented at a meeting of the appellate decision-maker, if convened.

Conflict of interest. PAFA will notify the Appellant and Appellee of the name of the appellate decision-maker. The Appellant and/or Appellee may challenge the participation of an appellate decision-maker because of an actual conflict of interest, bias, or prejudice. Such challenges, including rationale, must be submitted in writing to the Title IX Coordinator no later than 48 hours after notification of the name of the appellate decision-maker. PAFA will determine whether such a conflict of interest exists and whether an appellate decision-maker should be replaced.

Response to Appeal. The appellate decision-maker will provide written notice to the Appellee that an appeal has been submitted and will give the Appellee an opportunity to review the appeal statement. The Appellee may submit a written response to the appeal ("response"). The response is due five business days from the date PAFA provides written notice of the appeal to the Appellee and must be limited to no more than ten pages. PAFA will provide the Appellant an opportunity to review the response. No "reply" or further submission may be provided.

Written Decision. The appellate decision-maker will provide written notification of the final decision to the Appellant and Appellee simultaneously. The written decision shall describe the result of the appeal and the rationale for the result. The appellate decision-maker will typically notify the parties of its decision regarding an appeal in writing within 10 business days from receipt of the appeal statement. If the decision will take longer, the parties will be informed. The decision of the appellate decision-maker will be final, and no subsequent appeals are permitted.

Informal Resolution

Informal Resolution is an alternative resolution process that does not include an investigation or hearing. Informal Resolution is typically a spectrum of facilitated, or structured, and adaptable processes between the Complainant, the Respondent, and/or other affected community members that seeks to identify and meet the needs of the Complainant while providing an opportunity for the Respondent to acknowledge harm and seek to repair the harm (to the extent possible) experienced by the Complainant and/or the PAFA community.

Informal Resolution options include but are not limited to mediation, referral of the parties to counseling programs, targeted or broad-based educational and training programs, direct communication with the Respondent by the Complainant, communication with the Respondent by the Title IX Coordinator or a PAFA administrator, or other forms of restorative justice.

Informal Resolution is not available in cases involving a Student-Complainant and Employee-Respondent. Additionally, the Informal Resolution process may not commence unless and until a Formal Complaint is filed. Informal Resolution may be available, under appropriate circumstances, at any time prior to reaching a determination regarding responsibility.

Some alleged violations of this Policy may not be appropriate for Informal Resolution. The Title IX Coordinator reserves the right to determine whether Informal Resolution is appropriate in a specific case. Before the Title IX Coordinator commences the Informal Resolution process, both parties must provide informed consent in writing. In addition, where both parties and PAFA determine that Informal Resolution is worth exploring, PAFA will provide the parties with a written notice disclosing:

- the allegations of the Formal Complaint,
- the requirements of the Informal Resolution process, and
- any consequences resulting from participating or withdrawing from the process, including the records that may be maintained by PAFA.

At any time prior to reaching a resolution, either party may withdraw from the Informal Resolution process and proceed with the formal grievance process for resolving the Formal Complaint.

Once an Informal Resolution is agreed to by all parties, the resolution is binding, and the parties generally are precluded from resuming or starting the formal grievance

process related to that Formal Complaint. Any breach of the terms of an Informal Resolution agreement may result in disciplinary action.

Remedies-based resolution will typically be completed within thirty (30) business days after the informal resolution process commences. Situations that are resolved through informal resolution are usually subject to follow-up after a period of time to assure that resolution has been implemented effectively.

Record Retention

PAFA shall retain for a period of seven years after the date of case closure: the official file relating to a formal resolution (including any investigation hearing, sanctioning, and/or appeals processes) or informal resolution involving allegations of Title IX Misconduct. In cases in which a Respondent was found to have violated the Policy and was expelled or terminated, PAFA may retain such official case files indefinitely.

Understanding PAFA's Clery

Act Timely Warning

Obligations

In compliance with federal law, PAFA will provide timely notice to the campus community regarding certain crimes covered by the Clery Act considered to be a serious or on-going threat to the safety of or health of students and employees which are reported to "Campus Security Authorities" as defined under the Clery Act.

[A list of designated Campus Security Authorities is available in the Annual Security Report.](#)

The [Safety & Security Office](#) has a responsibility to provide timely warnings about reported crimes to the campus community in a manner that will aid in the prevention of similar crimes. The manner of notification depends upon the particular circumstances of the crime. PAFA will make every effort not to release personally identifying information while still providing enough detail for community members to make safety decisions in light of the danger.

Education and Prevention

PAFA aims to eliminate Sexual and Gender-based Misconduct and Title IX Misconduct through education, training, clear policies, and serious consequences for violations of this Policy. PAFA's Title IX Coordinator has responsibility for ensuring compliance with PAFA's policies in this regard.

Throughout the year, PAFA will provide mandatory training and special workshops to bring awareness to our policies and what each community member can do to play their part. We encourage you to read these materials carefully and to participate in on-site events.

Additional material and resources are available through the Student Services office. If you have questions about any of these policies, you are encouraged to talk to PAFA's Title IX Coordinator or to reach out to a member of the Student Services team.