

# QUEENS UNIVERSITY OF CHARLOTTE

## SEXUAL MISCONDUCT AND INTERPERSONAL VIOLENCE POLICY AND TITLE IX SEXUAL HARASSMENT<sup>1</sup> AND NON-TITLE IX SEXUAL MISCONDUCT GRIEVANCE PROCEDURES

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**IMPORTANT INFORMATION FOR INDIVIDUALS WHO MAY BE VICTIMS OF SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, OR STALKING:**

If you or someone you know may have been a victim of the behaviors listed above or any other type of violence, you are strongly encouraged to seek immediate assistance.

**ASSISTANCE CAN BE OBTAINED 24 HOURS A DAY, 7 DAYS A WEEK, FROM THE CAMPUS POLICE DEPARTMENT (LOCATED IN WATKINS AND AVAILABLE BY PHONE AT \_\_\_\_\_).**

During business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), you are also strongly encouraged to contact one of the following individuals:

**LeAnna Rice, Associate Dean of Students/Title IX Coordinator**  
704-337-2228; [ricel@queens.edu](mailto:ricel@queens.edu)  
LeAnna's office is located in Morrison Hall (Room 217).

\_\_\_\_\_, **Deputy Title IX Coordinator**  
[CONTACT INFORMATION FORMATTED LIKE COORDINATOR'S]

For additional information about seeking medical assistance and emotional support, as well as important contact information for local law enforcement agencies, hospitals, and other resources, **see Appendices attached to this document.**

## **SECTION I. SEXUAL MISCONDUCT AND INTERPERSONAL VIOLENCE**

### **1.01 Introduction and Notice of Non-Discrimination Policy**

Queens University of Charlotte (“Queens” or “the University”) is committed to maintaining a respectful academic and working environment for students, faculty, staff, and visitors. This includes having an environment free from unlawful sexual misconduct and interpersonal violence. This policy covers all students, employees and other individuals who have a relationship with Queens that enables the University to exercise some control over the individual’s conduct in places and activities that relate to the University’s work (e.g., contractors, vendors, visitors, etc.).

Queens University of Charlotte, in compliance with and as required by Title IX of the Education Amendments Act of 1972 and its implementing regulations (“Title IX”) and other civil rights laws, as well as in furtherance of its own values as a higher education institution, does not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender, gender identity, pregnancy, disability, age, religion, veteran status, or any other characteristic or status protected by applicable local, state, or federal law in admission, treatment, or access to, or employment in, its programs and activities.

Discrimination and harassment are antithetical to the values and standards of the Queens community; are incompatible with the safe, healthy environment that the Queens community expects and deserves; and will not be tolerated. Queens is committed to providing programs, activities, and an education and work environment free from discrimination and harassment and to fostering a community that promotes prompt reporting and fair and timely resolution of those behaviors.

So that the University may continue to foster a climate of respect and security on campus as it relates to preventing and responding to acts of sexual misconduct and interpersonal violence, this policy has been created and serves to demonstrate Queen’s commitment to:

- Prohibiting acts of sexual misconduct and interpersonal violence
- Disseminating clear policies and procedures for responding to acts of sexual misconduct and interpersonal violence reported to or reasonably known to the institution, which includes Title IX Grievance procedures
- Delivering primary prevention and awareness programs and ongoing training and education campaigns to students and employees so they may identify what behavior constitutes sexual misconduct and interpersonal violence, understand how to report such misconduct, recognize warning signs of potentially abusive behavior and ways to reduce risks, and learn about safe and

positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk sexual misconduct or interpersonal violence;

- Engaging in intake, investigative inquiry and subsequent resolution of complaints that are prompt, fair, equitable and independent of other investigations that may occur;
- Supporting complainants and respondents and to hold persons accountable for violations of this policy; and
- Providing a written explanation of the rights and options available to every student or employee that has been the victim of sexual misconduct or interpersonal violence.

Lastly, it is the intent of the policy to accomplish the following:

1. To identify the Title IX Coordinator and describe their role in compliance with guidance from the U.S. Department of Education's Office of Civil Rights and in compliance with the Clery Act.
2. To identify how students and employees can report sexual misconduct or interpersonal violence to the University confidentially or privately and what resources are available both on and off campus to aid them, including employees and student's rights to notify local law enforcement and the right to also decline to notify such authorities.
3. To provide information about how complaints are assessed, investigated and resolved.
4. To provide the University with a means to take all reasonable steps to identify harassment, prevent recurrence of any harassment, and to correct its discriminatory effects on the complainant and others, as appropriate.

Inquiries concerning sexual misconduct or interpersonal violence may be referred to Queens's Title IX Coordinator, LeAnna Rice. The appendices to this document provides LeAnna Rice's contact information.

Inquiries concerning discrimination or harassment based on a protected characteristic or status other than sex may be referred to LeAnna Rice. The appendices also provides their contact information.

Individuals may also make inquiries regarding discrimination or harassment to the U.S. Department of Education's Office for Civil Rights by contacting the District of Columbia Office, 400 Maryland Avenue, SW, Washington, D.C. 20202-1475; Phone 800-421-3481; email: OCR@ed.gov.

## **1.02 Prohibition on Sexual Misconduct and Intimate Partner Violence, Retaliation, and Providing False Information or Interfering with a Grievance Process**

This Policy prohibits discrimination and harassment on the basis of sex. Queens strongly encourages the prompt reporting of, and is committed to timely and fair resolution of, complaints of Sexual Misconduct and Intimate Partner Violence.

Sexual Harassment, as defined by Title IX and herein,<sup>2</sup> is a specific type of sex discrimination/harassment that includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking and that Queens addresses using its Title IX Sexual Harassment Grievance Procedures, as required by Title IX.

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<sup>2</sup> Capitalized terms used herein are defined in Section 1.0.

This Policy also prohibits Retaliation, as defined by Title IX and herein. Complaints alleging Retaliation may be filed with the Title IX Coordinator and, at the discretion of the Title IX Coordinator, may be addressed under Queens 's Title IX Sexual Harassment Grievance Procedures or other grievance procedures adopted by Queens.

Additionally, any individual who knowingly files a false Formal Complaint or who interferes with a Queens grievance process may be subject to disciplinary action. Interference with a grievance process may include, but is not limited to, attempting to coerce, compel, or prevent an individual from providing testimony or relevant information; removing, destroying, or altering documentation relevant to an investigation; or providing false or misleading information to Queens officials who are involved in the investigation and/or resolution of a Formal Complaint, or encouraging others to do so.

### **1.03 Reporting and Period of Limitations**

Any person (whether or not alleged to be the victim) may report sex discrimination or harassment, including Sexual Harassment, in person, by mail, by telephone, or by electronic mail, using the contact information for the Title IX Coordinator listed in the Appendices, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours).

Queens *requires* all employees and other members of the Queens community to promptly report concerns regarding suspected or known sexual misconduct on the basis of sex to the Title IX Coordinator.

In addition to the Title IX Coordinator, Queens has designated the following employees as individuals with the authority to institute corrective measures on behalf of Queens: The Senior Leadership Team which includes the President and all Vice-Presidents, Deans of Academic Departments, Assistant Deans in Student Life (except the Assistant Dean of Health and Wellness), Head Coaches, and all professional athletic staff. Accordingly, a report to any of these individuals constitutes Actual Knowledge.

Additionally, Queens has designated the following employees as confidential resources for students.

- Health and Wellness Service
- Counseling Center
- The Chaplain's Office

Information about sex discrimination or harassment shared with these confidential resources typically will not be reported to other Queens personnel (including the Title IX Coordinator), to the Respondent, or to others, unless the disclosing individual gives their consent to the disclosure or the law requires it (as may be the case with abuse involving a minor or under conditions involving imminent physical harm, for example). (Confidential resources may report *non-identifying* statistical information to the Title IX Coordinator for recordkeeping and compliance purposes.)

Queens will address allegations of Sexual Misconduct and Intimate Partner Violence appropriately no matter the length of time that has passed since the alleged conduct. However, Queens strongly encourages prompt reporting to preserve evidence for a potential legal or disciplinary proceeding. Delay may compromise the ability to investigate, particularly if the individuals involved in the alleged conduct are no longer Queens students or employees.

## 1.04 Applicability of Policy and Grievance Procedures

This Policy applies to any allegation of sexual misconduct or harassment made by or against a student or an employee of Queens or a third party, regardless of sex, sexual orientation, sexual identity, gender expression, or gender identity.

The Title IX Sexual Harassment Grievance Procedures apply only to allegations of Sexual Harassment in Queens's Education Program or Activity (as defined herein).<sup>3</sup>

Queens will address allegations of other Non-Title IX Sexual Misconduct by: using other student and employee conduct disciplinary procedures outlined in Section 3 of this document, which are defined and discussed in more detail herein.

## 1.05 Rights of Parents

When a student Complainant or Respondent is a minor or has a guardian appointed and their parent or guardian has the legal right to act on the student's behalf, then the parent or guardian may file a Formal Complaint on behalf of the student, although the student would be the "Complainant." In such a situation, the parent or guardian may exercise the rights granted to the student under this Policy, including requesting Supportive Measures and participating in a grievance process. Similarly, the parent or guardian may accompany the student to meetings, interviews, and hearings during a grievance process to exercise rights on behalf of the student, while the student's Advisor of choice may be a different person from the parent or guardian. Whether or not a parent or guardian has the legal right to act on behalf of an individual would be determined by state law, court orders, child custody arrangements, or other sources granting legal rights to parents or guardians.

Additionally, FERPA and its implementing regulations address the circumstances under which a parent or guardian is permitted to inspect and review a student's education records. However, in circumstances in which FERPA would not grant a party the opportunity to inspect and review evidence in connection with a grievance process, pursuant to Title IX and its implementing regulations, the student has an opportunity to do so, and a parent or guardian who has a legal right to act on behalf of the student has the same opportunity.

## 1.06 Definitions Applicable to Policy and Grievance Procedures

Capitalized terms used herein are defined as follows.

**"Actual Knowledge"** means notice of Sexual Harassment or allegations of Sexual Harassment to Queens's Title IX Coordinator, The Senior Leadership Team which includes the President and all Vice-Presidents, Deans of Academic Departments, Assistant Deans in Student Life (except the Assistant Dean of Health and Wellness), Head Coaches, or any professional athletic staff. **"Notice"** as used in this paragraph includes, but is not limited to, a report of Sexual Harassment to the Title IX Coordinator.<sup>4</sup>

**"Clery Act"** refers to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, which is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. § 668.46. The Clery Act requires all colleges and universities that

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<sup>3</sup> And, at the discretion of the Title Coordinator, to related allegations of Retaliation.

<sup>4</sup> This standard is not met through imputation of knowledge based solely on vicarious liability or constructive notice. This standard also is not met when the only individual with Actual Knowledge is the Respondent. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one to whom notice of Sexual Harassment or allegations of Sexual Harassment constitutes Actual Knowledge.



participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.

**“Consent”** means communication of mutually understandable words or actions, freely, actively, and affirmatively given that indicate a willingness to participate in mutually agreed upon sexual activities or actions. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties involved to do the same thing, in the same way, at the same time. Consent cannot be given if the individual has a reasonable fear he or she will be injured if the individual does not give consent, is incapable of giving consent or is prevented from resisting due to physical or mental incapacity, which may include but is not limited to the influence of drugs or alcohol, or if the individual has a mental or physical disability that would prohibit their ability to provide consent. In the absence of mutually understandable words or actions, it is the responsibility of the initiator of the sexual activity to make sure they have consent from their partner. Consent can also be withdrawn at any time.

Consent cannot be inferred through silence or lack of resistance. Consent to one activity does not constitute consent to other sexual acts. Past sexual activity does not constitute consent for future acts. A minor cannot provide consent under any circumstances. If at any time consent is uncertain, the initiating party should stop and obtain verbal consent. The use of any force, display of force, coercion, or intimidation typically negates consent.

**“Complainant”** means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment, irrespective of whether a Formal Complaint has been filed.

**“Day”** means a business day, unless otherwise specified.

**“Education Program or Activity”** means all of Queens’s operations and includes (1) locations, events, or circumstances over which Queens exercised substantial control over both the Respondent and the context in which the alleged Sexual Harassment occurred; and (2) any building owned or controlled by a student organization that is officially recognized by Queens.

**“Education Record”** has the meaning assigned to it under FERPA.

**“FERPA”** is the Family Educational Rights and Privacy Act, a federal statute codified at 20 U.S.C. § 1232g, with implementing regulations at 34 C.F.R. § 99. FERPA protects the privacy of student Education Records. FERPA grants to eligible students the right to access, inspect, and review Education Records, the right to challenge the content of Education Records, and the right to consent to the disclosure of Education Records.

**“Formal Complaint”** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that Queens investigate the allegation of Sexual Harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in Queens’s Education Program or Activity. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail by using the contact information listed for the Title IX Coordinator in [Appendices](#). As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.

**“Incapacitation”** means an individual who is unable to legally give consent to sexual activity. Incapacitation includes, but is not limited to, being highly intoxicated, passed out, or asleep. A person who is incapacitated for purposes of this policy is one who is not legally able to give consent because they are mentally or physically helpless. Mentally helpless is when a person has a mental illness or a condition (like being passed out, asleep, or highly impaired) that renders them incapable of understanding the nature of their conduct. Physically helpless means a person has restriction of

movement, either temporarily or permanently.

When incapacitation occurs due to alcohol or drug use, indicators of incapacitation may include the following:

- Slurred speech
- Bloodshot or unfocused eyes
- Unsteady gait; needing assistance to walk/stand
- Vomiting
- Outrageous or unusual behavior
- Concern expressed by others about the individual
- Expressed memory loss or disorientation

An individual may also be in a state known as a “blackout” where they are incapacitated and will likely have no memory of the sexual activity, but are up, and walking and talking. Therefore, it is of particular importance that people engaging in sexual activity know the others’ level of intoxication prior to beginning sexual contact. For purposes of the University’s policy, the standard that shall be applied is whether or not a reasonable person would have known, based on the facts and circumstances presented at the time of the alleged conduct, that the other party was incapacitated and therefore, not capable legally of consenting. As the accused party, being under the influence of alcohol or drugs is never a defense to this policy and does not excuse sexual misconduct.

**“Non-Title IX Sexual Misconduct Violation** is defined as follows:”

- (1) Conduct that would otherwise meet the definition of Sexual Harassment but does not meet the geographical or personal jurisdictional requirements under Title IX and its implementing regulations. For example, an alleged sexual assault that occurs in an off-campus apartment leased by a student would not satisfy the geographical jurisdiction of Title IX, but that alleged assault would be addressed under this Policy as sexual misconduct that is a Non-Title IX violation.
- (2) Conduct that does not meet the definition of Sexual Harassment but is sexual or gender based harassment that includes verbal, written, or physical behavior, directed at someone, or against a particular group, because of that person’s or group’s sex, gender identity, actual or perceived sexual orientation, or based on gender stereotypes, when that conduct is unwelcome and meets the following criteria:
  - (a) Submission to or rejection of the conduct is made either explicitly or implicitly a term or condition of an individual’s education, employment, University living environment, or participation in a University activity or program; or
  - (b) Submission to or rejection of the conduct is used as the basis for, or as a factor in, decisions affecting an individual’s education, employment, University living environment, or participation in a University activity or program; or
  - (c) the conduct has the purpose or effect of creating an intimidating, hostile, or offensive 9 educational, employment, University living, or University activity or program environment(s) for an individual, or
  - d) the conduct unreasonably interferes with the educational, employment, or University living, or University activity or program environment(s) of an individual; and

The conduct is sufficiently severe or pervasive that it alters the terms, conditions, or privileges of an individual's education, employment, University living environment, or participation in a University activity or program.

Conduct may be verbal or nonverbal, written, or electronic. Sexual or gender-based harassment can occur between any persons, including those the same or opposite sex, and either as single or repeated incidents. Whether conduct is sufficient to constitute harassment is evaluated under the totality of the circumstances, including the frequency of the conduct, its severity, whether it is physically threatening or humiliating, or merely an offensive utterance. These factors are evaluated from both subjective and objective viewpoints, considering not only the effect that the conduct actually had on the person, but also the impact it would likely have had on a reasonable person in the same situation. The conduct must subjectively and objectively meet this definition to be sexual or gender-based harassment under this Policy.

This definition applies to Queens students from the time a student moves into an on-campus residence or matriculates at Queens, whichever is sooner, and continues until the student is no longer enrolled at Queens. This includes conduct taking place anywhere in the world and is not limited to conduct within Queens's Education Programs or Activities.

This definition applies to Queens employees and non-student third parties only to the extent the conduct giving rise to the complaint is directly related to the University's Education Programs or Activities.

- (3) Sexual exploitation. Conduct that is defined as taking non-consensual, unjust, or abusive sexual advantage of another, for one's own advantage or benefit; or to benefit or advantage anyone other than the person being exploited. Sexual exploitation encompasses a wide range of behaviors including, but not limited to:
- (a) inducing incapacitation with the intent to rape or sexually assault another person;
  - (b) non-consensual video or audio-recording of sexual activity;
  - (c) allowing others to observe a personal act of consensual sex without knowledge or consent of the partner;
  - (d) engaging in Peeping Tommery (voyeurism);
  - (e) knowingly transmitting a sexually transmitted disease, including HIV, to another student;
  - (f) prostituting another person (i.e. – personally gaining money, privilege, or power from the sexual activities of another person); or
  - (g) indecent exposure (willfully exposing one's genitals in any public place, and in the presence of another person).

The definition of Sexual Exploitation applies differently to Queens students, employees, and third-parties.

This definition applies to Queens students from the time a student moves into an on-campus residence or matriculates at Queens, whichever is sooner, and continues until the student is no longer enrolled at Queens. This includes conduct taking place anywhere in the world and is not limited to conduct within Queens's Education Programs or Activities.

This definition applies to Queens employees and non-student third parties only to the extent the conduct giving rise to the complaint is directly related to the University's Education Programs or Activities.

**"Respondent"** means an individual who has been reported to be the perpetrator of conduct alleged to constitute Sexual Harassment.

**"Retaliation"** means (1) any adverse action (including direct and indirect intimidation, threats, coercion, discrimination, or harassment (including charges for conduct violations that do not involve sex discrimination or harassment or Sexual Harassment but that arise out of the same facts or circumstances as a report or complaint of sex discrimination or harassment or a report or Formal Complaint of Sexual Harassment) that is (2) threatened or taken against a person (a) for the purpose of interfering with any right or privilege secured by Title IX; or (b) because the person has made a report or Formal Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Title IX.<sup>5</sup>

**"Sexual Harassment"** means conduct on the basis of sex that satisfies one or more of the following:

(1) an employee of the Queens conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct. (commonly referred to *quid pro quo* harassment);

(2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Queens's Education Program or Activity; or

3) "Sexual Assault," Sexual Assault is any sexual act directed against another person, without the consent of the person, including instances where the person is incapable of giving consent. Sexual Assault can occur between individuals of the same or different sexes and/or genders. Sexual Assault includes the following:

Rape: The carnal knowledge of a person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;

Sodomy: Oral or anal sexual intercourse with another person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;

Sexual Assault with an Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of a person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;

Fondling: The touching of the private body parts of a person for the purpose of sexual gratification, without the consent of the person, including instances where the person is

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incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;

Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; and

Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent

(4) **“Dating Violence,”** as defined in 34 U.S.C. § 12291(a)(10): violence committed by a person— (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship;

(5) **“Domestic Violence,”** as defined in 34 U.S.C. § 12291(a)(8): felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, 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 jurisdiction; or

(6) **“Stalking,”** as defined in 34 U.S.C. § 12291(a)(30): engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

**“Supportive Measures”** are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant and/or a Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to Queens’s Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Queens’s educational environment or deter Sexual Harassment.

Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security, and monitoring of certain areas of the campus. Queens will maintain as confidential any Supportive Measures provided to a Complainant or a Respondent, to the extent that maintaining such confidentiality would not impair Queens’s ability to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

Additionally, the Title IX Coordinator will, at the request of the Respondent or Complainant, initiate and facilitate a connection to the Health and Wellness Center (HWC) for purpose of therapeutic mental health services through the Counseling Center on an as needed- basis, subject only to the capacity of the HWC to provide care, though the students themselves will need to schedule appointments. As currently is the case with all Queens Undergraduate students, participants in the process outlined in the University’s Sexual Misconduct and Interpersonal Violence policy will participate in these services without incurring additional costs; subject however, to potential future changes regarding the intersection of insurance and these services, which changes may require student payments not currently required. If a student requires care beyond the capacity of the Counseling Center, a health professional from HWC will, upon request of the student, search within the appropriate external treatment options to provide assistance in identifying those resources, to include reduced or no cost resources, which would then be accessed at the student’s

own expense.

## **SECTION II. TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCEDURES**

### **A. APPLICABILITY, COMPLAINT INTAKE, AND OVERARCHING PROVISIONS**

#### **2A.01 Applicability of Grievance Procedures**

As noted above, these Grievance Procedures apply to allegations of Sexual Harassment in Queens's Education Program or Activity (and to related Retaliation, at the discretion of the Title IX Coordinator). Queens treats Complainants and Respondents equitably by providing remedies to a Complainant where Queens makes a determination of responsibility for Sexual Harassment against a Respondent under these Grievance Procedures and also by following these Grievance Procedures before imposing any disciplinary sanctions against a Respondent for Sexual Harassment.

#### **2A.02 Obligation to Respond and Initial Outreach to Complainant**

When Queens has Actual Knowledge of Sexual Harassment (or allegations thereof) against a person in the United States in its Education Program or Activity, Queens is obligated to respond and to follow Title IX's specific requirements, which are addressed and incorporated in these Grievance Procedures.

Promptly upon receiving allegations of Sexual Harassment against a person in the United States in Queens's Education Program or Activity, the Title IX Coordinator will contact the Complainant to discuss the availability of Supportive Measures with or without the filing of a Formal Complaint and to explain to the Complainant the process for filing a Formal Complaint.

#### **2A.03 Filing of a Formal Complaint**

As noted in the Definitions section above, a Formal Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that Queens investigate the allegation(s) of Sexual Harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in Queens's Education Program or Activity. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed in Appendices and the Formal Complaint Form listed in Exhibit B. As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission that contains the Complainant's physical or digital signature or otherwise indicates that the Complainant is the person filing the Formal Complaint.

When the Title IX Coordinator believes that, with or without the Complainant's desire to participate in a grievance process, a non-deliberately indifferent response to the allegations requires an investigation, the Title IX Coordinator has the discretion to initiate the grievance process by signing a Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party under these Grievance Procedures. Furthermore, initiation of a Formal Complaint by the Title IX Coordinator is not sufficient alone to imply bias or that the Title IX Coordinator is taking a position adverse to the Respondent.

Once a Formal Complaint is initiated, an alleged victim will be referred to as a "Complainant," and an alleged perpetrator will be referred to as a "Respondent."



## **2A.04 Notice of Allegations**

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide the Complainant and any known Respondent written notice of these Grievance Procedures and of the allegations of conduct potentially constituting Sexual Harassment, including sufficient details known at the time and with at least five days to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, if known.

The written notice will include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice also will inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and that at appropriate junctures the parties and their advisors may review and inspect evidence collected during the investigation. Additionally, the written notice will inform the parties of Queens's prohibition on knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, Queens decides to investigate allegations of Sexual Harassment involving the Complainant or Respondent that are not included in the original written notice of allegations, Queens will provide notice of the additional allegations to the parties whose identities are known.

## **2A.05 Dismissal**

Queens will investigate the allegations in a Formal Complaint; however, Queens *will* dismiss a Formal Complaint or a portion of the allegations therein if (1) the conduct alleged in the Formal Complaint, even if substantiated, would not constitute Sexual Harassment; (2) at the time of filing the Formal Complaint the Complainant was not participating in or attempting to participate in Queens's Education Program or Activity; (3) the conduct alleged in the Formal Complaint did not occur in Queens's Education Program or Activity; or (4) the conduct alleged in the Formal Complaint did not occur against an individual in the United States. Such a dismissal may take place at the conclusion of the investigation or at any time prior to the conclusion of the investigation.

Additionally, Queens *may* dismiss a Formal Complaint or a portion of the allegations therein if (1) the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; (2) the Respondent is no longer enrolled or employed at Queens; or (3) despite efforts to do so, Queens is unable to gather evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

In the event the Title IX Coordinator determines that dismissal of a Formal Complaint or a portion of the allegations is appropriate, the Title IX Coordinator will promptly notify the parties in writing of the dismissal and the reasons for it. Dismissal does not impair Queens's ability to proceed with any appropriate investigatory or disciplinary actions under the Sexual Misconduct and Intimate Partner Violence Policy or another Queens policy or procedure and/or to provide Supportive Measures to the parties.

Either party may appeal a decision to dismiss a Formal Complaint or a portion of the allegations on the following grounds by submitting a written appeal to the Title IX Coordinator five days of the issuance of the written notice of the dismissal: (1) procedural irregularity that affected the decision to dismiss; (2) new evidence that was not reasonably available at the time of dismissal and that could affect the outcome of the matter; or (3) the Title IX Coordinator or other participant in the dismissal having a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the decision to dismiss.



The Title IX Coordinator will promptly notify the other party of the appeal, and the non-appealing party may submit a response to the appeal within three days of notification of the appeal

The Title IX Coordinator will appoint an appeal officer and will contemporaneously share the appeal officer's name and contact information with the Complainant and the Respondent.

Within two days of such appointment, the Complainant, or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias on the part of the appeal officer. The Title IX Coordinator will consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

The Title IX Coordinator will forward the Formal Complaint and any documents upon which the dismissal decision was based, as well as the appeal and any response to the appeal to the appeal officer.

Within seven days of receipt of those materials, the appeal officer will determine whether any of the grounds for appeal warrant overturning or modifying the dismissal. The decision by the appeal officer is final.

## **2A.06 Advisors**

The Complainant and the Respondent may be accompanied to any meeting or proceeding under these Grievance Procedures by the advisor of their choice, who may be, but is not required to be, an attorney. Queens will not limit the choice or presence of the advisor for either the Complainant or the Respondent in any meeting or grievance proceeding. Advisors, however, are not allowed to disrupt any such meeting or proceeding or to speak on behalf of the Complainant or the Respondent, with the exception of cross-examination during any hearing conducted under these Grievance Procedures, which must be conducted by an advisor and never personally by the Complainant or the Respondent.

Parties must provide the name and contact of their advisor to the Title IX Coordinator in writing as soon as reasonably possible and must provide updated information if their advisor changes. All advisors will be required to assent to Queens's Expectations for Advisors.

If a party does not have an advisor present at the hearing, Queens will provide, without any charge to that party, an advisor of Queens's choice who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

Absent accommodation for a disability, the Complainant and the Respondent may not be accompanied by more than one advisor or by other individuals during meetings or proceedings under these Grievance Procedures.

## **2A.07 Navigators**

The Complainant and the Respondent may request to be assigned a Navigator at any point during a grievance process as third party resource to help navigate and address questions and concerns related, the Sexual Misconduct and Interpersonal Violence Policy and process. The Navigator will have no formal role in the grievance process otherwise described in this policy for the case that the party is undergoing. The Navigator's job duties include (1) promptly reviewing the Formal Complaint and contacting the party assigned to the Navigator, (2) acting as a resource to the party throughout the grievance process, to include (a) providing the party - on the Navigator's own initiative or at the request of the party - with information about possible supportive measures, health care resources, law enforcement resources, legal advocacy resources, information the contents of a Formal Complaint, and charges, if applicable, against the party, (b) answering the party's questions related to the grievance process and Formal Complaint, (c) responding to the party's concerns that polices applicable to the grievance process and Formal Complaint

are being followed and, (d) as necessary or appropriate, reporting those concerns to University officials and (3) from time to time throughout the grievance process, contacting the party to determine whether any change in the party's circumstances may warrant and additional review of any of the above information or other action necessary to ensure that the party has full and fair access to information and resources during the grievance process.

#### **2A.08 Amnesty**

Queens considers the reporting and adjudication of Sexual Harassment to be of paramount importance. Queens does not condone underage drinking or the use of illegal drugs; however, Queens may extend amnesty to Complainants, Respondents, witnesses, and others involved in a grievance process from punitive sanctioning for illegal use of drugs and/or alcohol when evidence of such use is discovered or submitted in the course of a grievance process. Similarly, Queens may, in its discretion, provide amnesty for other conduct code violations that are discovered in the course of a grievance process.

#### **2A.09 Timing**

Queens will make every reasonable effort to ensure that the investigation and resolution of a Formal Complaint occurs in as timely and efficient a manner as possible. The timelines set forth in these Grievance Procedures are guidelines and may be altered for good cause with written notice to the Complainant and the Respondent of any delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; natural disasters, pandemic restrictions, and similar occurrences; or the need for language assistance or accommodation of disabilities.

Queens will strive to complete its investigation and resolution of a Formal Complaint (not including an appeal, if applicable) within 90 days of the receipt of the Formal Complaint, absent extenuating circumstances. Hearings generally will take place within 20 days of the conclusion of the investigation. Within seven days of the conclusion of the hearing, both the Complainant and the Respondent will receive a final outcome letter.

Either party may request an extension of any deadline by providing the Title IX Coordinator with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The Title IX Coordinator will review the request and will make a determination with regard to the request within three days.

#### **2A.10 Written Notice of Meetings**

Queens will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with sufficient time for the party to prepare to participate.

#### **2A.11 Effect of Corollary Criminal Investigation**

Queens's investigation may be delayed temporarily while criminal investigators are gathering evidence. In the event of such a delay, Queens will implement any appropriate Supportive Measures and will evaluate the need for other actions necessary to assist or protect the Complainant, the Respondent, and/or the Queens community.

Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decline to investigate a matter is determinative of whether Sexual Harassment has occurred in the eyes of Queens.

## **2A.12 Emergency Removal and Administrative Leave**

Queens may remove a Respondent from Queens's Education Program or Activity on an emergency basis, provided that Queens first undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal, provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal, and does so in accordance with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, as applicable.

Additionally, Queens may place a non-student employee Respondent on administrative leave during the pendency of Queens's response to allegations of Sexual Harassment provided that it does so in accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

## **2A.13 Effect of Respondent Withdrawal, Graduation, or Resignation During Grievance Process**

At the discretion of Queens, a Respondent who withdraws or resigns from Queens during the pendency of a grievance process under these Grievance Procedures may be barred from Queens property and Queens activities and events and may be ineligible for re-enrollment or to be re-hired. If a Respondent completes all requirements to graduate during the grievance process, Queens may hold the Respondent's diploma until full resolution of the Formal Complaint.

## **2A.14 Privacy and Disclosure**

Except as may be permitted by FERPA or as required by law or to carry out any investigation or resolution of sexual misconduct or interpersonal violence allegations, Queens will keep private the identity of any individual who has made a report or complaint of sexual misconduct or interpersonal violence (including any individual who has made a report or filed a Formal Complaint of Sexual Harassment, any Complainant, any Respondent, and any witness.

Queens may report alleged Sexual Harassment to local law enforcement if warranted by the nature of the allegations at issue, and Queens administrators will share information regarding alleged Sexual Harassment, as appropriate and necessary, in order to address and resolve the allegation(s) at issue, prevent the recurrence of similar Sexual Harassment, and address the effects of the Sexual Harassment. Additionally, information regarding alleged Sexual Harassment may be used as a statistical, anonymous report for data collection purposes under the Clery Act.

To comply with FERPA, Title IX, and other applicable laws and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, grievance processes carried out under these Grievance Procedures are not open to the general public. Accordingly, documents prepared in connection with such processes; documents, statements, or other information introduced in interviews, meetings, and proceedings; and the final outcome letter may not be disclosed outside of those processes except as may be required or authorized by law.

As permitted by and subject to the limitations of FERPA, Queens reserves the right to notify parent(s) or guardian(s) of a student Respondent of the outcome of any investigation involving that Respondent, redacting names of any other students who do not consent to the disclosure of their information. At the written request of a party, Queens may include a party's advisor on communications and share access to documents, including the investigation report. This access is subject to the advisor's acknowledgment and agreement to maintain the confidentiality of the documents. While Queens strongly encourages parties to maintain privacy in connection with a grievance process, Queens does not prohibit parties from discussing the allegations under investigation or in any way inhibit the parties from gathering or

presenting relevant evidence. In addition, Queens's policy does not prohibit disclosure of the final outcome letter by either the Complainant or the Respondent.

#### **2A.15 Conflicts of Interest, Bias, and Training**

Queens will ensure that any individual designated by Queens as a Title IX Coordinator, investigator, decision-maker, or informal resolution facilitator under these Grievance Procedures does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

If any employee designated to participate in the investigation or resolution of a Formal Complaint is the Respondent or a relevant witness, then the Title IX Coordinator will appoint another employee to perform their duties. (If the Title IX Coordinator is the Respondent, then the President will appoint another employee to perform their duties.)

Queens also ensures that Title IX Coordinators, investigators, decision-makers, advisors, and informal resolution facilitators receive training, as applicable, on the definition of Sexual Harassment; the scope of Queens's Education Program or Activity; how to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Queens further ensures that decision-makers receive training on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, and that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Additionally, Queens ensures that decision-makers receive training on any technology to be used at live hearings.

Materials used to train Title IX Coordinators, investigators, decision-makers, advisors, and informal resolution facilitators will not rely on sex stereotypes and promote impartial investigations and adjudications of Formal Complaints of Sexual Harassment.

#### **2A.16 Burden of Proof**

At all times, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Queens, not on either of the parties.

#### **2A.17 Presumption of No Responsibility until Determination**

Respondents are presumed to be not responsible for alleged Sexual Harassment until Queens makes a determination regarding responsibility pursuant to these Grievance Procedures.

#### **2A.18 Objective Evaluation of All Relevant Evidence; Credibility Determinations**

The investigators and decision-makers under these Grievance Procedures will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and will not make any credibility determinations based on a person's status as a Complainant, Respondent, or witness.

#### **2A.19 Academic Freedom**

Queens affirms its commitment to academic freedom but notes that academic freedom does not allow any form of Sexual Harassment. Queens recognizes that an essential function of education is a probing of opinions and an exploration of ideas, some of which, because they are controversial, may cause students and others discomfort. This discomfort, as a product of free academic inquiry within a faculty member's area(s) of expertise, shall in no way be considered or construed to constitute Sexual Harassment.

Academic inquiry may involve teaching, research and extramural speech. Furthermore, nothing in this document shall be interpreted to prohibit bona fide academic requirements for a specific Queens program or activity. When investigating complaints that a party or the Title IX Coordinator believes may involve issues of academic freedom, the Title IX Coordinator will consult with the Vice President for Academic Affairs with respect to contemporary academic practices and standards.

#### **2A.20 Documentation**

Queens will retain documentation (including but not limited to any Formal Complaint, notifications, recording or transcripts of interviews, investigative report, written findings of fact, petitions for appeal, notifications of decisions (including the final outcome letter), audio recordings of hearings, and written communication with the Complainant and Respondent), for no less than seven years.

#### **2A.21 Consolidation of Formal Complaints**

Queens may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, by more than one Complainant against one or more Respondents, or by one party against the other party where the allegations of Sexual Harassment arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in these Grievance Procedures to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.

#### **2A.22 Individuals with Disabilities**

Queens will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in Queens’s grievance processes. Student requests for accommodation must be made to Mike Kutnak at [kutnakm@queens.edu](mailto:kutnakm@queens.edu). All other requests for accommodation must be made to Human Resources at [hr@queens.edu](mailto:hr@queens.edu).

## **B. THE INVESTIGATION**

### **2B.01 Appointment of Investigators and Challenging of the Same**

Unless a Formal Complaint is dismissed or the parties elect to participate in informal resolution, the Title IX Coordinator will promptly appoint one or more investigators. These investigators may be Queens employees, non-employees, or a combination of the two. The Title IX Coordinator will contemporaneously share their names and contact information with the Complainant and Respondent and also will forward a copy of the Formal Complaint to the investigators.

Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of the assigned investigators. The Title IX Coordinator will consider such statements and will promptly assign different investigators if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

### **2B.02 The Investigators' Activities**

Upon receipt of the Formal Complaint, the investigators will promptly begin their investigation, taking such steps as interviewing the Complainant, the Respondent, and witnesses (including expert witnesses, where applicable); summarizing such interviews in writing; collecting and reviewing relevant documents; visiting, inspecting, and taking or reviewing photographs of relevant sites; and collecting and reviewing other relevant evidence.

### **2B.03 The Investigative Report and Evidence Review**

The investigators will prepare a written investigative report that fairly summarizes relevant evidence and includes items such as the Formal Complaint, written statements of position, summaries or transcripts of all interviews conducted, photographs, descriptions of relevant evidence, and summaries or copies of relevant electronic records.

Prior to the completion of the investigative report, the investigators will send to each party and the party's advisor, if any, an electronic or hard copy of any evidence obtained during the investigation that is directly related to the allegations raised in the Formal Complaint, including (1) any evidence upon which Queens does not intend to rely in reaching a determination regarding responsibility; and (2) both inculpatory and exculpatory evidence.

The parties have ten days from the time that the evidence is provided to submit to the investigators a written response to the evidence. In the response, the parties may address the relevancy of any evidence that the parties believe should be included in or excluded from the investigative report and may also address any further investigation activities or questions that they believe are necessary. If a party wishes to submit additional evidence at this stage, they should explain how the evidence is relevant and why it was not previously provided.

The investigators will review and consider the parties' written submissions and may conduct additional investigative activities as appropriate prior to finalizing the investigative report. The need for additional investigative activities may result in a delay or extension to the timelines set forth in these Grievance Procedures.

At least ten days prior to the hearing, the investigators will send an electronic or hard copy of the investigative report to each party and the party's advisor, if any. Any response a party wishes to make to the investigative report may be included in that party's pre-hearing statement, which is discussed more below in Section 2C.05.

Due to the sensitive nature of the investigative report, neither the parties nor their advisors may copy, publish, photograph, print, image, record or in any other manner duplicate the report. Parties who violate these restrictions may be disciplined, and advisors who violate these restrictions may be disciplined and/or be barred from further participation in the grievance process.

Nothing in this document restricts the ability of either party to discuss the allegations under investigation or to gather, preserve, and/or present relevant evidence.

#### **2B.04 Submission of Evidence; Expert Witnesses**

Any evidence that the parties wish for the hearing officer to consider should be presented to the investigators as early as possible during the investigation process. Evidence that is not submitted in a timely manner and prior to finalization of the investigative report may be excluded from the hearing at the discretion of the hearing officer.

Similarly, all relevant witnesses should be identified to the investigators as early as possible during the investigation. The hearing officer generally will not call or consider written statements from witnesses who were not identified to investigators and interviewed during the investigation. However, in their discretion and for good cause, the hearing officer may choose to consider information from witnesses who were not interviewed during the investigation.

Any party who wishes to present testimony from an expert witness should identify that witness by providing the witness's name, contact information and a summary of (1) the witness's qualifications to offer expert testimony; and (2) any opinions the witness expects to offer related to the allegations or evidence. Any evidence upon which the witness relies must be provided to the investigators and will be made available to the other party and their advisor, as well as to any expert witness the other party has identified. This information must be provided as early as possible in the investigation and in no event later than finalization of the investigative report. The parties must make any expert witnesses available to be interviewed by investigators and to testify at the hearing. If an expert witness is not available to provide live testimony at the hearing, the hearing officer must disregard any information submitted by that expert.

#### **2B.05 Treatment Records**

Queens will not access, consider, disclose, or otherwise use in a grievance process any party's treatment records that are maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in their professional/paraprofessional capacity unless the party provides voluntary, written consent.



## **C. HEARING AND APPEALS**

### **2C.01 Respondent's Acknowledgement of Responsibility**

If, at any time prior to a responsibility determination by the hearing officer, a Respondent accepts responsibility for the allegations, and if the Title IX Coordinator determines that the matter is appropriate for informal resolution, the Title IX Coordinator will ask both parties if they wish to suspend the formal resolution process and engage in an informal resolution process to resolve the allegations without a hearing.

If both parties wish to engage in the informal resolution process, the Title IX Coordinator will propose sanction(s) for the Respondent. If the Complainant and the Respondent agree in writing to such proposed sanctions(s), then the Formal Complaint will be resolved without a hearing and without any further rights of appeal by any party.

If either the Complainant or the Respondent objects to such proposed sanction(s), then the hearing officer will determine sanctions, which are subject to appeal as set forth below.

### **2C.02 The Formal Resolution Process**

Unless a Formal Complaint is dismissed or the parties elect to participate in informal resolution pursuant to section 2.D.01 below, following the investigation the appointed hearing officer will conduct a hearing in which they may question the Complainant, the Respondent, and any witnesses whose testimony the hearing officer deems relevant. During the hearing, the hearing officer and the parties may also question the investigators as necessary to clarify information provided in the investigative report.

### **2C.03 Appointment of the Hearing Officer and Challenging of the Same**

The Title IX Coordinator will appoint a hearing officer, who will administer the hearing, serve as the decision-maker regarding responsibility, and (as applicable) recommend sanctions. The hearing officer may be a Queens employee or non-employee. The Title IX Coordinator will contemporaneously share the hearing officer's name and contact information with the Complainant and the Respondent. The Title IX Coordinator will provide to the hearing officer the Formal Complaint, all evidence directly related to the allegations, the parties' written responses to the evidence, and the investigative report.

Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of the hearing officer. The Title IX Coordinator will carefully consider such statements and will promptly assign a different hearing officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

### **2C.04 Notice of the Hearing**

Promptly after the appointment of the hearing officer and no less than seven days prior to the hearing, the hearing officer will provide concurrent written notice to the Complainant and the Respondent setting forth the date, time, and location of the hearing. Any modifications to the hearing date, time, or location will be provided in writing to both parties prior to the date of the hearing.

### **2C.05 Pre-Hearing Submissions**

Each party may submit a written statement to the hearing officer that includes any response the party wishes to make to the investigative report. Each party's pre-hearing statement must be submitted at least five days prior to the hearing. The hearing officer will share the statement with the other party, who may submit a response within two days.



## **2C.06 Failure to Appear**

If any party, advisor, or witness fails to appear at the hearing after having been provided proper notice of the hearing as set forth above, then absent extenuating circumstances the hearing officer will proceed with the hearing and issuance of their responsibility determination and, as applicable, sanction recommendation. Queens will provide an advisor to any party who attends the hearing unaccompanied.

## **2C.07 No Contact Outside of the Hearing**

The Complainant and the Respondent may not contact each other outside of the hearing, even to discuss the hearing, and neither party may communicate with the hearing officer regarding matters germane to the hearing outside of the hearing, except as expressly provided herein.

## **2C.08 Evidentiary Matters**

A Title IX hearing does not take place within a court of law and is not bound by formal rules of evidence.

Evidence of and questions about the Complainant's sexual predisposition or prior sexual behavior are not relevant and will not be permitted at the hearing, with the following exceptions: (1) if the questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or (2) 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.

Evidence regarding the past sexual activity of the Respondent (regardless of whether the Respondent was formally investigated or found responsible for such conduct) may be permitted to show that the Respondent has engaged in a pattern of behavior similar to the alleged Sexual Harassment at issue before the hearing officer, provided that the Respondent has not been found "not responsible" by Queens in a proceeding related to such conduct.

Queens will not access, consider, disclose, or otherwise use in a grievance process any party's treatment records that are maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in their professional/paraprofessional capacity unless the party provides voluntary, written consent. Questions and/or evidence that constitute or seek disclosure of information protected under a legally recognized privilege are not permitted, unless the person holding the privilege has waived the privilege in writing.

Queens will make the evidence that the investigators provided to the parties for their review and inspection prior to finalization of the investigative report available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

## **2C.09 Conduct of the Hearing and Questioning of Witnesses and Parties**

The hearing will be conducted with parties in separate rooms, using technology to ensure that each party can see and hear any party or witness answering questions. At the discretion of the hearing officer, the hearing may be conducted partially or entirely remotely, with any or all participants participating virtually.

The Complainant and the Respondent will have equal opportunity to address the hearing officer, if desired, and both the hearing officer and the parties' advisors will have the opportunity to question the other party and any witnesses, including investigators and expert witnesses. The hearing officer will first

ask any questions of each party and each witness through direct examination. After the hearing officer has completed direct examination, the advisor for each party will have an opportunity to conduct a cross-examination of the other party and/or the witnesses. Any questions that a party has for a witness or the other party must be posed by the party's advisor. A party's advisor will not have the opportunity to question the party for whom they serve as advisor.

Before a party or witness answers a cross-examination question, the hearing officer will determine whether the question is relevant and allowed under these Grievance Procedures. For example, the hearing officer may exclude as not relevant duplicative questions or questions posed solely to harass a witness or the other party. The hearing officer will explain any decision to exclude a question.

If a party does not have an advisor present at the hearing, Queens will provide an advisor, at no cost to the party, to conduct cross-examination on behalf of that party.

Members of the Queens community are expected to provide truthful testimony, and any member of the Queens community who knowingly provides false information during this process is subject to discipline.

### **2C.10 Unavailability or Refusal to Testify or Submit to Cross-Examination**

The Respondent and/or the Complainant may choose not to testify at the hearing; however, the exercise of that option will not preclude the hearing officer from making their responsibility determination and, as applicable, sanction recommendation regarding the Formal Complaint. Also, if a party or witness does not submit to cross-examination at the hearing, the hearing officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility or, as applicable, recommendation regarding sanctions. The hearing officer will not draw an inference regarding responsibility or sanctions based solely on a party's or witness' absence from the hearing or refusal to testify or submit to cross-examination.

### **2C.11 Recording**

Queens will record the hearing. This recording will be the only recording permitted of the proceedings and will be the property of Queens. The parties and the appeal officer may use the recording as part of the appeal process. Reasonable care will be taken to ensure a quality recording; however, technological problems that result in no recording or in an inaudible one will not affect the validity of the outcome of a hearing.

### **2C.12 The Determination of the Hearing Officer Regarding Responsibility**

Following the hearing, the hearing officer will determine whether the evidence establishes that it is more likely than not<sup>6</sup> that the Respondent committed Sexual Harassment. The hearing officer will render a finding of "Responsible" or "Not Responsible" and will provide the rationale for the decision. If the Respondent is found "Responsible," the hearing officer will specify the specific type(s) of Sexual Harassment for which the Respondent is found "Responsible" (for example, Sexual Assault, Stalking, etc.). When feasible, the hearing officer will orally communicate the finding of "Responsible" or "Not Responsible" to the parties on the day of or day following the hearing. Additional information regarding the decision, including the rationale and sanctions (if applicable) will be communicated in the final outcome letter (as described below).

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<sup>6</sup> In other words, the standard of proof will be the preponderance of the evidence standard.

### **2C.13 The Recommendation of the Hearing Officer Regarding Sanctions**

If the hearing officer determines that the Respondent is “Responsible,” they will recommend appropriate sanctions to be imposed on the Respondent.

Sanctions following a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline, or both. Sanctions for employees may include, but are not limited to, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, and compensation adjustments.

Sanctions for students may include, but are not limited to, expulsion or suspension from Queens, disciplinary probation, social restrictions, expulsion or suspension from campus housing, suspension or revocation of admission, suspension or revocation of degree

Other potential sanctions for Respondents may include, but are not limited to, written warning, mandated counseling, completion of an intervention program, completion of violence risk assessment, parental notification, and/or education sanctions (such as community service, reflection paper(s), and/or fines) as deemed appropriate by the hearing officer.

In recommending sanctions, the hearing officer will consider whether a sanction will bring an end to, prevent a recurrence of, and remedy the effects of the Sexual Harassment. The hearing officer also will consider the impact of separating a student from their education. The appropriate sanctions for Sexual Assault generally will include at a minimum a period of separation from Queens.

### **2C.14 Review of Sanctions**

The hearing officer will forward their sanctions recommendation to the Title IX Coordinator, who will share it with the Vice President of Student Engagement/Dean of Students (in cases involving student Respondents), Vice President of Academic Affairs/Provost (in cases involving faculty Respondents), or Vice President of Strategy and Human Resources (in cases involving staff Respondents). These individuals will consider the recommendation in the context of the sanctioning guidelines, the Respondent’s disciplinary history, the institution’s handling of similar cases, and other relevant factors.

### **2C.15 Implementation of Sanctions**

Sanctions generally are effective immediately upon issuance of the final outcome letter described below. However, if necessary to protect the welfare of the Complainant, Respondent, or Queens community, the hearing officer may recommend and/or the Title IX Coordinator may determine that any sanctions are effective at any time after the conclusion of the hearing and continue in effect until the issuance of the final outcome letter.

### **2C.16 Final Outcome Letter**

Within seven days after the hearing, the hearing officer will issue a final outcome letter through the Title IX Coordinator to the Respondent and Complainant simultaneously.

The final outcome letter will (1) name the Respondent; (2) identify the allegations potentially constituting Sexual Harassment; (3) describe procedural steps taken from the filing of the Formal Complainant through the determination; (4) provide findings of fact in support of the hearing officer’s determination; and (5) provide a statement of rationale for the result as to each allegation, including the responsibility determination and any sanctions.

## **2C.17 Appeals**

The Complainant or the Respondent may appeal the decision of the hearing officer regarding responsibility and/or the sanction(s) imposed on the Respondent.

The following are the only permissible grounds for an appeal of the hearing officer's responsibility determination: (1) procedural irregularity that affected the outcome; (2) new evidence that was not reasonably available at the time of the determination and that could affect the outcome; and (3) the Title IX Coordinator, an investigator, or the hearing officer had a conflict of interest or bias that affected the outcome.

Sanctions may only be appealed on the ground that the severity is incommensurate to the gravity of the Sexual Harassment for which the Respondent was found responsible.

Appeals must be submitted in writing to the Title IX Coordinator within five days from the date of the final outcome letter. The Title IX Coordinator will promptly inform the other party of the filing of the appeal. The other party will have three days from such notification to submit a written response to the appeal.

## **2C.18 Appointment of the Appeal Officer and Challenging of the Same**

Upon receipt of an appeal, the Title IX Coordinator will forward the appeal to the designated appeals officer, the Vice President of Academic Affairs/Provost.

Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias posed by assigning that appeal officer. The Title IX Coordinator will carefully consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

## **2C.19 Appellate Review**

The Title IX Coordinator will share the Formal Complaint, the investigative report, the hearing recording, all statements introduced at the hearing, any other evidence considered by the hearing officer, the hearing officer's written findings, and the written appeal submissions with the appeal officer. In addition, if an appeal raises procedural issues, the Title IX Coordinator may provide the appeal officer additional information relevant to those issues.

Within ten days of the receipt of the appeal the appeal officer will determine (a) that the decision of the hearing officer should stand; or (b) that the decision of the hearing officer should be overturned and will issue a written explanation of that result and the rationale behind it.

In the event that the appeal officer determines that the decision of the hearing officer should be overturned, the appeal officer will specify, after consultation with the Title IX Coordinator and other Queens administrators as necessary, the appropriate steps to be taken to come to a final resolution of the Formal Complaint (which may include another hearing before the same hearing officer or a different one).

## **D. INFORMAL RESOLUTION**

### **2D.01 Determination of Formal Versus Informal Resolution**

At any time before the issuance of the hearing officer's responsibility determination, the parties may elect to resolve the Formal Complaint through the informal resolution process, provided that (1) the parties both voluntarily consent in writing to such resolution; (2) both parties are students or employees of Queens; and (3) the Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving that specific Formal Complaint. Otherwise, a Formal Complaint that is not dismissed will proceed to a hearing. Informal resolution is not an appropriate mechanism for resolving a Formal Complaint by a student against an employee.

Informal resolution may not be selected for less than all of the misconduct alleged in the Formal Complaint. If the parties agree to informal resolution (and informal resolution is appropriate for all of the allegations at issue), then all of the allegations must be resolved according to the informal resolution process.

Either party has the right to terminate the informal resolution process at any time and proceed with formal resolution (i.e., a full investigation and hearing). Furthermore, the Title IX Coordinator may, where appropriate, terminate informal resolution and proceed with the formal resolution process instead.

### **2D.02 Notice of Allegations and Notice of Informal Resolution and Facilitator**

The Title IX Coordinator will provide the parties a written notice disclosing the Formal Complaint's allegations and the requirements of the informal resolution process, including any circumstances under which Queens would preclude the parties from resuming a Formal Complaint arising from the same allegations.

When the Formal Complaint is to be resolved according to the informal resolution process, the Title IX Coordinator will designate a trained individual to serve as the informal resolution facilitator. The Title IX Coordinator will contemporaneously share the name of the informal resolution facilitator with the Complainant and the Respondent.

Within two days of such notification, the Complainant or Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias posed by assigning that facilitator. The Title IX Coordinator will carefully consider such statements and will promptly assign a different facilitator if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

### **2D.03 Facilitated Resolution**

The informal resolution facilitator will meet separately with each party to review the informal resolution process and the allegations in the Formal Complaint and to identify the outcome that each party seeks from the informal resolution process. If the facilitator determines that it would be productive for both parties to attend a resolution meeting, the facilitator will provide written notice to the Complainant and the Respondent setting forth the date, time, and location of that meeting. At the request of either party or at the discretion of the informal resolution facilitator, the meeting may occur with the parties in different locations or meetings with parties may take place on different dates.

Both the Complainant and the Respondent are expected to participate in the informal resolution process. If either party fails to participate, the Title IX Coordinator may direct that the Formal Complaint be resolved using a full investigation and hearing or may reschedule the meeting.

During informal resolution, the parties may: (1) engage one another in the presence of, and/or facilitated by, the informal resolution facilitator; (2) communicate their feelings and perceptions regarding the incident and the impact of the incident (either by communicating directly with one another or by communicating indirectly through the informal resolution facilitator); (3) relay their wishes and expectations regarding the future; and/or (4) come to an agreed-upon resolution of the allegations in the Formal Complaint.

Participation in the informal resolution process is completely voluntary, and either party, the informal resolution facilitator, or the Title IX Coordinator may terminate the process at any time.

#### **2D.04 Resolution**

The informal resolution facilitator will attempt to facilitate the parties' resolution of the Formal Complaint. If this process results in a resolution between the parties and the Title IX Coordinator finds the resolution to be appropriate under the circumstances (giving consideration to factors including the extent to which the resolution will protect the safety of the Complainant and the entire Queens community), the resolution will be reduced to writing, which will conclude the process and close the Formal Complaint.

#### **2D.05 Written Resolution Agreement**

To be effective, any agreement reached during the informal resolution process must be memorialized in writing and signed by the parties, the informal resolution facilitator, and the Title IX Coordinator. If a Respondent completes all measures agreed to in the written resolution agreement, no further process is available with regard to the allegations in the Formal Complaint.

Measures that parties agree to in the informal resolution process may include (but are not limited to):

- 1) Alcohol education classes for the Respondent;
- 2) Completion of online sexual harassment training;
- 3) Completion of an intervention program;
- 4) Regular meetings with an appropriate individual, unit or resource;
- 5) Permanent or temporary no contact order;
- 6) Restrictions for participation in certain activities, organizations, programs or classes;
- 7) Change in residential assignment or restrictions on access to certain residence halls or apartments;
- 8) Restriction of participation in certain events;
- 9) Reflection paper or written apology;
- 10) Counseling sessions; or
- 11) The Respondent's completion of an educational or behavioral plan.

#### **2D.06 Termination of Informal Resolution Process**

At any time prior to completing a written resolution agreement, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint. If either party terminates the informal resolution process or Queens determines that the informal resolution process is no longer appropriate, the formal resolution process outlined above will promptly resume.

**2D.07 Confidentiality of Information Shared**

Any information that the parties share during the informal resolution process may not be used in any other investigation or proceeding at Queens.

**2D.08 Timeframe**

The informal resolution process generally will be completed within 20 days of the parties' agreement to the informal resolution process.

**2D.09 Appeal**

A resolution reached pursuant to the informal resolution process is final and not subject to appeal.

**2D.10 Records**

A resolution reached through the informal resolution process will not be included in a student Respondent's student conduct record or in an employee Respondent's personnel record, unless the inclusion of such information is agreed to as part of the informal resolution of the matter. The Title IX Coordinator will retain a record of the written resolution agreement for no less than seven years.



## **SECTION III. NON-TITLE IX VIOLATIONS GRIEVANCE PROCEDURES FOR SEXUAL MISCONDUCT AND INTIMATE PARTNER VIOLENCE**

### **A. APPLICABILITY, COMPLAINT INTAKE, AND OVERARCHING PROVISIONS**

#### **3A.01 Applicability**

As noted above, these Grievance Procedures apply to allegations of Non-Title IX Sexual Misconduct (and to related Retaliation, at the discretion of the Title IX Coordinator) as noted above. The Title IX Coordinator will determine if the complaint meets the definition of Title IX Sexual Harassment or Non-Title IX Sexual Misconduct. It is possible for a complaint to have allegations of in both section two and three.

#### **3A.02 Initial Complaint Intake and Outreach to Complainant**

Upon notice of a potential discrimination or harassment situation related to this policy, the Title IX Coordinator or Deputy will conduct an initial assessment to determine if the complaint constitutes a potential violation of this policy and if section three is applicable to the allegation(s). If it does not, the complaint will be dismissed (or could be referred to another department if the complaint constitutes a violation of another policy).

Additionally, promptly upon receiving allegations of sexual misconduct against an employee, student, or contracted worker with Queens, whether in the United States or not, the Title IX Coordinator will contact the Complainant to discuss the availability of Supportive Measures with or without participation in a grievance policy and to explain to the Complainant the process for the grievance process should the Complainant wish to participate in the process.

#### **3A.03 Request for Anonymity by a Complainant**

Where the complainant requests that their identity not be shared with the respondent or that the University not pursue an investigation, the University must balance this request with the University's responsibility to provide a safe and non-discriminatory environment for all community members. Queens, through the Title IX Coordinator, will take all reasonable steps to investigate and respond to the complaint consistent with the request not to share identifying information or pursue an investigation, but its ability to do so may be limited by the request. Under these circumstances, the complainant's request will be balanced against the following factors:

- The seriousness of the conduct;
- The respective ages and roles of the complainant and respondent;
- Whether there have been other reports of sexual misconduct or interpersonal violence under this policy involving the respondent;
- Whether the circumstances suggest there is a risk of the respondent committing additional acts of sexual misconduct or interpersonal violence;
- Whether the respondent has a history of arrests or records indicating a history of violence;



- Whether the report indicates the respondent threatened further sexual violence or other violence against the complainant or other individuals;
- Whether the reported conduct was committed by multiple individuals;
- Whether the reported conduct was perpetrated with a weapon;
- Whether the University possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

The Title IX Coordinator/Deputy will conduct an inquiry and notify the complainant as to whether confidentiality may be maintained and/or whether a formal investigation is warranted. Queens reserves the right to bring complaints forward against a student or employee and to act as the complainant for purposes of section three of this policy should the complainant decline to participate further. In instances where Queens acts as the complainant, the respondent maintains the right to receive information about the complaint if such information is maintained in an “educational record” under FERPA

## **B. INVESTIGATION AND RESOLUTION**

### **3B.01 Filing of a Formal Complaint**

A Formal Complaint in this section means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual misconduct or interpersonal violence against a Respondent and requesting that Queens investigate the allegation(s) of sexual misconduct or interpersonal violence. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed in Appendices. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission that contains the Complainant’s physical or digital signature or otherwise indicates that the Complainant is the person filing the Formal Complaint.

When the Title IX Coordinator believes that, with or without the Complainant’s desire to participate in a grievance process, a non-deliberately indifferent response to the allegations requires an investigation, the Title IX Coordinator has the discretion to initiate the grievance process by signing a Formal Complaint.

Once a Formal Complaint is initiated, an alleged victim will be referred to as a “Complainant,” and an alleged perpetrator will be referred to as a “Respondent.”

### **3B.02 Notice of Allegations**

The Title IX Coordinator will provide the Complainant and any known Respondent written notice of these Grievance Procedures and of the allegations of conduct potentially constituting sexual misconduct at least five days to prepare a response before any initial interview.

If, in the course of an investigation, Queens decides to investigate allegations of any other sexual misconduct involving the Complainant or Respondent that are not included in the original written notice of allegations, Queens will provide notice of the additional allegations to the parties whose identities are known.

### **3B.03. Investigation Process**

If the complaint could constitute a violation of this section, a fair and impartial investigation will be conducted by at least one trained University staff or faculty member after the complainant and respondent receive notice. The names of the investigators and panel members (in the event the matter proceeds to a panel) will be provided to the complainant and respondent at the time they are notified of the investigation. Either party may request that individual investigators or panelists not be assigned to his/her case if s/he can offer valid justification and reasoning why that person will be unable to be objective or render an impartial, unbiased decision. The request must be made in writing within 2 calendar days. The Title IX Coordinator will consider the request and render a decision within 2 calendar days. In instances where actual or perceived bias has been determined by the Title IX Coordinator, the University will not assign the investigator or panelist to the case. However, if actual or perceived bias has not been determined by the Title IX Coordinator, the process may move forward as assigned without a replacement. The University reserves the right to employ external investigators if it determines that the investigation would be best conducted in this way

The investigation will typically include interviewing involved parties (complainant, respondent, relevant witnesses) and collecting any documentation or evidence relevant to the allegation, including any relevant prior disciplinary records. The complainant and respondent each have the right to bring an advisor of choice to any meeting or proceeding in which they are required to be present. An advisor of choice can be anyone of the parties’ choosing (a friend, parent, staff or faculty member, victim’s advocate, attorney, etc.). The advisor’s role is to provide support to the complainant or respondent, and not to interfere with the meeting or to speak for or on behalf of any party. Advisors will not be permitted to interrupt or unnecessarily delay the meeting. Advisors who violate these rules will be asked to leave the meeting. The complainant and respondent should provide timely notice to their advisors of scheduled meetings or proceedings, as the University is under no obligation to delay the meeting or proceeding due to the availability of an advisor.

On occasion, additional violations (including retaliation or other Sexual Misconduct and Interpersonal Violence Policy or Honor Code violations) are discovered during the investigative process and/or the panel deliberation. These violations may not go through the normal process and therefore may be adjudicated at the time they are discovered. The University will work to use all policies respectively to address the violations and will coordinate investigation and resolution efforts.

At the end of the investigation, the investigator and the Title IX Coordinator will meet to determine if the investigation is complete. If it is deemed so, the Title IX Coordinator will meet with the complainant and respondent separately (after the fact-finding but before any policy violation charges are made) and the parties will be offered an opportunity to correct any information that is factually inaccurate or to present any new information at this time.

### **3B.04 Navigators**

The Complainant and the Respondent may request to be assigned a Navigator at any point during a grievance process as third party resource to help navigate and address questions and concerns related, the Sexual Misconduct and Interpersonal Violence Policy and process. The Navigator will have no formal role in the grievance process otherwise described in this policy for the case that the party is undergoing. The Navigator's job duties include (1) promptly reviewing the Formal Complaint and contacting the party assigned to the Navigator, (2) acting as a resource to the party throughout the grievance process, to include (a) providing the party – on the Navigator's own initiative or at the request of the party – with information about possible supportive measures, health care resources, law enforcement resources, legal advocacy resources, information the contents of a Formal Complaint, and charges, if applicable, against the party, (b) answering the party's questions related to the grievance process and Formal Complaint, (c) responding to the party's concerns that policies applicable to the grievance process and Formal Complaint are being followed and, (d) as necessary or appropriate, reporting those concerns to University officials and (3) from time to time throughout the grievance process, contacting the party to determine whether any change in the party's circumstances may warrant and additional review of any of the above information or other action necessary to ensure that the party has full and fair access to information and resources during the grievance process.

### **3B.05 Sexual Misconduct Adjudication Panel and Resolution**

If new information is presented that prompts the need for further investigation, the Title IX Coordinator/Deputy will instruct the investigator to pursue it. If no further investigation is needed, decided at the discretion of the Title IX Coordinator/Deputy and the investigator, the investigator will provide the final report to the Title IX Coordinator/Deputy. The investigator will address the facts that support or do not support the claim as alleged and make a recommendation as to whether the allegations be advanced for consideration by the Sexual Misconduct and Interpersonal Violence Adjudication Panel. The investigators will not make a determination as to whether or not the respondent violated this policy.

The Complainant and Respondent will be provided notice that the investigation is complete and whether or not the fact-finding report is moving forward to the Sexual Misconduct and Interpersonal Violence Adjudication Panel for resolution. The panel is a three-person, annually-trained group of faculty and staff. Each panelist serves for a period of three years with a staggered rotation to ensure experience and consistency.

The Complainant and Respondent each have the right to deliver a personal statement in writing or in person to the panel. While optional, this personal statement is an important opportunity for the parties to communicate directly with the panel. Statements could address any of the following:

- The facts of the case in their own words and/or clarifications of any aspect of the investigative report.
- Any personal reflections or lessons that were learned.
- Thoughts on the impact of the alleged behavior and subsequent investigation on their own and others' lives.

- The outcome they believe is warranted.

If the complainant or respondent intends to deliver a personal statement, s/he must notify the Title IX Coordinator/Deputy within 2 calendar days of receiving notice of the panel deliberation. Any written statements must be provided to the Title IX Coordinator/Deputy by the panel deliberation date. If the statements will be delivered in person, the complainant and respondent will not be in the same room at the same time.

When the Sexual Misconduct and Interpersonal Violence Adjudication Panel convenes, it is tasked with examining the investigative report (which includes witness statements and other evidence), asking questions of the Title IX Coordinator/Deputy and Investigator (if needed) and reading and/or hearing the personal statements from the complainant and respondent. Once the panel begins its deliberations, all parties will be excused.

The standard of proof used to determine whether or not a violation of this policy has occurred is a preponderance of the evidence, which means the panel will determine whether it is more likely than not the misconduct occurred based on the evidence presented. A finding of responsibility and subsequent sanction is based on majority vote, thus two of the three panelists must concur with regard to the finding and sanction. Disciplinary sanctions imposed by the panel become effective immediately, unless an appeal is pending (see detail on appeals on page 21).

Typically, the investigation and resolution of a matter processed under this policy will not exceed 90 days, although the University reserves the right to exceed this timeframe in order to conduct a thorough investigation. If the investigation does or is anticipated to exceed 90 days, the University will notify the complainant and respondent in writing via the Queens email system and will advise them of the reason for the delay and the anticipated timeframe for the completion of the investigation.

### **3B.06 Notification of the Final Outcome**

The outcome of the disciplinary proceeding, the rationale for the finding, the sanctions imposed (if any), and the appeals process shall be conveyed to the complainant and respondent simultaneously and in writing as noted above via the University email system by the Title IX Coordinator within seven days.

Note: In certain cases, the Title IX Coordinator may propose an administrative resolution to resolve the matter as noted above in section. Acceptance of a proposed administrative resolution is voluntary. If both the Complainant and the Respondent accept the proposed administrative resolution, that resolution is implemented, and the matter is closed. In the event that either party rejects the proposed administrative resolution, the standard investigation and adjudication process take place. Note that administrative resolution is the exception rather than the rule and will not be proposed in every case.

### **3B.07 Appeals**

In the interest of fairness, both the complainant and respondent have the right to appeal the finding and/or the sanction if sufficient grounds can be demonstrated. All appeals must be submitted in writing to the Title IX Coordinator within 48 hours of the panel's decision (timestamp on email notification to the parties).

Appeals must specify grounds that would justify consideration. General dissatisfaction with the outcome of the decision or the associated sanction will not be basis for consideration of an appeal.

The grounds for considering an appeal on the finding are a presentation of facts that indicate:

1. An error in procedural process that substantially prejudiced the outcome to the extent that either party was denied a fundamentally fair process as a result of the error; or
2. The emergence of new evidence that could not have been previously discovered by the exercise of due diligence and that, had it been presented prior to the panel convening, would have substantially affected the original decision of the adjudicating body.

The Title IX Coordinator will evaluate and render a determination on the appeal request, based on the standards above, within 5 business days of receipt of the request. Appeals without sufficient grounds will be denied consideration and dismissed. Appeals with sufficient grounds based on #1 or #2 above will be remanded back to the original panel for reconsideration.

The grounds for considering an appeal on the sanction:

1. Any sanction of dismissal or expulsion constitutes sufficient grounds for an appeal of the sanction (Note: while considered sufficient grounds, the appeal request must still be made in writing to the Title IX Coordinator within 48 hours of the panel's decision.)

Appeals based on the sanction will be decided by the Vice President of Academic Affairs and Provost, who will consult with the panel and review all relevant materials to make a determination that ultimately could maintain, decrease or increase the severity of the sanction(s). The Vice President of Academic Affairs and Provost retains final authority for the appeal decision.

Both parties will be notified when an appeal request has been made. A decision with regard to the outcome of the appeal will be delivered to the complainant and respondent simultaneously and in writing within 10 business days of that decision. The decision on all appeals is final.

### **3B.08 Documentation**

All disciplinary records related to violations of this policy will be kept on file in the Office of the Dean of Students (for undergraduate student records), the Office of Academic Affairs (for graduate student records), or Human Resources (for employee records) for a period of seven years after the student or employee separates from the University. Any student sanctions involving suspension, dismissal or expulsion will be kept on file permanently. All records are sole property of Queens University of Charlotte.

### **3B.09 Training**

Title IX Coordinators/Deputies, investigators, and panel members are trained annually on the issues related to sexual misconduct and interpersonal violence and taught how to conduct an investigation and grievance process that protects the safety of the parties and promotes accountability, including hearings, appeals, and informal resolution processes; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

## C. CONSENSUAL RELATIONSHIPS

### 3C.01 Introduction

Queens strives to provide an environment for students, faculty and staff that is respectful, fair and free of unlawful harassment or discrimination. The purpose of this policy is to outline limitations on consensual romantic and/or sexual relationships between faculty, staff and students at Queens.

In keeping with its commitment to provide equal opportunity to students, faculty and staff, and in order to avoid potential conflicts of interest, favoritism, exploitation, harassment or breaches of professional standards, and recognizing that the difference in power and the inherent risk of coercion is so great, Queens prohibits consensual romantic and/or sexual relationships between employees and students.

The University also prohibits consensual romantic or sexual relationships between employees whenever supervisory or evaluative responsibilities exist.

### 3C.02 Definitions

For the purposes of this policy, the following definitions shall apply:

- a) "**Consensual romantic or sexual relationship**" shall mean and refer to any relationship, either past or present, which is romantic, intimate, or sexual in nature, and was entered with the consent of both parties. This includes marriage.
- b) "**Employee**" shall mean and refer to any person currently employed by, contracted by, or volunteering for the University, either full-time or part-time, in any location and in any capacity.
- c) "**Student**" shall mean a person who has been accepted to the University and has enrolled in one or more classes or academic programs either on a full-time or part-time basis. Students in Queens' work-study program (who are thus also employees of the University) are considered Students, and not Employees, for the purposes of this policy.
- d) "**Supervisory or evaluative responsibilities**" include, but are not limited to, the following activities: academic instruction, formal mentoring, overseeing, directing, evaluating, examining, grading, advising, supervising, recommending, promoting, employing and other actions including directly setting of salary or wages, taking disciplinary action including suspension, expulsion, and termination, and exercising responsibility for grades, honors, or degrees. The chain of supervision or evaluation includes any person ranking above the supervisor/evaluator in the organizational hierarchy.

### 3C.03 Policy

- a) *Students* No Employee shall pursue, have or maintain a Consensual Romantic and/or Sexual Relationship with any Student.
- b) *Employees* No supervisor shall pursue, have or maintain a Consensual Romantic and/or Sexual Relationship with any Employee for whom they have Supervisory or Evaluative Responsibilities.

### 3C.04. Disclosure Process

Should a prohibited Consensual Romantic and/or Sexual Relationship between employees exist prior to the beginning of the professional relationship, or develop during the professional relationship, the supervising Employee must immediately (within two weeks of the start of employment or the relationship) disclose the relationship to HR. When a prohibited relationship between Employees has been reported, HR, in coordination

with the relevant unit vice president, will determine the appropriate steps consistent with this policy, including the removal of any reporting or evaluative relationship between the parties. If the reporting structure cannot be resolved, one party may need to leave the University. Any Employee who becomes aware of a relationship prohibited by this policy should report such relationship to HR.

### **3C.05 Exceptions**

Upon request, the University may grant an exception to this policy if it determines that an otherwise prohibited relationship a) existed prior to the professional or academic relationship between the parties at the University, and b) that the power differential between the parties does not present a likelihood of abuse of power by or exploitation of either party.

### **3C.06. Enforcement**

The University reserves the right to take whatever action is appropriate, in its sole discretion, to protect the community's interests in the event of prohibited relationships in violation of this policy. Employees who violate this policy will be subject to discipline up to and including reassignment or termination.

Employees or Students with questions about this policy are advised to consult with the Title IX Coordinator or HR.

## **APPENDICES**



## Resources for Victims of Domestic Violence, Dating Violence, Sexual Assault & Stalking

### On Campus Resources

The below resources are <u>PRIVATE</u> but <u>NOT</u> confidential, i.e., these persons are required to share information about your complaint (including your name) with the Title IX Coordinator who will have a duty to investigate your complaint.		
RESOURCE	PHYSICAL ADDRESS	PHONE AND WEB ADDRESS
<b>Public Safety/Police Department</b>	Campus Police Department Watkins Building 1900 Selwyn Avenue Charlotte, NC 28274	704-337-2306 <a href="http://www.queens.edu/Student-Life/Public-Safety-and-Campus-Police.html">http://www.queens.edu/Student-Life/Public-Safety-and-Campus-Police.html</a>
<b>Title IX Coordinator</b>	LeAnna Rice Morrison Hall 1900 Selwyn Avenue Charlotte, NC 28274	704-337-2228 <a href="http://www.queens.edu/sexualmisconduct">http://www.queens.edu/sexualmisconduct</a>
<b>Deputy Title IX Coordinator for Faculty and Staff</b>	Teri Orsini McEwen Hall 1900 Selwyn Avenue Charlotte, NC 28274	704-337-2297 <a href="http://www.queens.edu/sexualmisconduct">http://www.queens.edu/sexualmisconduct</a>
<b>Vice President of Student Engagement/Dean of Students</b>	María del Carmen Flores-Mills Morrison Hall 1900 Selwyn Avenue Charlotte, NC 28274	704-337-2227 <a href="http://www.queens.edu/Student-Life/Dean-of-Students.html">http://www.queens.edu/Student-Life/Dean-of-Students.html</a>
<b>Office of Diversity, Inclusion and Community Engagement</b>	Darryl White Morrison Hall 1900 Selwyn Avenue Charlotte, NC 28274	704-337-2320 <a href="http://www.queens.edu/About-Queens/Office-of-Diversity-and-Inclusion">http://www.queens.edu/About-Queens/Office-of-Diversity-and-Inclusion</a>
<b>Office of Student Disability Services</b>	Dr. Mike Kutnak Knight-Crane Hall 1900 Selwyn Avenue Charlotte, NC 28274	704-337-XXXX <a href="http://www.queens.edu/Student-Life/Student-Disability-Services.html">http://www.queens.edu/Student-Life/Student-Disability-Services.html</a>
<b>International Student Resource</b>	Angie Edwards Knight-Crane Hall 1900 Selwyn Avenue Charlotte, NC 28274	704-337-2531 <a href="http://www.queens.edu/Academics-and-Schools/Study-Abroad/Myrta-Pulliam-Center-for-International-Education.html">http://www.queens.edu/Academics-and-Schools/Study-Abroad/Myrta-Pulliam-Center-for-International-Education.html</a>
<b>Financial Aid Assistance</b>	Lee Tabor Jernigan Hall 1900 Selwyn Avenue Charlotte, NC 28274	704-337-2225 <a href="http://www.queens.edu/Admissions-and-Financial-Aid/Financial-Aid-and-Student-Accounts/Contact-Us---Student-Financial-Services.html">http://www.queens.edu/Admissions-and-Financial-Aid/Financial-Aid-and-Student-Accounts/Contact-Us---Student-Financial-Services.html</a>
The below resources are <u>CONFIDENTIAL</u> , i.e., these persons cannot share information about your complaint (including your name) unless 1) you allow them to; or 2) you are at risk of self-harm or 3) you have threatened to harm another.		
<b>Physical Health</b>	Health and Wellness Center 2322 Wellesley Avenue Charlotte, NC 28274	704-337-2220 <a href="http://www.queens.edu/Student-Life/Health-and-Wellness-Services.html">http://www.queens.edu/Student-Life/Health-and-Wellness-Services.html</a>
<b>Mental Health/Counseling</b>	Health and Wellness Center 2322 Wellesley Avenue Charlotte, NC 28274	704-337-2220 or 704-337-2556 <a href="http://www.queens.edu/Student-Life/Health-and-Wellness-Services.html">http://www.queens.edu/Student-Life/Health-and-Wellness-Services.html</a>
<b>Spiritual Counseling</b>	Chaplain Joey Haynes Belk Chapel 1900 Selwyn Avenue Charlotte, NC 28274	704-337-2290 <a href="http://www.queens.edu/Student-Life/Spiritual-Life.html">http://www.queens.edu/Student-Life/Spiritual-Life.html</a>



## Off-Campus Resources

<b>LOCAL Police Department</b>	Charlotte-Mecklenburg Police 601 E. Trade Street Charlotte, NC 28202	704-336-7600 <a href="http://charmack.org/city/charlotte/CMPD/Pages/default.aspx">http://charmack.org/city/charlotte/CMPD/Pages/default.aspx</a>
<b>STATE Police Department</b>	North Carolina Department of Public Safety 512 North Salisbury Street Raleigh, NC 27604	State Patrol: 919-733-7952 <a href="http://www.ncdps.gov/Our-Organization/Law-Enforcement/State-Highway-Patrol">http://www.ncdps.gov/Our-Organization/Law-Enforcement/State-Highway-Patrol</a> State Bureau of Investigation: 919-662-4509 <a href="http://www.ncdps.gov/Our-Organization/Law-Enforcement/state-bureau-investigation">http://www.ncdps.gov/Our-Organization/Law-Enforcement/state-bureau-investigation</a>
<b>Closest Emergency Room- 1</b>	Presbyterian Medical Center 200 Hawthorne Lane Charlotte, NC 28204	704-384-4000 <a href="https://www.novanthealth.org/presbyterian-medical-center/patients--visitors/locations-and-directions.aspx">https://www.novanthealth.org/presbyterian-medical-center/patients--visitors/locations-and-directions.aspx</a>
<b>Closest Emergency Room- 2</b>	Atrium Health's Carolinas Medical Center 1000 Blythe Boulevard Charlotte, NC 28203	704-355-2167 <a href="https://atriumhealth.org/locations/detail/carolinas-medical-center">https://atriumhealth.org/locations/detail/carolinas-medical-center</a>
<b>Closest Emergency Room- 3</b>	Atrium Health's Carolinas Medical Center—Mercy 2001 Vail Avenue Charlotte, NC 28207	704-304-5000 <a href="https://atriumhealth.org/locations/detail/carolinas-medical-center">https://atriumhealth.org/locations/detail/carolinas-medical-center</a>
<b>Hospital w/ SANE Services (sexual assault evidence collection services; rape kits)- 1</b>	Presbyterian Medical Center 200 Hawthorne Lane Charlotte, NC 28204	704-384-4000 <a href="https://www.novanthealth.org/presbyterian-medical-center/patients--visitors/locations-and-directions.aspx">https://www.novanthealth.org/presbyterian-medical-center/patients--visitors/locations-and-directions.aspx</a>
<b>Hospital w/ SANE Services (sexual assault evidence collection services; rape kits)- 2</b>	Carolina Medical Center 1000 Blythe Boulevard Charlotte, NC 28203	704-355-2000 <a href="http://www.carolinashealthcare.org/cmc">http://www.carolinashealthcare.org/cmc</a>
<b>Hospital w/ SANE Services (sexual assault evidence collection services; rape kits)- 3</b>	Carolina Medical Center— Mercy 2001 Vail Avenue Charlotte, NC 28207	704-304-5000 <a href="http://www.carolinashealthcare.org/cmc-mercy">http://www.carolinashealthcare.org/cmc-mercy</a>
<b>District Attorney's Office</b>	Mecklenburg County District Attorney 700 East Trade Street Charlotte, NC 28202	704-686-0700 <a href="http://charmackda.com/">http://charmackda.com/</a>
<b>Where to obtain a protective order</b>	Mecklenburg County Superior Court 832 E 4th St #2132 Charlotte, NC 28202	704-686-0400 <a href="http://www.nccourts.org/County/Mecklenburg/Courts/Superior.asp">http://www.nccourts.org/County/Mecklenburg/Courts/Superior.asp</a>
<b>Victim Advocacy</b>	Safe Alliance Charlotte Children and Family Services Center	704-332-9034 <a href="http://www.safealliance.org/charlotte">http://www.safealliance.org/charlotte</a>

	601 E. Fifth Street, Suite 400 Charlotte, NC 28202	
<b>Mental Health/Counseling Services</b>	Safe Alliance Charlotte Children and Family Services Center 601 E. Fifth Street, Suite 400 Charlotte, NC 28202	704-332-9034 <a href="http://www.safealliance.org/charlotte">http://www.safealliance.org/charlotte</a>
<b>Legal Assistance- 1</b>	Safe Alliance Charlotte Children and Family Services Center 601 E. Fifth Street, Suite 400 Charlotte, NC 28202	704-332-9034 <a href="http://www.safealliance.org/charlotte">http://www.safealliance.org/charlotte</a>
<b>Legal Assistance- 2</b>	Legal Aid of North Carolina 832 E. Fourth Street, Room 3725 Charlotte, NC 28202	704-686-0400 <a href="http://www.nccourts.org/county/mecklenburg/selfserve/resources.html">http://www.nccourts.org/county/mecklenburg/selfserve/resources.html</a>
<b>Visa &amp; Immigration Assistance</b>	U.S. Department of Homeland Security 6130 Tyvola Centre Dr. Charlotte, NC 28217	<a href="https://studyinthestates.dhs.gov/students">https://studyinthestates.dhs.gov/students</a>
<b>Rape Crisis Line</b>	24-Hour Mecklenburg County Rape Crisis Line	980-771-4673 <a href="https://www.safealliance.org/programs/greater-charlotte-hope-line/">https://www.safealliance.org/programs/greater-charlotte-hope-line/</a>
<b>Domestic Violence Shelter</b>	Safe Alliance (Confidential Charlotte location)	704-944-0169 <a href="https://www.safealliance.org/programs/domestic-violence-shelter/">https://www.safealliance.org/programs/domestic-violence-shelter/</a>
<b>Resources Specific to Male Victims</b>	Safe Alliance Charlotte Children and Family Services Center 601 E. Fifth Street, Suite 400 Charlotte, NC 28202	704-332-9034 <a href="http://www.safealliance.org/charlotte">http://www.safealliance.org/charlotte</a>
<b>Resources for the LGBTQ Community</b>	Time Out Youth 3800 Monroe Rd. Charlotte, NC 28205	704) 344-8335 <a href="http://www.timeoutyouth.org">http://www.timeoutyouth.org</a>
<b>Other</b>	Rape, Abuse and Incest National Network	<a href="http://www.rainn.org">http://www.rainn.org</a>
	Department of Justice	<a href="http://www.ovw.usdoj.gov/sexassault.htm">http://www.ovw.usdoj.gov/sexassault.htm</a>
	Department of Education, Office of Civil Rights	<a href="http://www2.ed.gov/about/offices/list/ocr/index.html">http://www2.ed.gov/about/offices/list/ocr/index.html</a>

If you need help and are not sure if you'd like to report, contact Safe Alliance at 704-375-9900. Safe Alliance offers rape crisis programs in Mecklenburg County, including a local hotline, with an additional office in the Lake Norman area. They have a variety of services to aid adult sexual assault survivors and their loved ones. Their services include:

- 24-hour hotline
- 24-hour hospital accompaniment to all area hospitals in Mecklenburg (regardless of whether a rape kit is completed)
- Ongoing support
- Advocacy
- Counseling
- Support groups

- Safety planning
- Case management
- Referral to other support services
- Court education and court accompaniment
- Assistance with Crime Victim's Compensation
- Photographic injury documentation

If you prefer texting, text "Go" to 741741. A live, trained crisis counselor from Crisis Text Line will respond.

Should you or a loved one need help or information, please call the nearest rape crisis program at:

- Mecklenburg Rape Crisis Line: 980-771-4673
- Cabarrus Rape Crisis Line: 704-721-0110 (Operated by Esther House)
- Union Rape Crisis line: 704-283-7770 (Operated by Turning Point)

### **How to Contact the U.S. Department of Education's Office of Civil Rights**

To file a complaint directly with the Department of Education's Office for Civil Rights, contact the office responsible for the State of North Carolina:

Washington DC (Metro)  
Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1475

Telephone: 202-453-6020  
FAX: 202-453-6021; TDD: 800-877-8339  
Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)

### **Immediate Steps If You Are Sexually Assaulted**

Individuals are encouraged to report potential crimes of sexual assault (whether perpetrated by an acquaintance or a stranger) to law enforcement in addition to the Title IX Coordinator/Deputies. The Title IX Coordinator/Deputies are available to assist an individual in notifying law enforcement. Criminal and University investigations are separate and may be conducted simultaneously. The University will typically not wait for the completion of a criminal investigation in order to respond.

Although the University strongly encourages all members of its community to report criminal misconduct to law enforcement, it is the victim's choice whether or not to make such a report and victims have the right to decline involvement with the police. The University AVP of Public Safety/Chief of Police or the Title IX Coordinator/Deputies will assist any victim with notifying local police if they so choose. Information about how to contact the Charlotte-Mecklenburg Police Department may also be located at the rear of this policy under "Off Campus Resources."

### **Immediate steps to take if you are sexually assaulted:**

1. Get to a safe place if the assault is recent (for example -- someone's home, the nearest hospital or police department).
2. Call 911 to be taken to an emergency room for medical care and/or for immediate police protection and assistance. A complete medical evaluation will include a physical examination, treatment, evidence collection, and/or counseling. Remember, you will not be made to do anything you do not want to do and may decline any of the elements of this evaluation. You may have evidence collected without making an immediate report to law enforcement. It is your decision whether or not to make a report, but that should not inhibit you from having evidence collected. If you have been raped, it is important to seek medical care, especially if you have been physically injured. Even if you do not have any visible physical injuries from the assault, there may be physical injuries that you cannot see, and medical and health centers can provide additional services such as testing for sexually transmitted diseases and emergency contraception, if appropriate.
3. When you call 911, explain what has happened and request to be sent to an emergency department that has a SANE nurse (Sexual Assault Nurse Examiner.) In the meantime, do not change clothes, bathe, douche, or brush your teeth. This is important for the evidence collection process that will occur at the hospital.
4. If you seek to place a report with the police or cooperate with a criminal investigation into your assault, it is best for evidence collection to occur within 96 hours of the assault. Evidence collection does not require you to place a report with the police or press charges; it just preserves these options for the future. Your right to have evidence collected without cost to you and without initially cooperating with law enforcement is afforded to you under the Violence Against Women Act (originally of 1994.) Check with the hospital or local prosecuting attorney's office to determine how long your evidence will be preserved absent a formal report to law enforcement as this varies from state to state.
5. Alternatively, go directly to the nearest Emergency Room. If you go to the nearest emergency department that does not have SANE services, you can be transferred to the nearest facility.

### **Preserving Evidence**

After an incident of sexual assault and domestic violence, the victim should consider seeking medical attention as soon as possible at the closest emergency room. Victims who agree to have forensic evidence collection conducted as part of their care can locate hospitals with such emergency rooms in the Resources section of this policy or by calling the Charlotte-Mecklenburg Police Department at 911 or 704-336-7600.

In the State of North Carolina, evidence may be collected even if you chose not to make a report to law enforcement.<sup>4</sup> It is important that a victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen/area where they were assaulted if the offense occurred within the past 96 hours so that evidence as may be necessary to the proof of criminal activity may be preserved. In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted disease.

<sup>4</sup> Under the Violence Against Women and Department of Justice Reauthorization Act of 2005, starting in 2009, states must certify that they do not “require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both.”

Victims of sexual assault, domestic violence, stalking, and dating violence are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if they have any, that would be useful to University administrators/investigators or police.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. If a victim chooses not to make a complaint regarding an incident, he or she nevertheless should consider speaking with the University Chief of Police or local law enforcement to preserve evidence in the event that the victim changes her/his mind at a later date.

Anonymous reports are also accepted and should be directed to the Title IX Coordinator, but the supplier of the anonymous report should be mindful that failure to disclose identifying information about the accused party, the victim of the misconduct, or the facts and circumstances regarding the misconduct severely limits the University’s ability to respond to, address, and remedy the effects of sexual misconduct or interpersonal violence. Anonymous reports that provide enough information to constitute a criminal offense will be reported to the University Chief of Police sans any identifying information regarding the complainant for purposes of inclusion in the Annual Security Report and to assess for purposes of sending out a Timely Warning Notice as required by the Clery Act.

### **Obtaining an Order of Protection in North Carolina**

Queens complies with North Carolina law in recognizing Domestic Violence Protection Orders (50B orders) as well as Civil No-Contact Order (50C orders) by complying with court orders. For example, any person who obtains an order of protection from North Carolina or any state in the U.S. should provide a copy to Public Safety and the Office of the Title IX Coordinator (students) or Human Resources (employees). A complainant may then meet with Public Safety to develop a Safety Action Plan, which is a plan for Campus Police and the victim to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, providing a temporary cellphone, changing classroom location or allowing a student to complete assignments from home, etc.

Queens cannot apply for a legal order of protection, no contact order or restraining order for a victim from the applicable jurisdiction(s). The victim is required to apply directly for these services at the Mecklenburg County Magistrate’s Office in Charlotte. Queens can and does issue institutional “No Contact” directives to prevent contact between parties. Any complainant may request an institutional “No Contact” order by contacting the Title IX Coordinator/Deputy assigned to their case. Protection from abuse orders may be available through the following process in North Carolina:

**Step 1:** Proceed to the Mecklenburg County Superior Court building at 832 East Fourth Street in Charlotte to obtain and file the necessary forms. During business hours, go to the clerk of civil court. Otherwise, go to the magistrate’s office in order to file for a domestic violence protective order—also known as a “DVPO” or 50B (Domestic) or 50C (Civil). If emergency protection is needed, request an ex parte/temporary emergency order

from the clerk. To find contact information for the courthouse in your area, click on:

[http://www.womenslaw.org/gethelp\\_state\\_type.php?type\\_name=Courthouse%20Locations&state\\_code=NC](http://www.womenslaw.org/gethelp_state_type.php?type_name=Courthouse%20Locations&state_code=NC).

The abused can obtain the forms needed from the clerk or obtain the forms beforehand online at:

<http://www.nccourts.org/Forms/Documents/CompleteIndex.pdf> in the Civil Section. On the complaint, the accuser will be the "plaintiff" and the accused will be the "defendant." In the space provided, write about the most recent incidents of violence, using specific language (slapping, hitting, grabbing, threatening, etc.) that fits your situation. Include details and dates if possible. Clerks and magistrates can assist the accuser with which blanks to fill in, but they cannot help the accuser with what to write. Do not sign the forms until in front of a notary or a clerk. If the abuser has any firearms, be sure to alert the court so the firearms can be removed from the abuser's possession. If children are involved, the box asking for temporary custody may be checked.

**Step 2:** The accuser can ask for an ex parte temporary order for immediate protection. If the accuser needs immediate protection, he/she can check the box on the complaint to ask for an ex parte order. An ex parte order is a temporary emergency order that a judge can grant if the accuser and his/her children are in immediate danger. The accused will not be notified beforehand that the accuser is asking the judge for an ex parte order. If the judge believes the accuser or his/her children are in serious and immediate danger, s/he may issue an ex parte order which is good for 10 days, until the full court hearing is held. If the accuser is there after business hours, some magistrates may issue an ex parte order which is good only until the case is heard by a judge, which should occur by the end of the next day on which the court is in session in the county. The accuser must return to the courthouse to see a judge to get an ex parte order that will last for up to 10 days, until a full court hearing is held. Whether the judge or magistrate grants an ex parte order or not, a court date for a full court "hearing" will be scheduled within 10 days. This hearing will be in front of a judge at the time shown on the Notice of Hearing. At this hearing, the accused and the accuser will both have a chance to explain their side to the judge.

**Step 3:** Take the forms to the sheriff's department. If the clerk does not provide this service, the accuser may have to take the appropriate forms to the sheriff's department so they can serve the defendant with the summons, complaint, and notice of hearing (and the ex parte order if one was granted). Counties do this differently. In some counties, the clerk of courts sends the forms to the sheriff; in other counties, the plaintiff has to take the forms to the sheriff. The accuser can receive assistance by contacting the local domestic violence program or the clerk of court to find out the way it is handled in the respective county. The accuser will have to provide some contact information for the defendant so the sheriff can find him/her. The accuser may want to provide the sheriff a picture of the defendant and any information that will help them locate him/her. The defendant must receive notice of the hearing from the sheriff. If the defendant does not receive notice, the hearing will be rescheduled. In addition, if an ex parte order was granted, the defendant must be served with the order for it to be in effect and be enforced.

### **Tips for Risk Reduction**

The majority of sexual assaults are perpetrated by friends, acquaintances, or partners of the victim. To prevent similar crimes from happening, we recommend everyone familiarize themselves with what constitutes sexual misconduct and, as a community, be vigilant in stopping it:

1. **Know your sexual desires and limits**, and communicate them clearly with your partner.
2. **Be aware of social pressures.** There's nothing wrong with not scoring or hooking up.
3. **Always seek consent** and accept your partner's decisions. Stop your sexual advances if the other person indicates no interest, and especially if they say "no." Do not assume that previous permission for sexual contact applies to the current situation. Engaging in any type of sexual activity without the consent of your partner is sexual assault. The absence of a "no" is not a "yes."
4. People who are incapacitated by alcohol or drugs (i.e. highly intoxicated, passed out or asleep) cannot give consent. **Do not have sex or take advantage** of someone who is passed out, incoherent, sleeping or otherwise incapacitated.



5. **Drink responsibly.** Remember that alcohol can interfere with your ability to read body language and can lead you to misinterpret your surroundings. It can also increase aggression and interfere with self-control. Intoxication is not a defense for perpetrating sexual assault.
6. **Do not use threats or coercion** to engage in sexual activity.
7. Be aware if someone is deliberately trying to intoxicate, isolate, or corner someone. **Get in the way or create a distraction** by drawing attention or separating them.

With no intent to victim blame and in recognizing that only abusers are responsible for the abuse they perpetrate, the following are some strategies to reduce one's risk of sexual assault or harassment (taken from Rape, Abuse, & Incest National Network, [www.rainn.org](http://www.rainn.org))

1. **Be aware** of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
2. Try to **avoid isolated areas**. It is more difficult to get help if no one is around.
3. **Walk with purpose**. Even if you don't know where you are going, act like you do.
4. **Trust your instincts**. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
5. **Try not to load yourself down** with packages or bags as this can make you appear more vulnerable.
6. **Make sure your cell phone is with you** and charged, and that you have cab money or a ride-share app for getting home.
7. **Don't allow yourself to be isolated** with someone you don't trust or someone you don't know.
8. **Avoid putting music headphones in both ears** so that you can be more aware of your surroundings, especially if you are walking alone.
9. **When you go to a social gathering, go with a group of friends**. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
10. **Don't leave your drink unattended** while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
11. **Don't accept drinks from people you don't know or trust**. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
12. **Watch out for your friends, and vice versa**. If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
13. **If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.)**. Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
14. If you need to get out of an uncomfortable or scary situation here are some things that you can try:
  - a. **Remember that being in this situation is not your fault**. You did not do anything wrong, it is the person who is making you uncomfortable that is to blame.
  - b. **Be true to yourself**. Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.
  - c. **Have a code word with your friends or family** so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
  - d. **Make up an excuse**. If you don't want to hurt the person's feelings it is better to lie and make up a reason to leave than to stay and be uncomfortable, scared, or worse. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, having somewhere else that you need to be, etc.

## How to be an Active Bystander



Bystanders play a critical role in the prevention of sexual and relationship violence. They are “individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it.”<sup>7</sup> We want to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. We may not always know what to do even if we want to help. Below is a list<sup>8</sup> of some ways to be an active bystander. If you or someone else is in immediate danger, dial 911. This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.
2. Confront people who seclude, hit on, try to make out with, or have sex with people who are incapacitated.
3. Speak up when someone discusses plans to take sexual advantage of another person.
4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
5. Refer people to on or off campus resources listed in this document for support in health, counseling, or with legal assistance.

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<sup>7</sup> Burn, S.M. (2009). A situational model of sexual assault prevention through bystander intervention. *Sex Roles, 60*, 779-792.

<sup>8</sup> Bystander intervention strategies adapted from Stanford University's Office of Sexual Assault & Relationship Abuse