



TITLE IX/SEXUAL MISCONDUCT POLICY

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TITLE IX/SEXUAL MISCONDUCT POLICY

I. Purpose

Moore College of Art & Design (Moore) is committed to maintaining a safe and healthy educational and work environment in which no member of the Moore community is, on the basis of sex, excluded from participation in, denied the benefits of, or subjected to discrimination in any Moore program or activity. Gender-based discrimination and sexual harassment, including sexual violence, are forms of sex discrimination in that they deny or limit an individual's ability to participate in or benefit from Moore programs or activities.

Moore's Title IX/Sexual Misconduct Policy (Policy) is designed to ensure a safe and nondiscriminatory educational and work environment, as well as meet Moore's legal requirements, including but not limited to: Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in Moore's programs or activities; relevant sections of the Violence Against Women Reauthorization Act; Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; and Pennsylvania laws that prohibit discrimination on the basis of sex.

II. Applicability and Scope

These Procedures will be used to resolve reports and formal complaints against students, staff, and faculty for the following forms of Prohibited Conduct:

Title IX Sexual Harassment, which includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking

Other Forms of Prohibited Conduct, which includes Sexual or Gender-Based Harassment and Sexual Exploitation

Retaliation (when related to Title IX Sexual Harassment or Other Forms of Prohibited Conduct listed above)

III. Policy Jurisdiction

This Policy applies to prohibited conduct that is committed by students, faculty, staff, Moore appointees, or third parties (such as vendors and contractors), whenever the misconduct occurs on Moore property or off Moore property, if the conduct was in connection with a Moore or Moore-recognized program or activity; or the conduct may have the effect of creating a hostile environment for a member of the Moore community. Conduct subject to Title IX disciplinary action must occur within the United States. All other misconduct that does not meet the definition or geographic requirements of Title IX will be processed under Moore's Student Code of Conduct or Moore's Faculty and Staff Handbooks.

IV. Definitions

The terms and definitions used here are important components of Moore's Policy. The definitions are intended to give meaning to these terms in the context of the Moore

community. Criminal and other applicable state laws may use different definitions and are inapplicable to this Policy.

Actual Knowledge

Actual Knowledge is when an official notice of sexual harassment or sexual misconduct is provided to Moore’s Title IX Coordinator, Deputy Title IX Coordinator, Title IX Investigator, or a CSA (Campus Security Authority).

Advisor

An advisor is a support person who is present to aid a complainant or respondent throughout an investigation, formal or informal resolution process and/or appeal hearing related to a possible violation of Moore’s Title IX/Sexual Misconduct Policy. Complainants and respondents may be accompanied by one advisor throughout the investigation and any related hearing process. The advisor may be any person of the party's choosing, including an attorney. An advisor may not speak, write, or otherwise communicate with a report facilitator during the statement collection and fact-finding portion of an investigation. Advisors are required should an investigation lead to a hearing and cross-examination.

Appeal Officer

The Appeal Officer is the Moore officer or administrator who is the decision maker in the appeal process.

Campus Security Authority (CSA)

A Campus Security Authority is a Moore employee who has significant responsibility for student and campus activities, including, but not limited to, the directors of student housing, student discipline and campus judicial proceedings who, in their employment capacity, have the authority and the duty to take action or respond to particular issues on behalf of the institution.

It is considered official notice to Moore if the misconduct is within the actual knowledge of a CSA. CSAs assist Moore in fulfilling its responsibility to annually disclose accurate crime statistics and to issue or facilitate the issuance of timely warnings or emergency notifications under the The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) for crimes under that statute that pose a serious or continuing threat to the campus community.

Complainant

A complainant is the subject of the alleged misconduct. A complainant can be a student or employee.

For Title IX investigations a complainant must be participating in, or attempting to participate in, Moore’s education program or activity at the time of filing a formal

complaint. A complainant who has graduated may still be “attempting to participate” in Moore’s education program or activity where the complainant has graduated from one program but intends to apply to a different program, or where the graduated complainant intends to remain involved with Moore’s alumni programs and activities. A complainant who is on a leave of absence may be “participating or attempting to participate” in Moore’s recipient’s education program or activity. A complainant who has left Moore because of sexual harassment but expresses a desire to re-enroll if Moore appropriately responds to the sexual harassment, is “attempting to participate” in Moore’s education program or activity.

Situations in which the complainant is no longer participating in, or is no longer attempting to participate in Moore’s education program or activity will not be processed through Title IX, rather through the respective Student, Faculty, or Staff Handbook of the respondent.

Consent

Consent is when clearly understandable words or actions manifest a knowing, active, voluntary, present, and ongoing agreement to engage in specific sexual or intimate contact. Relying solely on non-verbal communication can be unclear and lead to misunderstandings and harmful consequences for all parties involved. Individuals should be able to articulate why and how they knew they had received consent and what they considered to be indications of consent before they engaged in sexual activity.

Consent is not present when an individual does not have the capacity to give consent. Inability to give consent can be due a physical or mental condition, or the age of consent as defined by law. Things that can impair the ability to give consent include, but are not limited to, disability, the voluntary or involuntary consumption of drugs or alcohol, unconsciousness, sleep, or where the person is unaware that sexual activity is occurring.

Decision-Maker

The decision-maker oversees the statements and cross-examination of parties and witnesses during a Title IX hearing. During questioning, the decision-maker will determine if an advisor is adhering to Moore’s procedural guidelines, and if the cross-examination questions are relevant. The decision-maker also makes the final determination as to whether there is a preponderance of evidence that the alleged misconduct occurred and, if so, decides on the imposition of sanctions.

Deliberate Indifference

Moore is deliberately indifferent only if its response to a claim of sexual harassment is clearly unreasonable and untimely in light of the known circumstances.

Deputy Title IX Coordinator

Deputy Title IX Coordinators are fully trained on Moore’s sexual misconduct policies and assist the Title IX Coordinator in addressing reports of sexual misconduct.

Education Program or Activity

Moore's education program or activity includes all of Moore's operations, including locations, events, or circumstances over which Moore exercised substantial control over both the respondent and the context in which the alleged misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Moore.

Formal Complaint

A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment by a respondent against a complainant, and requesting that Moore 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 Moore's education program or activity.

Emergency Provision

An Emergency Provision is a temporary measure/s, imposed by Moore on one or both parties based on credible information from a report of sexual misconduct. The Title IX Coordinator or Deputy Title IX Coordinator can impose Emergency Provisions, including removal from campus or campus housing for students and suspension with pay for employees based on the initial information received in a report of sexual misconduct. As a provision may impact a student's access to education or employment, the Title IX Coordinator will only implement emergency provisions if there is cause to believe that an individual poses a threat to the safety or wellbeing of another or to the campus community, or the offensive behavior is severe, pervasive, and is unlikely to cease.

Emergency Provisions required for Moore employees will be made by Moore administration in consultation with the Human Resources.

Parties

Parties is a term that refers to the complainant and the respondent collectively.

Preponderance of the Evidence (Burden of Proof)

A preponderance of the evidence standard is the burden of proof under this policy for both employees and students. It means that a fact is more likely than not to be true. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Moore and not on the parties.

Quid Pro Quo Harassment

Quid pro quo sexual harassment typically involves someone being pressured by a superior or someone who has power over a complainant to provide sexual favors in order to avoid a negative repercussion or to receive a benefit. The respondent in Quid Pro Quo harassment must be an employee of Moore to be processed under a Title IX Investigation.

Respondent

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. Any “individual” can be a respondent, whether such individual is a student, faculty member, another Moore employee or other person with or without any Moore affiliation.

Retaliation

Moore strictly prohibits retaliation against any member of its community for reporting an incident of sexual misconduct or for participating in an investigation or hearing related to a report of sexual misconduct. Moore considers such actions to be protected activities in which all members of the Moore community may freely engage.

Retaliation is a materially adverse action taken against an individual because they engaged in protected activities when the adverse action is sufficiently severe or pervasive that it could deter a reasonable person from engaging in the protected activities. Members of the community are prohibited from engaging in actions directly or through others that reasonably could deter a party or a witness from reporting sexual misconduct or participating in an investigation or hearing.

Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Supportive measures are designed to restore or preserve equal access to Moore’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Moore’s educational environment, or deter sexual harassment.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, 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, and other similar measures.

An individual can initiate the process for support measures by contacting the Title IX Coordinator.

Title IX Coordinator

In coordination with the Deputy Coordinator, the Title IX Coordinator handles investigation notifications, support measures, and scheduling of meetings, hearings, and

cross-examinations. The Title IX Coordinator does not have any decision-making authority and acts as a resource and support for all individuals involved in an investigation of sexual misconduct, whether it meets the criteria for Title IX or not.

Title IX Facilitator

A Title IX Facilitator is a faculty or staff member who has received relevant annual training and has been selected by the Title IX Coordinator to facilitate an Informal Resolution process.

Title IX Investigator

Title IX Investigator conducts a prompt and thorough investigation. The investigator is responsible for meeting with parties and witnesses, gathering statements and evidence, and compiling a final report for review, either for a decision in non-Title IX sexual misconduct allegations or cross-examination in Title IX formal resolution proceedings. The Title IX Investigator acts as a neutral party in the investigation and provides to both parties a detailed, unbiased report regarding the findings of the investigation.

Unwelcome Conduct

Conduct is unwelcome if a person (1) did not request or invite it and (2) regarded the unrequested or uninvited conduct as undesirable or offensive. If a person welcomes some sexual contact that does not mean that person welcomes other sexual contact. Similarly, the fact that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcomed on a subsequent occasion.

Whether conduct is unwelcomed is determined based on the totality of the circumstances, including various objective and subjective factors. The following types of information may be helpful in making a determination: statements by any witnesses to the alleged incident; information about the relative credibility of the parties and witnesses; the detail and consistency of each person's account; the absence of corroborating information where it should logically exist; information that the respondent has been found to have harassed others; information that the complainant has been found to have made false allegations against others; information about the complainant's reaction or behavior after the alleged incident; and information about any actions the parties took immediately following the incident, including reporting the matter to others.

In addition, when a person lacks capacity to request, invite or consent to conduct, conduct of a sexual nature is deemed unwelcomed, provided that the respondent knew or reasonably should have known of the person's inability to give consent (See definition of "consent").

Witness

A witness is a person who has direct or indirect knowledge related to specific aspects of a case. A witness can be a student, employee, or a third-party with no connection to Moore.

Prohibited Conduct

Moore prohibits all forms of sexual harassment as defined in Title IX, sexual harassment under Title VII, as well as other sexual misconduct and gender-based harassment. This conduct violates Moore's community standards and disrupts the living, learning, and working environments for Moore students, faculty, staff, and other community members. Prohibited conduct includes:

SMV¹.A - Dating/Domestic Violence²

Dating/Domestic Violence includes intimidation, harassment, physical abuse, sexual abuse, or interference with personal liberty of any person by someone in an intimate relationship.

Dating violence includes, but is not limited to, people who have or had a dating relationship or people who have or had a social relationship of a romantic or intimate nature.

Domestic violence includes, but is not limited to relationships of current and former spouses, current and former domestic partners, intimate partners or dating partners who share or formerly shared a common dwelling or persons who otherwise have a child in common or share a relationship through a child.

Actions that constitute dating/domestic violence include, but are not limited to:

- a. Physical abuse: hitting, slapping, shoving, grabbing, pinching, biting, or hair pulling;
- b. Psychological or emotional abuse: a pattern of behavior undermining an individual's sense of self-worth or self-esteem, constant criticism, diminishing one's abilities, name-calling, or damaging one's relationship with one's children;
- c. Sexual abuse: attacks on sexual parts of the body, forcing sex after physical violence, treating one in a sexually demeaning manner, coercing or attempting to coerce any sexual contact or behavior without consent.

¹SMV represents Sexual Misconduct Violation within the Student Code of Conduct.

² Conduct that meets this definition will be processed as Title IX Violation (*TIXV*) A- *Dating/Domestic Violence* through Moore's Title IX Resolution Process if: 1) a Title IX Coordinator or official with the authority to institute corrective measures has actual knowledge of the reported behavior; 2) behavior was directed against a person in the United States; and 3) behavior was within the program and/or activity. Otherwise, the conduct will be processed under Moore's Student or Employee Code of Conduct.

SMV.B - Gender-Based Harassment³

Gender-based harassment is verbal, nonverbal, graphic, physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation, or gender identity, but not necessarily involving conduct of a sexual nature. For example, disparagement of a person based on a perceived lack of stereotypical masculinity or femininity or exclusion from an activity based on sexual orientation or gender identity also may violate this Policy.

SMV.C - Sexual Assault⁴ and Sexual Exploitation

Sexual assault includes any of the following behaviors:

- Sexual penetration without Consent (e.g., rape): Any penetration of the sex organs or anus of another person when consent is not present; any penetration of the mouth of another person with a sex organ when consent is not present; or performing oral sex on another person when consent is not present. This includes penetration or intrusion, however slight, of the sex organ or anus of another person by an object or any part of the body.
- Sexual Contact without Consent (e.g., fondling): Knowingly touching or fondling a person's genitals, breasts, thighs, groin, or buttocks, or knowingly touching a person with one's own genitals, breasts, or buttocks, when consent is not present. This includes contact done directly or indirectly through clothing, bodily fluids, or with an object. It also includes causing or inducing a person, when consent is not present, to similarly touch or fondle oneself or someone else.
- Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by the laws of the location in which the incident occurred.

³ Conduct that meets this definition will be processed as *TIXV. B- Gender-based Harassment* through Moore's Title IX Resolution Process if: 1) a Title IX Coordinator or official with the authority to institute corrective measures has actual knowledge of the reported behavior; 2) behavior was directed against a person in the United States; 3) behavior was within the program and/or activity; AND 4) the unwelcome conduct is so severe, pervasive, and objectively offensive that it denies access to the program or activity. Additionally, if the behavior meets the previous criteria AND involve *quid pro quo* harassment by a Moore employee, Moore will resolve under Moore's Title IX Resolution Process. Otherwise, the conduct will be processed under Moore's Student or Employee Code of Conduct.

⁴ Conduct that meets this definition will be processed as *TIXV. C- Sexual Assault* through Moore's Title IX Resolution Process if: 1) a Title IX Coordinator or official with the authority to institute corrective measures has actual knowledge of the reported behavior; 2) behavior was directed against a person in the United States; and 3) behavior was within the program and/or activity. Additionally, if the behavior meets the previous criteria AND involves *quid pro quo* harassment by a Moore employee, Moore will resolve under Moore's Title IX Resolution Process. Otherwise, the conduct will be processed under Moore's Student or Employee Code of Conduct.

- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent under the laws of the state in which the incident occurred.

Sexual Exploitation means taking sexual advantage of another person for the benefit of oneself or a third party when consent is not present. This includes but is not limited to the following actions (including when they are done by electronic means, methods, or devices):

- Sexual voyeurism or permitting others to witness or observe the sexual or intimate activity of another person without that person's consent;
- Indecent or lewd exposure or inducing others to expose themselves when consent is not present;⁵
- Recording any person engaged in sexual or intimate activity in a private space without that person's consent;
- Distributing sexual information, images, or recordings about another person without that person's consent;
- Recruiting, harboring, transportation, providing, or obtaining another person for the purpose of sexual exploitation; or
- Incapacitation of another person with the intent to engage in sexual conduct, regardless of whether prohibited sexual conduct occurs.
- Obscene gestures;
- Sexual graffiti, pictures, or posters;
- Sexually explicit profanity;
- Stalking or cyberbullying that is based on gender or sex;
- E-mail, texting ("sexting") and internet use that violates this Policy; or
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection.

SMV D - Sexual Harassment⁶

For purposes of Title IX, sexual harassment is conduct on the basis of sex that satisfies one or more of the following: (1) A Moore employee conditioning the provision of any

⁵ Breast feeding a child is not indecent and does not constitute sexual misconduct.

⁶ Conduct that meets this definition will be processed as *TIXV.D – Sexual Harassment* through Moore’s Title IX Resolution Process if: 1) a Title IX Coordinator or official with the authority to institute corrective measures has actual knowledge of the reported behavior; 2) behavior was directed against a person in the United States; 3) behavior was within the program and/or activity; AND 4) the unwelcome conduct is so severe, pervasive, and objectively offensive that it denies access to the program or activity. Additionally, if the behavior meets the previous criteria AND involves *quid pro quo* harassment by a Moore employee, Moore will resolve under Moore’s Title IX Resolution Process. Otherwise, the conduct will be processed under Moore’s Student or Employee Code of Conduct.

Moore aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (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 Moore's education program or activity; or (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Non-Title IX sexual harassment is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic, or physical conduct of a sexual nature, including *quid pro quo*. *Quid pro quo* occurs when submission to or rejection of sexual conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement. There is no geographic requirement that non-Title IX sexual harassment occur within the United States.

The following conduct may constitute sexual harassment for Title IX or Non-Title IX proceedings:

- Observing, photographing, videotaping, or making other visual or auditory records of sexual activity or nudity, where there is a reasonable expectation of privacy, without the knowledge and consent of all parties;
- Sharing visual or auditory records of sexual activity or nudity without the knowledge and consent of all recorded parties and recipient(s);
- Sexual advances, whether or not they involve physical touching;
- Commenting about or inappropriately touching an individual's body;
- Lewd or sexually suggestive comments, jokes, innuendoes, or gestures;
- Stalking;
- Pressure for a dating, romantic, or intimate relationship;
- Unwelcomed sexual advances;
- Unwelcomed touching, kissing, hugging, or massaging;
- Pressured or forced sexual activity;
- Unnecessary references to parts of the body;
- Remarks about a person's gender, nonconformity with gender stereotypes, or sexual orientation;
- Sexual innuendoes or humor

Other verbal, nonverbal, graphic, or physical conduct may create a hostile environment if the conduct is sufficiently severe, pervasive, objectively offensive that it denies access to Moore's programs or activities.

SMV.E - Stalking⁷

Stalking is a course of conduct directed at a specific person that is unwelcomed and that would cause a reasonable person to fear for his or her safety (or the safety of a third party) or suffer substantial emotional distress. Conduct that can amount to stalking may include two or more actions directed at another person, whether done directly, indirectly, through others, through devices, or by any other methods or means (specifically including electronic means), including but not limited to:

- Following a person;
- Being or remaining near a person without academic purpose or invited social cause;
- Entering or remaining on or near a person's property, residence, or place of employment;
- Monitoring, observing, or conducting surveillance of a person;
- Threatening (directly or indirectly) a person;
- Communicating to or about a person;
- Giving gifts or objects to, or leaving items for, a person;
- Interfering with or damaging a person's property (including pets); or
- Engaging in other unwelcome contact.

An attempt to commit an act identified above, as well as assisting or willfully encouraging any such act, is also considered a violation of this Policy.

An act may violate one or more parts of this Policy. Furthermore, community members may also be held responsible for the misconduct of their visitors and guests.

Reporting Sexual Misconduct

Time Considerations for Reporting Sexual Misconduct

All reports should be made as soon as possible after an incident because the passing of time makes the collection and review of evidence more difficult and the memories of involved individuals become less reliable. There is no time limit for when an incident of sexual misconduct may be reported. The Title IX Coordinator reserves the right to conduct an initial inquiry, initiate an investigation, or otherwise address any report, regardless of the time it is made, based on concern for the safety or well-being of the Moore community.

⁷ Conduct that meets this definition will be processed as *TIXV.E – Stalking* through Moore's Title IX Resolution Process if: 1) a Title IX Coordinator or official with the authority to institute corrective measures has actual knowledge of the reported behavior; 2) behavior was directed against a person in the United States; and 3) behavior was within the program and/or activity. Otherwise, the conduct will be processed under Moore's Student or Employee Code of Conduct.

A report of a violation can be submitted by anyone by any means listed within this policy including phone, email, personally or electronically through the following link:

https://cm.maxient.com/reportingform.php?MooreCAD&layout_id=4

If the respondent(s) is/are no longer students, employees, or third-party contractors for Moore, Moore may be unable to pursue a formal investigation but may be able to offer support measures to the impacted individual.

Amnesty Policy

Moore encourages the reporting of sexual misconduct and seeks to remove any barriers to making a report. Moore recognizes that an individual who has been drinking or using drugs at the time of an incident may be hesitant to make a report because of the potential consequences of their conduct. An individual who makes a good faith report of sexual misconduct will not be subject to disciplinary action by Moore for a conduct or policy violation that is related to and revealed in the sexual misconduct report or investigation, unless Moore determines the violation was serious and/or placed the health or safety of others at risk. Moore may, however, initiate an educational discussion or pursue other educational interventions regarding alcohol or other drugs. These interventions do not include involuntary leaves for students from Moore. Amnesty does not preclude or prevent action by police or other legal authorities.

Reporting to a Moore Employee

All Moore employees (including student employees) should be familiar with Moore's Sexual Misconduct Policy in addition to the resources and support available to complainants and witnesses of sexual misconduct. Moore does not require all employees to report sexual misconduct. Moore's Title IX Coordinators, Deputy Title IX Coordinator, Title IX Investigators, Residence Life Staff, as well as CSAs are required to report any alleged instance of Sexual Misconduct. In the event a complainant discloses sexual misconduct to a Moore employee who is not a mandated reporter, the employee should encourage the complainant to reach out to Title IX staff. Title IX staff can provide support measures whether or not the complainant seeks a formal resolution. If an employee perceives the conduct to rise to the level of Title IX sexual harassment or non-Title IX sexual harassment as defined in this policy, Moore encourages the employee to reach out to Title IX staff for reporting options.

Employees should make every attempt to explain to the student/employee that they are potentially not a confidential resource before a student/employee reveals something that they may want to keep confidential. If a complainant, respondent, or witness begins talking about the incident(s) with no warning, employees should immediately but gently interrupt and inform them that the conversation may not be considered confidential, and if they do not want the incident(s) to potentially be reported then they should make an appointment with a confidential resource, including Moore's Counselors.

In emergency situations, where a person's health or safety is in immediate danger, employees should call 911 and then report to the Title IX Coordinator.

Reporting to Title IX Staff

The following individuals are trained to receive reports of sexual misconduct and can coordinate support measures:

Aliyah Nelson

Director of Student Life, Diversity & Inclusion

1916 Race Street
1st Floor, Stahl Hall
Philadelphia, PA 19103
215-965-4097
anelson@moore.edu

Rachel Phillips

Director of Human Resources

1916 Race Street
2nd Floor, Wilson Hall
Philadelphia, PA 19103
215-965-4025
rphillips@moore.edu

Alysson Cwyk

Chief of Staff

1916 Race Street
3rd Floor, Wilson Hall
Philadelphia, PA 19103
215-667-6818
acwyk@moore.edu

Joshua Wilkin

Dean of Students

1916 Race Street
1st Floor, Stahl Hall
Philadelphia, PA 19103
215-965-4038
jwilkin@moore.edu

Upon receipt of a report, a Title IX staff member will contact the complainant to provide information about policies, resources, support measures, and reporting options. The information provided by the Title IX staff member will generally include information about medical and confidential counseling and support resources; options for pursuing a complaint and/or reporting the incident to law enforcement; how to request a protective order or support measures; how to request academic or other accommodations; how to preserve evidence; where to access more information; and an invitation to meet with or speak to a Title IX staff member.

Confidential Reporting

When complainants request that their name or other identifiable information not be shared with respondents and/or that no conduct proceeding or other action be taken, Moore will seek to honor that preference when possible. In determining how to proceed, Moore will balance a complainant's request with its obligation to provide a safe and nondiscriminatory environment for all Moore community members, including the respondent.

Moore will consider the following factors in evaluating such requests:

- The nature and scope of the reported conduct, including whether the reported conduct involved physical force or the use of a weapon;
- The potential impact on the complainant of moving forward, particularly in reports involving intimate partner violence;

- The respective ages and roles of the complainant and respondent, including whether the complainant is (or was at the time of the reported conduct), a minor under the age of 18;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether there are any other documented complaints to Moore related to similar behavior about the same respondent (if known)⁸;
- Whether the respondent has a history of convictions or records from a prior school indicating a history of harassment/misconduct, if such records are available;
- Whether the respondent threatened future sexual violence against the complainant or others;
- Whether the report reveals a pattern of conduct at a given location or by a particular group such that there is an increased risk of future acts of sexual misconduct under similar circumstances; and
- Whether the conduct included multiple respondents.

When Moore determines that a complainant's request to remain confidential can be honored, Moore will evaluate whether support measures will remedy any effects on the complainant and the Moore community. Those steps may include offering appropriate supportive measures to the complainant, providing targeted training or prevention programs, and/or providing or imposing other remedies tailored to the circumstances.

When Moore determines that action should be taken that is inconsistent with the request of the complainant that a report remain confidential or that it not be acted upon, the complainant will be informed about the chosen course of action, which may include Moore initiating a conduct proceeding against a respondent. In that event, Moore will need to disclose the identity of the complainant to the respondent. If so, the complainant will be notified that Moore intends to proceed with a conduct proceeding, but that the complainant is not required to participate in the proceeding or in any other actions undertaken by Moore.

In cases in which the complainant chooses not to participate, Moore may pursue conduct proceedings if it is possible to do so without the complainant's participation. Where a complainant declines to participate in a conduct proceeding, however, Moore's ability to meaningfully investigate and respond to a report, including a subsequent disciplinary hearing, may be limited or unable to be adequately pursued.

Third Party Reporting

While Moore strongly encourages reporting of violations under this policy and will address all reports from third parties, Moore asks third parties to consider the impact of a potential investigation on the complainant. Moore may need to move forward with an investigation

⁸ Prior allegations of sexual misconduct can only be considered if the investigation determined that the allegations were founded.

based on the information provided to the Title IX Coordinator by the third party. This may put the complainant at risk or retraumatize the complainant by taking away the complainant's right to choose to report. Moore encourages third parties to reach out to confidential resources on or off-campus prior to reporting to a Title IX Coordinator.

Moore encourages third parties to discuss concerns with the complainant directly, if possible. Third parties may reach out to confidential resources and the Title IX Coordinator for additional resources and information on how to approach these difficult conversations. Confidential resources and the Title IX Coordinator can answer general questions without requiring specific information that which may commence an investigation.

Anonymous Reporting

While anonymous incident reports will be reviewed and investigated by the Title IX Coordinator if possible, Moore's ability to address alleged misconduct reported anonymously is significantly limited in both Title IX and non-Title IX cases of sexual misconduct.

Individuals can make anonymous reports by going to this public link:

https://cm.maxient.com/reportingform.php?MooreCAD&layout_id=4

Reporters are encouraged to provide as much information as possible including date(s) of incident(s), time of incident, individual names, nicknames, locations, potential witnesses, and any other pertinent details.

All Other Reporting

While Moore strongly encourages reporting, members of the Moore community who believe they have experienced sexual misconduct have the right to choose whether or not to report the incident to Moore or law enforcement and whether or not to pursue a sexual misconduct complaint with Moore.

Reporting to Law Enforcement

Moore encourages individuals to report incidents of sexual misconduct to local law enforcement. Timely reporting to the police is an essential factor for the successful investigation and prosecution of crimes, including sexual violence crimes. It may lead to the arrest of an offender or aid in the investigation of other incidents.

An individual who has experienced sexual misconduct has the right to choose whether to file a police report. Filing a police report may result in the investigation of whether sexual violence or related crimes occurred and the prosecution of those crimes against a perpetrator. It is important to know that reporting the incident to the police does not mean an individual is obligated to testify in court.

Police can also assist in reviewing options with alleged victims and identifying and facilitating support resources related to:

- Seeking medical attention

- Seeking support, advocacy, and counseling services; and
- Discussing legal options, including seeking protective orders from a court.

Contact information for local law enforcement

Philadelphia Police Department

401 North 21st Street

Philadelphia, PA 19130

215-686-3090

911 for Emergencies

311 for Non-Emergencies

Title IX VAWA Statement

It is Policy of Moore to comply with Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination (including sexual harassment and sexual violence) based on sex in Moore's educational programs and activities.

It is also Moore's Policy to continue to comply as Policy with the federal Violence Against Women Act (VAWA) amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act (Clery Act), and the accompanying regulations.

Title IX prohibits retaliation for asserting or otherwise participating in claims of sex discrimination.

VAWA imposes additional duties on universities and colleges to investigate and respond to reports of sexual assault, stalking, and dating or domestic violence, and to publish policies and procedures related to the way these reports are handled.

Moore has designated the Title IX Coordinator to coordinate its compliance with Title IX and VAWA and to respond to reports of violations.

Moore has directed its Clery Coordinator to coordinate its compliance with the Clery reporting-related VAWA requirements. Moore's Clery report is posted annually on its website and circulated to the Moore community.

A person may also file a complaint with the Department of Education's Office for Civil rights regarding an alleged violation of Title IX by visiting <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html> or calling 1-800-421-3481.

Complaint Resolution Process for Sexual Misconduct⁹

⁹ Any individual requiring an accommodation under the Americans with Disabilities Act (ADA) in order to fully participate in any aspect of this policy should contact a Title IX Coordinator.

Introduction

The goal of the resolution process is to promptly initiate a fair and impartial investigation to determine what occurred and subsequently take steps to resolve the situation, if necessary. This includes both parties having the same procedural and substantive rights; an equal opportunity to preserve relevant witness information and other evidence; similar and timely access to information that will be used in the investigation, in the subsequent report, and in any Title IX hearing, and the ability to have a support person/advisor of their choice in any meeting that occurs regarding the incident.

Participation in Process¹⁰

Moore invites and encourages complainants, witnesses and respondents to participate fully in the complaint resolution process. If the alleged conduct meets the criteria for a Title IX violation as described in the prohibited conduct section of this policy, and the complainant wishes to proceed with investigation, informal resolution or a formal resolution under the Title IX process, the complainant must sign a formal complaint.

If a complainant decides not to participate but wants disciplinary action to be taken, Moore will determine whether it is possible to move forward with a case without the participation of the complainant. In most cases, disciplinary action is not possible without the participation of the complainant. Moore may act as the complainant in the process in unusual circumstances or resolve the complaint under student or employee conduct policies. Support measures are available for complainants regardless of whether or not the complainant wishes to participate in the resolution process.

When individuals report allegations of sexual misconduct to Moore and do not consent to the disclosure of their names and/or do not disclose the identity of the alleged offenders or identifiable information about the alleged offenders, Moore's ability to respond to complaints may be limited. In cases where an individual reporting sexual misconduct requests anonymity or does not wish to proceed with an investigation, Moore will attempt to honor that request but, in some cases, a Title IX Coordinator or designee may determine that Moore needs to proceed with an investigation based on concern for the safety or well-being of the broader Moore community (e.g., risk of future acts of sexual violence or a pattern of sexual misconduct). Moore reserves the right to take appropriate action in such circumstances, including in cases when the individual reporting the misconduct is reluctant to proceed.

Initial Inquiry

When Moore receives a report of sexual misconduct, Title IX staff will begin an initial inquiry as

¹⁰ Participating in the process, and Moore's ability to vigorously pursue an investigation and a disciplinary hearing substantially depends on whether the matter is required to be processed as a Title IX violation or a non-Title IX violation. For all Title IX disciplinary hearings, hearsay evidence is not permitted, and parties and witnesses must be present and be subject to cross-examination for their evidence to be considered by the decision maker.

soon as practical. This will most frequently begin with an attempt to gain additional information from the complainant, preferably through an in-person meeting. The Title IX Coordinator will explain and offer supportive measures to the complainant. The scope and timing of further action will depend upon a number of factors, including but not limited to, whether the identity of the victim is known; whether the complainant is willing to participate in an investigation and/or hearing; whether the complainant requests anonymity or confidentiality; whether the respondent is affiliated with Moore; and whether Moore has an obligation to proceed with an investigation based on concerns for the safety of the broader Moore community, regardless of the complainant's wishes.

If a formal complaint is received, the Title IX Coordinator will:

- assess its sufficiency and work with the complainant to make sure it is completed correctly;
- ensure that the complainant is aware of their right to have an advisor;
- work with the complainant to determine whether the complainant prefers a supportive and remedial response, an informal resolution option, or a formal grievance process.

If the complainant prefers a supportive and remedial response, the Title IX Coordinator will work with the complainant to identify their wishes and then will facilitate implementation. No formal grievance process is initiated, although the complainant can elect to initiate one later, if desired.

If the complainant prefers an informal resolution option, the Title IX Coordinator will assess whether the formal complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available, and may seek to determine if the respondent is also willing to engage in informal resolution.

If the complainant prefers a formal grievance process, the Title IX Coordinator will determine if the misconduct alleged falls within the scope of Title IX. If it does, the Title IX Coordinator will initiate the formal grievance process, directing the investigation to address:

- an incident, and/or
- a pattern of alleged misconduct, and/or
- a culture/climate issue, based on the nature of the complaint.

If the misconduct alleged does not fall within the scope of Title IX, the Title IX Coordinator will determine that Title IX does not apply and will “dismiss” that aspect of the formal complaint, if any, assess which policies or processes may apply, and proceed accordingly. *Please note that dismissing a complaint under Title IX is only procedural, and does not limit Moore’s authority to address a complaint with another appropriate process and/or remedy.*

Mandatory Grounds for Dismissal Under Title IX

Moore must dismiss a formal Title IX complaint or any allegations contained in it if the conduct alleged would not constitute sexual harassment as defined in Title IX, even if proved; or did not occur in an education program or activity controlled by Moore (including buildings or property controlled by recognized student organizations); or did not occur against a person in the United States; or Moore does not have control of the respondent; or at the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity controlled by Moore. Dismissal of a formal complaint under the Title IX procedure, however, does not preclude action under Moore's Student Code of Conduct for non-Title IX offense sexual misconduct. Moore will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties. The dismissal decision is appealable by any party under the procedures for appeal set forth in this policy. A complainant who decides to withdraw a formal complaint may later request to reinstate it or refile it.

Discretionary Grounds for Dismissal Under Title IX

Moore may dismiss a formal Title IX complaint or any allegations contained in it, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations in it; the respondent is no longer enrolled or employed by Moore; or specific circumstances prevent Moore from gathering evidence sufficient to reach a determination as to the formal complaint or allegations. However, a dismissal for this reason does not preclude action under Moore's Student Code of Conduct for non-Title IX offense sexual misconduct. Moore will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties. The dismissal decision is appealable by any party under the procedures for appeal set forth in this policy. A complainant who decides to withdraw a formal complaint may later request to reinstate it or refile it.

Next Steps

Following an Initial Inquiry, possible next steps include:

- **Refer for Resolution under Code of Conduct:** If the conduct described in the initial report does not meet the criteria outlined in the Prohibited Conduct section of this Policy for resolution under Title IX, and the respondent is a student, the Title IX Coordinator will refer the report to the Dean of Students for resolution through the process outlined in Moore's Student Handbook.
- **Refer for Resolution under Employee Handbook:** If the conduct described in the initial report does not meet the criteria outlined in the Prohibited Conduct section of this Policy for resolution under Title IX, and the respondent is a Moore employee or third-party, the Title IX Coordinator will refer the report to the Director of Human Resources for resolution through policies and procedures outlined in the Staff Handbook or Faculty Handbook.
- **Close the Case:** For a case to be referred for a full investigation, there must be sufficient information to believe a policy violation may have occurred and that the respondent may be responsible. The Title IX Coordinator may dismiss a case when insufficient information exists to move forward or when the alleged

misconduct, even if substantiated, would not be a violation of Policy. The Title IX Coordinator may, in their discretion, reopen a case in the future if additional information becomes available or a complainant who was unwilling to pursue formal resolution changes their mind, (consistent with the time limitations discussed above).

- **Consolidation.** If multiple complaints have been filed that arise from the same or similar set of facts, the matters may be consolidated into one investigation in the sole discretion of Moore and processed informally, formally, or closed.
- **Formal/Informal Resolution:** The Title IX Coordinator may determine that there is reasonable information to suggest a policy violation involving a Title IX violation¹¹ may have occurred. In these cases, the complaint will proceed to further investigation and resolution, formal or informal. See *Title IX Complaint Resolution Procedure* section of this Policy.

Title IX Complaint Resolution Procedure¹²

Title IX Notification to Respondent

The Title IX sexual misconduct complaint resolution process includes an opportunity for the respondent to be notified of the alleged misconduct and the policy violations under consideration and an opportunity to be heard. If a case is referred for formal resolution, the Title IX Coordinator or designee will notify the respondent of the alleged misconduct and the respondent will be given an opportunity to respond.

All notices 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 process. The written notice must inform the parties that they may have an advisor of their choice, who may be an attorney. The written notice must inform the parties that they may inspect and review evidence. The written notice¹² must 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.

The notification will also include a brief description of the alleged misconduct, the date and location of the incident, the identities of the parties, a list of any Moore policies allegedly violated, and a description of the steps toward resolution. Moore may modify the list of policies allegedly violated based on additional information revealed during fact and statement gathering. However, if, in the course of an investigation, Moore decides to investigate allegations about the complainant or respondent that are not included in the notice provided, Moore must provide notice of the additional allegations to the parties whose identities are known.

¹¹ This applies to only *TIXV.A – Dating/Domestic Violence*, *TIXV.B – Gender-Based Harassment*, *TIXV.C – Sexual Assault*, *TIXV.D – Sexual Harassment*, and *TIXV.E – Stalking*.

¹² This applies to only *TIXV.A – Dating/Domestic Violence*, *TIXV.B – Gender-Based Harassment*, *TIXV.C – Sexual Assault*, *TIXV.D – Sexual Harassment*, and *TIXV.E – Stalking*.

All notifications will contain statements regarding false statements and retaliation, as well as contact information for ADA accommodations.

Providing False Statements

All participants have the responsibility to be completely truthful with any information they share at all stages of this Policy's processes. Any individual who knowingly or intentionally provides false information as part of a report or investigation under this Policy will be subject to discipline in accordance with the procedures set forth in the Student Handbook, Faculty Handbook, or Staff Handbook.

This provision does not apply to a good faith report that is not substantiated or not proven by a preponderance of the evidence.

Privacy and Sharing of Information

To the extent noted in this Policy, Moore considers complaints and investigations of sexual misconduct to be private matters for the parties involved. For that reason, Moore will protect the identity of persons involved in reports of sexual misconduct to the extent circumstances allow. Moore will only share personally identifiable information with persons who are on "a need-to-know basis" for Moore to investigate, respond, or deliver resources or support services.

Moore does not publish the names nor post identifiable information about persons involved in a report of sexual misconduct in Moore's Daily Crime Log or elsewhere online. Moore does not confirm to outside parties the identity of an individual who may be involved in a report of sexual misconduct without the individual's consent. However, Moore cannot promise complete confidentiality or privacy in the handling of sexual misconduct reports or complaints. It can promise discretion to the extent possible as noted within this Policy or applicable laws.

All participants in an investigation or a hearing regarding alleged sexual misconduct, including advisors, are informed that confidentiality helps enhance the integrity of the investigation, protects the privacy interests of the parties, and protects the participants from statements that might be interpreted to be retaliatory. For these reasons, the complainant, respondent, witnesses, and advisors will be asked to keep information related to the investigation and resolution private to the extent consistent with applicable law.

However, Moore reserves the right to share information regarding an investigation with other appropriate parties on a need-to-know basis consistent with the Family Educational Rights and Privacy Act (FERPA) and other applicable laws.

Case Resolution Timeline

In most cases, Moore investigates and resolves complaints of sexual misconduct, including any sanctions and/or corrective actions, within 90 days of receiving a complaint. However, this may

vary based on the availability of the parties and witnesses, the scope of the investigation, support measures or accommodations, or unforeseen circumstances. Many cases are resolved in a shorter time.

Extensions of time beyond this 90-day timeframe may occur for good cause. In cases where there is simultaneous law enforcement investigation, Moore generally will proceed with its investigation and resolution of a complaint during, and possibly prior to the completion of, any law enforcement investigation.

The primary goal of an investigation is to provide a prompt but equitable resolution of a case through a fair and impartial proceeding. Due to extenuating circumstances, an investigation may take additional time to preserve these goals. Available electronic means, such as online interviews, may be utilized to timely complete an investigation.

Conflicts of Interest

A list of Title IX investigators, decision makers and appeal reviewers who may make findings in sexual misconduct matters is available through Moore's Title IX Coordinator.

Moore reserves the right to use an appropriately trained investigator, decision maker or appeal reviewer not on this list as it deems necessary. Parties can raise the issue of a potential conflict of interest or perceived bias within two days of their initial meeting with the Title IX staff member. The Title IX Coordinator will determine whether a conflict of interest exists. No investigator, decision maker or appeal reviewer will make findings or determinations in a case in which they have a conflict of interest.

A Title IX Coordinator may hire external Title IX investigators in complicated cases if perceived bias cannot be avoided or the nature of the case exceeds Moore's resources. External Title IX investigators will receive training specific to Moore policy prior to initiating a report finding procedure.

Any party or witness who believes that a conflict of interest, or bias, exists on the part of an investigator, decision maker or appeal reviewer should report their concerns to the Title IX Coordinator.

Standard of Evidence

Moore uses the preponderance of the evidence standard in its investigations and hearings of complaints alleging sexual misconduct and any related violations, for both employees and students. A preponderance of evidence means it is more likely than not that a violation of the Policy occurred.

Voluntary and Informal Resolution

Informal resolution involves action taken by Moore in response to a signed report of sexual misconduct from a complainant when formal resolution through the grievance process is not desired by the complainant. Informal resolutions cannot be used for *quid pro quo* harassment

or misconduct that involves faculty or staff. Examples of informal resolutions can include, but are not limited to, a warning to cease current behaviors, no-contact directives, an educational conversation with the respondent or others, and changes in academic, work, or living arrangements.

As part of the informal resolution process, the parties may submit to mediation with a Title IX Facilitator to resolve outstanding issues. However, mediation will not be used to resolve complaints involving sexual or physical violence or where there is a power dynamic such as between a Moore employee and student.

Moore may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints. Similarly, Moore may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed.

It is not necessary to pursue informal resolution first in order to pursue a formal resolution, and any party participating in informal resolution can stop the process at any time and begin or resume the formal resolution process.

To proceed with informal resolution, Moore must provide the parties with written notice disclosing: the allegations of misconduct, the requirements of the informal resolution process, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared by Moore.

To proceed with informal resolution, Moore must obtain the parties' voluntary, written consent to the informal resolution process. Moore may not use informal resolution to resolve allegations that an employee sexually harassed a student. The factors that will be considered in evaluating requests for informal resolution include but are not limited to:

- The nature and scope of the reported conduct, including whether the reported conduct involved physical force or the use of a weapon;
- The potential impact on the complainant of moving forward, particularly in reports involving intimate partner violence;
- The respective ages and roles of the complainant and respondent, including whether the complainant is (or was at the time of the reported conduct), a minor under the age of 18;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether Moore has received other complaints of similar behavior about the same respondent (if known);
- Whether the respondent has a history of convictions or records from prior school(s) indicating a history of harassment/misconduct, if such records are available;

- Whether the respondent threatened further sexual violence or other violence against the complainant or others;
- Whether the report reveals a pattern of conduct at a given location or by a particular group such that there is an increased risk of future acts of sexual misconduct under similar circumstances; and
- Whether the conduct included multiple respondents.

Title IX Investigation and Report Process

If a complainant wishes to proceed toward a formal resolution from the outset, or if an informal resolution process is not successful, or if a complainant stops the informal resolution process in favor of beginning or resuming the formal resolution process, Moore will investigate formal complaints through final resolution. To meet the formal complaint criteria, a complainant must sign a statement of the alleged violation with details outlining the respondent's name, or nickname, location, date and times, if known, and general description of the alleged violation. Depending upon the circumstances, one or more Title IX investigators are assigned from a list of trained investigators. In some cases, an outside Title IX investigator may be retained. All Title IX investigators and Title IX staff receive trauma-informed training on sexual misconduct and are familiar with Moore's policies and procedures regarding Sexual Misconduct. Moore, in its discretion, may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or 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.

During the fact-finding and report process, the complainant has the opportunity to describe the allegations and present supporting evidence to the Title IX investigator. The respondent has the opportunity to hear the allegations, respond to them, and present a statement and supporting evidence to the Title IX investigator. Moore will record these meetings. Parties may choose to have an advisor present.

Generally, the Title IX investigator meets with each party and each witness separately. In some cases, the Title IX investigator may interview the parties and/or witness more than once. The parties may submit additional materials, evidence, or information to the Title IX investigator following their interview(s). In all cases, both the complainant and the respondent have equal opportunities to share information and have their information considered. Each will have access to the statements, materials, and evidence submitted by the other party's witnesses prior to hearing.

The complainant and the respondent can present names of witnesses they suggest the Title IX investigator interview. Complainants and respondents may only present factual witness and may not present character or expert witness. The Title IX investigator will take information provided by the complainant and respondent into consideration when identifying whom they will interview and what questions they ask, but these decisions are in the Title IX investigator's sole discretion. The Title IX investigator may also choose to interview other witnesses not identified by the parties based on the information provided in the parties' statements.

Once the Title IX investigator collects all statements and evidentiary documents, the Title IX investigator will create an investigative report that includes all statements and evidence that the parties provided. Parties will receive the report for review before cross-examination. Prior to completion of the investigative report, Moore must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the Title IX investigator will consider prior to completion of the investigative report.

Title IX Cross-Examination Hearing

The Title IX Coordinator will schedule an opportunity for cross-examination of statements and documents referred to in the investigative report. Moore will conduct the cross-examination hearing live and virtually using Zoom. The Title IX Coordinator can facilitate access to a private and secure setting with appropriate internet access if requested by either party. Moore will record the cross-examination hearing. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The cross-examination hearing allows parties to respond to the report and ask questions of the other party and the other party's witnesses. Parties are not allowed to ask each other questions directly. The advisor must ask questions on behalf of the complainant or respondent. The advisor will ask questions of witnesses.

The cross-examination hearing is not a courtroom trial and advisors are to conduct themselves per the hearing guidelines set forth by the Title IX Coordinator. Theatrics will not be tolerated. Advisors that do not adhere to these guidelines will be warned. If the behavior continues, the decision-maker can then remove the advisor from the proceedings. A new advisor will be appointed to proceed with the cross-examination hearing.

Witnesses do not need advisors, but all witnesses must attend the cross-examination hearing or the witness' statements and evidence will not be considered in reaching a final decision.

Title IX Decision-Maker

For students: the Title IX Decision-Maker will be the Dean of Students. For faculty/staff: the Title IX Decision-Maker will be a non-Moore professional legal expert.

During a cross-examination hearing, the Title IX decision maker will review all questions from the advisors for relevance prior to a response being provided. The Decision-Maker will provide justification for any excluded questions. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

If a party or witness does not submit to cross-examination at the live hearing, the Decision-Maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Decision-Maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Additionally, the Decision-Maker will make the final determination of whether there was a preponderance of evidence to support that the misconduct did occur, and if so, the sanction(s), if any, that Moore imposes upon the respondent.

Title IX Final Determination

A final determination will contain the following information:

- Identification of the allegations potentially constituting sexual harassment;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of Moore's Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions that Moore imposes on the respondent, and whether remedies designed to restore or preserve equal access to Moore's education program or activity will be provided by Moore to the complainant; and
- Moore's procedures and permissible bases for the complainant and respondent to appeal.

Title IX Notification

Notification of findings and sanctions are simultaneously provided to the complainant and the respondent in separate correspondence from the Title IX Coordinator including an explanation of the weight of evidence using the appropriate standard of proof. However, some information may not be shared if it would violate any federal or state law, such as the Family Educational Rights and Privacy Act (FERPA).

The complainant's notification includes findings related to violations of the Policy, remedies offered or provided to the complainant, sanctions imposed on the respondent that directly relate to the complainant, and any other steps Moore has taken to prevent the recurrence and eliminate a hostile environment, if such was found to exist. Information contained in the notification may be limited due to applicable laws.

In a case related to alleged sexual assault, stalking, or dating/domestic violence, the complainant's notification of outcome will also include the rationale for the findings related to

violations of Policy and all sanctions imposed on the respondent, not just those directly related to the complainant. The respondent generally will not be notified of the individual remedies offered or provided to the complainant.

Complainants and respondents are informed of appeal procedures within their notifications. Moore encourages the parties to maintain confidentiality of all communication related to findings and sanctions.

Title IX Sanctions

Sanctions are determined based on several factors, including the severity of the conduct and any prior policy violations. In addition, Moore may take steps to address the effects of the conduct on victims and others, including, but not limited to, counseling and supportive resources, academic and housing assistance, change in work situations, leaves of absence, and training or other preventative measures. Sanctions and remedial actions aim to eliminate any hostile environment, prevent sexual misconduct from recurring, and remedy any discriminatory effects on a complainant or others. Moore may impose more than one sanction, as appropriate.

Potential sanctions and corrective actions include¹³:

- Oral warning
- Written warning
- Advisory Letter
- Monitoring
- Disciplinary hold on academic and/or financial records
- Performance improvement/management process
- Required training or education
- Campus access restrictions
- Loss of oversight, teaching or supervisory responsibility
- Probation
- Demotion
- Loss of pay increase
- Revocation of offer (employment or admissions)
- Disciplinary suspension
- Deferred suspension
- Suspension with pay
- Suspension without pay
- Exclusion
- Expulsion
- Degree revocation
- Loss of privileges

¹³ Listed sanctions may not be applicable to all respondents. The list includes potential sanctions applicable to Moore employees and students.

- Termination of employment
- Termination of contract (for contractors)
- No trespass orders

Title IX Appeals

Either or both parties may file an appeal from a determination regarding responsibility or from Moore's dismissal of a formal complaint or any allegations contained within.

Title IX Basis for Appeal

The only grounds for appeal from a finding of sexual misconduct are as follows:

1. New information discovered after the investigation that could not have reasonably been available at the time of the investigation and is of a nature that could materially change the outcome;
2. Procedural errors within the investigation or resolution process that may have substantially affected the fairness of the process;
3. Bias or conflict of interest on the part of the Title IX Coordinator, Investigator, or Decision-maker, for or against complainants or respondents generally or the specific complainant or respondent that affected the outcome of the matter; or
4. An outcome (findings or sanctions) that was manifestly contrary to the weight of the information presented (i.e., obviously unreasonable and unsupported by the great weight of information).

All other reasons for an appeal will be dismissed. At the time of its filing, an appeal must specifically provide supporting facts and/or documentation in support of the three permissible grounds for appeal as outlined above.

Title IX Appeal Process

1. An appeal must be made within five (5) business days of the Title IX Coordinator's issuance of the findings and sanctions, if any. An appeal must be in writing to the Title IX Coordinator and specify the basis for the appeal as outlined above. The original finding is presumed reasonable and appropriate by a preponderance of the evidence unless information to the contrary is presented.
2. In the event of sanctions, it is in the sole discretion of the Title IX Coordinator and the sanctioning office whether the sanctions are implemented or stayed pending resolution of an appeal.
3. The Appeal Officer for students will be Moore's President; the Appeal Officer for employees will be a non-Moore professional legal expert.

Title IX Requirements for Appeals

For all appeals, Moore will do the following:

- Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- Ensure that the Appeal Officer, the decision-maker(s) for the appeal, is not the same person as the decision-maker(s) that reached the determination regarding dismissal, responsibility and/or sanctions, the investigator(s), or the Title IX Coordinator;
- Ensure that the Appeal Officer complies with the standards set forth in paragraph (b)(1)(iii) of this section;
- Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- Ensure that the Appeal Officer issues a written decision describing the result of the appeal and the rationale for the result; and
- Provide the written decision simultaneously to both parties.

The Appeal Officer's Responsibility

The Appeal Officer's responsibility will be strictly limited to determining the issues on appeal. If any of the appellate issues are substantiated by the Appeal Officer, the appeal will be granted. If the appeal is denied, the matter is closed and the Appeal Officer will issue a written decision describing the result of the appeal and the rationale for the result. The Appeal Officer will notify the parties in writing of its decision within approximately ten (10) business days.

If the appeal is granted:

1. due to a procedural irregularity, the matter shall be heard by a new decision maker or the Appeal Officer may remand the matter for further process to remedy the error (based on the nature of the procedural error);
2. due to the discovery of new evidence not reasonably available at the time of the initial hearing, the matter will be returned to the same decision maker that originally heard the matter for reconsideration in light of the new evidence;
1. due to bias or conflict of interest, the matter will be remanded for further action consistent with the appellate finding.

In the event of a reconsideration, the Appeal Officer will provide the relevant decision maker with written instructions regarding the nature and extent of its reconsideration. The decision maker will act promptly to reconsider the matter consistent with those instructions. Following reconsideration, the finding of the decision maker will be final and not subject to further appeal. The decision maker will simultaneously notify the parties in writing of the outcome consistent with the time frames set forth in the hearing process.

ADDITIONAL INFORMATION AND RESOURCES

Confidential Resources

Resources are available for individuals to discuss incidents and issues related to sexual misconduct on a confidential basis. Confidential resources will not disclose information about incidents of sexual misconduct to anyone, including law enforcement or Moore, except in limited situations, such as when failure to disclose the information would result in imminent danger to the individual or to others or where the law requires that a report be made.

Confidential resources can provide alleged victims with information about support services and their options. Because of the confidential nature of these resources, disclosing information to or seeking advice from a confidential counselor does not constitute a report or complaint to Moore and will not result in a response or investigation by Moore. A person consulting with a confidential resource may later decide to make a report to Moore or law enforcement.

On-Campus Confidential Resources for Students

Any party involved in sexual violence is encouraged to seek support for their emotional and physical needs. A student seeking confidential emotional or medical care may contact the following resources:

Diane Azuma
Director of Health Services
dazuma@moore.edu
215-965-4032

Andrea Bernstein, LPC
Mental Health Counselor
abernstein@moore.edu
215-965-4002

Josephine Coppola, LPC
Mental Health Counselor
jcoppola@moore.edu
215-965-4002

These individuals can connect students with other resources and explain the other reporting options that are available to students as well. These Confidential Resources can provide assistance and information regarding medical assistance and treatment (including information about sexually transmitted infections, and sexual assault forensic examinations), resources available in the city of Philadelphia, academic and other campus support options, campus disciplinary proceedings and law enforcement options. The health and counseling services noted above are available to students free of charge.

If a student chooses to file a formal report with the Title IX Coordinator and/or local law enforcement, these Confidential Resources may accompany and support students through those processes if they desire. Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the College community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX Coordinator without permission.

Off-Campus Confidential Resources

There are also off-campus, confidential community resources which may be available to students; contacting any of the resources listed below does not constitute notifying the College. These confidential resources, which may or may not charge services fees, include:

Women Organized Against Rape - WOAR

1617 John F Kennedy Blvd Suite #800
Philadelphia, PA 19103
24-Hour Hotline: 215.985.3333

Philadelphia Sexual Assault Response Center

300 East Hunting Park Avenue
215.800.1589
215.425.1625 (emergency)

National Sexual Assault Hotline

1.800.656.4673

Philadelphia Domestic Violence Hotline

1.866.723.3014

Resources for Full-Time Employees (non-student employees)

Employee Assistance Program (EAP)

EAP professionals are available 24 hours a day, 7 days a week, at 1-800-386-7055

Seeking Medical Assistance

Experiencing any form of sexual misconduct, especially acts of violence, is difficult and overwhelming. Survivors often experience a range of emotions, including fear, anxiety, and confusion, and may be unsure of what they want to, or should do next. Regardless of whether the individual choose to report the incident, Moore strongly encourages survivors of any form of violence to seek medical attention as soon as possible, even if they feel no injury was sustained.

Medical assistance providers can treat visible physical injuries and identify injuries that may not be visible, and where appropriate, also address concerns regarding sexually transmitted infections and pregnancy, and provide emergency contraception (if requested). In addition, a hospital can test for the presence of alcohol or drugs (e.g., "date rape" drugs) and perform a rape evidence collection procedure (see Procedure Section 2), both of which are also strongly recommended to maintain all legal options.

Medical Care Providers

Thomas Jefferson University Hospital, Center City Philadelphia Sexual Assault Forensic Examiner (SAFE) Program*

132 South 10th Street,
Philadelphia PA 19107

<https://hospitals.jefferson.edu/departments-and-services/emergency-department-at-jefferson.html>

*Accessible through the Emergency Room on the corner of 10th and Sansom Streets)

Philadelphia Sexual Assault Response Center (PSARC)

Emergencies: Call (215) 425-1625 to reach the on-call sexual assault nurse examiner

Or (215) 800-1589 for non-emergencies

300 E. Hunting Park Avenue,

Philadelphia, PA 19124

<https://drexel.edu/medicine/about/departments/emergency-medicine/forensic-emergency-medicine/>

Preserving Evidence

Many sexual misconduct offenses also are crimes in the state or locality in which the incident occurred. For that reason, complainants of sexual misconduct often have legal options that they can pursue. However, these options are available solely at their discretion, and complainants may change their minds about pursuing them at any time. For example, complainants may seek a protective order from a court against the perpetrators; pursue a civil action against the perpetrator(s); and/or participate in a law enforcement investigation and criminal prosecution of the perpetrator(s).

Regardless of whether an incident of sexual misconduct is reported to the police or Moore, Moore strongly encourages those who experienced sexual misconduct to preserve evidence to the greatest extent possible, as this will best maintain all legal options for them in the future.

Additionally, this evidence may also be helpful in a Moore investigation. While Moore does not conduct forensic tests for parties involved in a complaint of sexual misconduct, the results of such tests that have been conducted by law enforcement agencies and medical assistance providers may be submitted as evidence that Moore may consider in its investigation or proceeding, if the evidence is available at the time of Moore's investigation or proceeding. For Title IX hearings, the collector of the evidence with firsthand knowledge must be available for cross-examination purposes.

Below are suggestions for preserving evidence related to an incident of sexual misconduct. It is important to remember that each suggestion may not apply in every incident:

General Evidence Preservation Recommendations¹⁴

¹⁴ This is not offered or intended to be legal advice or ensure the acceptability or admissibility of evidence. These are practical tips that may result in the preserving of evidence but may not be best practice forensically.

In order to potentially maintain future legal options, individuals should consider not altering, disposing, or destroying any physical evidence of sexual misconduct.

If there is suspicion that a drink may have been drugged, an individual should inform a medical assistance provider and/or law enforcement as soon as possible so attempts can be made to collect possible evidence (e.g., from the drink, through urine or blood sample).

Individuals can preserve evidence of electronic communications by saving them and/or by taking screen shots of text messages, instant messages, social networking pages, or other electronic communications and by keeping pictures, logs, or copies of documents that relate to the incident and/or respondent.

Even if complainants choose not to make a complaint regarding sexual misconduct, they may consider speaking with the Philadelphia Police Department to preserve evidence if they change their mind at a later date.

Evidence Preservation Suggestions Specific to Sexual Assault

Because some evidence, particularly evidence that may be located on the body, dissipates quickly (within 48-96 hours), individuals who have been sexually assaulted and wish to preserve evidence should go to the hospital or medical facility immediately to seek a medical examination and/or evidence collection. Pennsylvania law, 18 Pa.C.S. § 11.707, provides that the costs of the forensic rape examination and medications provided as a direct result of a sexual offense shall not be charged to the victim. The victim of a sexual offense does not need to 'report' the sexual offense or 'talk' to law enforcement for the costs to be paid by the Victims Compensation Assistance Program (VCAP).

Health care providers must utilize the victim's insurance to include Medical Assistance, health maintenance organizations, or federally financed insurance programs such as Medicare or Champus, before applying to the VCAP. In instances where the victim or person responsible for the victim requests that the provider not access insurance, the claim may be submitted directly to the VCAP for consideration of payment.

An individual who has been sexually assaulted and wishes to preserve evidence should, if possible, not shower, bathe, douche, smoke, brush teeth, eat, drink, use the bathroom, or change clothes or bedding before going to the hospital or seeking medical attention.

If the individual who has been sexually assaulted decides to change clothes or bedding and wishes to preserve evidence, they should not wash clothes worn or bedding used during the assault, and should bring them to the hospital, medical facility, or the police in a non-plastic bag (e.g., paper bag).

In Pennsylvania, individuals who have been sexually assaulted may allow the collection of evidence even if they choose not to make a report to law enforcement. A Sexual Assault Nurse Examiner (SANE) advocate or a law enforcement officer will know how long evidence will be

stored. A sexual assault evidence collection kit may not be released by a Pennsylvania hospital without written consent from the survivor.