

Simmons UNIVERSITY

SEX DISCRIMINATION POLICY FOR STUDENTS, FACULTY, STAFF, AND VISITORS

Initial distribution October 14, 2014

Updated as of August 15, 2018

UPDATED as of August 14, 2020 to reflect new Title IX regulations

UPDATED as of August 1, 2021 to reflect MA Campus Sexual Violence Act

UPDATED as of August 4, 2022

UPDATED as of August 1, 2024 to reflect updated Title IX regulations

The federal and state laws, regulations, and guidance concerning Title IX, the Clery Act, the Violence Against Women Act (VAWA), and the MA Campus Sexual Violence Act are not static. Simmons will monitor changes and endeavor to keep the Policy current and reflective of best practices. If you believe the Policy contains outdated information, we encourage you to contact the Title IX Coordinator and/or our General Counsel.

SIMMONS UNIVERSITY TITLE IX TEAM

The Simmons University (“Simmons” or “the University”) Title IX team includes community members trained to support students, faculty, and staff impacted by Sex Discrimination. These individuals can help provide support and connect you with resources. In particular, the Title IX Coordinator and Deputy Title IX Coordinators, working with other members of the Title IX Team, will ensure a prompt, effective, impartial, and consistent response to all reports and Complaints of Sex Discrimination.

The Title IX Coordinator and Deputy Title IX Coordinators are:

TITLE IX COORDINATOR

Sara Simberg
Assistant General Counsel
Title IX Coordinator
Simmons University
300 The Fenway
Boston, MA 02115
Phone: 617-521-3289
Email: sara.simberg@simmons.edu
Online report: [Click here](#)

DEPUTY TITLE IX COORDINATORS

David Hollinden
Associate Vice President, Human Resources
Simmons University
300 The Fenway
Boston, MA 02115
Email: j david.hollinden@simmons.edu
617-521-3812
Online report: [Click here](#)

Rae-Anne Butera
Vice President of Student Engagement and
Dean of Students
Simmons University
300 The Fenway
Boston, MA 02115
Email: rae-anne.butera@simmons.edu
617-521-2117
Online report: [Click here](#)

I. TABLE OF CONTENTS

<i>Introduction, Scope of Policy, and Notice of Non-Discrimination</i>	6
A. Introduction _____	6
B. Scope of Policy _____	6
C. Disability-Related Accommodations _____	6
D. Non-Discrimination Policy and Notice of Non-Discrimination _____	7
E. Student Parental, Family, or Marital Status; Pregnancy or Related Conditions for Students _____	8
<i>II. Definitions</i>	9
A. General Terms _____	9
B. Sex-Based Harassment _____	16
1. Sexual Assault _____	17
2. Dating Violence _____	18
3. Domestic Violence _____	18
4. Stalking _____	18
C. Consent _____	18
D. Incapacitation and Use of Alcohol/Drugs _____	19
<i>III. Reporting Sex Discrimination</i>	20
A. How to Make a Report of Sex Discrimination to the University _____	21
B. Assessment of Report and Next Steps _____	22
C. Administrative Agency Resources – External Reporting Options _____	24
<i>IV. Other Provisions</i>	25
A. Supportive Measures _____	25
B. Informal Resolution _____	27
C. No Contact Orders, Protective Orders, and Trespass Orders _____	32
D. Harassment Prevention/Abuse Prevention Orders _____	33
E. Trespass Orders _____	33

F. Limited Amnesty _____	34
G. False Reports, Statements, and/or Information _____	34
H. Reports Involving Minors _____	34
I. Consensual Relationships Policy _____	34
J. Immediate Emergency Assistance and Evidence Preservation _____	35
V. Complaints and the Grievance Process	36
A. Process for Making a Complaint _____	36
B. Consolidation of Complaints _____	37
C. Notice of a Complaint _____	37
D. Dismissal of the Complaint _____	38
E. Notice of Hearings, Interviews, and Meetings (applies only to matters involving allegations of Sex-Based Harassment) _____	40
F. Advisors (applies only to matters involving allegations of Sex-Based Harassment) _____	40
G. Designation of Investigator _____	40
H. Investigation of Complaint _____	41
I. Investigation Prohibitions _____	41
J. Evidence _____	42
K. Hearing (applies only to matters alleging Sex-Based Harassment) _____	42
L. Determination Regarding Responsibility _____	46
M. Disciplinary Sanctions and Remedies _____	47
VI. Appeals Process.....	49
A. Grounds for Appeals _____	49
B. Process for Filing Appeals _____	50
C. Determination of Appeal _____	51
VII. TIMING.....	51
VIII. RETALIATION.....	52
IX. RECORD RETENTION.....	53

INTRODUCTION, SCOPE OF POLICY, AND NOTICE OF NON-DISCRIMINATION

A. Introduction

At Simmons University (“Simmons” or “the University”), we recognize the inherent dignity and worth of individuals to live, learn and work in an environment free from Sex Discrimination. Sex Discrimination is a broad term used to identify a number of unwelcome behaviors that occur on the basis of sex that are prohibited by Simmons. Simmons takes allegations of Sex Discrimination seriously and is committed to preventing and addressing this conduct, as it violates our community standards and is inconsistent with mutual respect, dignity, and personal integrity.

B. Scope of Policy

This Sex Discrimination Policy for Students, Faculty, Staff, and Visitors (“Policy”) governs all Simmons community members, including undergraduate and graduate students, both online and on-the-ground students, faculty, staff, those employed by others but working on the Simmons campus, and visitors to Simmons. This Policy expressly prohibits Sex Discrimination, which includes, but is not limited to, Hostile Environment Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking, as well as gender-based violence, and/or violence based on sexual orientation or gender identity or expression. In addition to the foregoing, this Policy also:

- Details how Simmons handles complaints of Sex Discrimination. This includes the process for investigating and resolving Complaints of Sex Discrimination, including the implementation of Supportive Measures and remedial measures when appropriate, and the use of disciplinary sanctions against those who are found responsible for engaging in Sex Discrimination.
- Identifies on and off campus resources available to individuals impacted by Sex Discrimination and how to access those resources.
- Identifies Simmons’ Title IX Coordinator and Deputy Title IX Coordinators and describes their roles.

Simmons’ Title IX Coordinator, or designee, shall review and update the Policy on an annual basis, as needed.

C. Disability-Related Accommodations

Any **student** who requires disability-related accommodations to participate in, comply with, or access any obligations, rights, or processes detailed in the Policy should notify the University’s Office of Accessibility

Services (“OAS”) immediately upon determining their need for accommodation(s). Failure to timely notify the OAS of their need for accommodations may result in the student not receiving accommodations in time for the accommodations to be applied as needed. For more information on how to contact the OAS, click [here](#).

Any **employee** who requires disability-related accommodations to participate in, comply with, or access any obligations, rights, or processes detailed herein should notify the University’s Department of Human Resources (“HR”) immediately upon determining their need for accommodation(s). Failure to timely notify HR of their need for accommodations may result in the employee not receiving accommodations in time for the accommodations to be applied as needed. For more information on how to contact HR, click [here](#).

D. Non-Discrimination Policy and Notice of Non-Discrimination

Simmons University does not unlawfully discriminate on the basis of sex and prohibits Sex Discrimination in its Education Program/Activity, as required by Title IX and its attendant regulations, including in admission and employment. While this Policy specifically focuses on discrimination as it pertains to the prohibited conduct detailed below, the University has additional policies that protect students, employees, and other University community members from other forms of discrimination.

Inquiries about Title IX may be referred to Simmons’ Title IX Coordinator, the U.S. Department of Education’s Office for Civil Rights, or both. Simmons’ Title IX Coordinator is:

Sara Simberg
Assistant General Counsel & Title IX Coordinator
Simmons University
300 The Fenway, Suite A-230
Boston, MA 02115
sara.simberg@simmons.edu
617-521-3289

In conjunction with this Notice of Non-Discrimination, which sets forth Simmons’ non-discrimination policy relating to unlawful discrimination on the basis of sex, Simmons has grievance procedures for matters involving or relating to Sex Discrimination that can be located in this Policy. This Policy is located on Simmons’ [Title IX webpage](#).

To report information about conduct that may constitute Sex Discrimination or make a complaint of Sex Discrimination under Title IX, please contact Simmons’ Title IX Coordinator, Sara Simberg, or submit a report [online](#) or via [EthicsPoint](#).

E. Student Parental, Family, or Marital Status; Pregnancy or Related Conditions for Students

Simmons does not discriminate in its Education Program/Activity against any student based on the student's current, potential, or past pregnancy or related conditions.

In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, the University will treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions. In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, the University will not:

- Adopt or implement any policy, practice, or procedure concerning the current, potential, or past parental, family, or marital status of a student or applicant that treats persons differently on the basis of sex;
- Discriminate against any person on the basis of current, potential, or past pregnancy or related conditions, or adopt or implement any policy, practice, or procedure that so discriminates; and/or
- Make a pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is "Miss or Mrs."¹

All employees must promptly take the following actions when a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student's pregnancy or related conditions, unless the employee reasonably believes that the Title IX Coordinator has been notified:

- Provide that person with the Title IX Coordinator's contact information, and
- Inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the University's Education Program/Activity.

The University will make reasonable modifications to the University's policies, practices, or procedures as necessary to prevent Sex Discrimination and ensure equal access to the University's Education Program/Activity. Each reasonable modification will be based on the student's individualized needs. In determining what modifications are required under this paragraph, the University will consult with the student. A modification that would fundamentally alter the nature of its Education Program/Activity is not a reasonable modification. The University will implement the reasonable modifications that it offers the student that the student accepts.

¹ The University may ask all applicant to self-identify their sex, and will not use responses as a basis for discrimination.

The University will allow the student to voluntarily take a leave of absence from the University's Education Program/Activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. The University's other policies and practices will guide whether a longer leave time may be available for the student. When the student returns to the University's Education Program/Activity from the permitted leave, the student will be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

II. DEFINITIONS

A. General Terms

The following words shall have the following meanings:

Advisor - An individual chosen by a Party that may attend Grievance Process meetings or proceedings that take place as part of matters in which there are, at least in part, allegations of Sex-Based Harassment. A person that a Party chooses to be their Advisor is entitled to decline to serve as that Party's Advisor from the start or at any time during the pendency of the Grievance Process. An Advisor may be any person, including a parent or a friend, and an attorney may serve as an Advisor. An Advisor may only provide consultation and advice to their Party. The Advisor may only take a speaking role for purposes of asking and responding to administrative-related questions asked to/by the Decisionmaker or Title IX Coordinator and not for any other purpose. If an Advisor is disruptive during any interview, meeting, proceeding, and/or hearing, the Title IX Coordinator or Decisionmaker, and/or any other individual facilitating any other process allowed for in this Policy has the right to request that the Advisor leave the interview, meeting, or proceeding.

Appeals Officer - The individual who decides appeals filed pursuant to Section VII of this Policy. The Appeals Officer shall not be the same person who reached the determination regarding responsibility, the Title IX Coordinator, or the Investigator. This individual shall receive annual training on the topics addressed in the Required Training, as well as training on: the University's obligations to respond to Sex Discrimination; the University's Grievance Process; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and the meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of Relevance under the Title IX regulations.

Complainant - (1) A University student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination (as defined in the Policy); or (2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination and who was participating or attempting to participate in Simmons' Education Program/Activity at the time of the alleged Sex Discrimination. Individually, the Complainant may be referred to as **a Party**; collectively, the Complainant and Respondent are referred to as **the Parties**.

Complaint - An oral or written request to the University that objectively can be understood as a request for the University to investigate and make a determination about alleged discrimination under Title IX and/or its regulations.

The following persons are the only individuals permitted to make a Complaint of Sex Discrimination, including complaints of Sex-Based Harassment, requesting that the University investigate and make a determination about alleged Sex Discrimination:

- (i) A Complainant;
- (ii) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant;
- (iii) In certain instances, the Title IX Coordinator (see Section III(B)(3)); and
- (iv) With respect to complaints of Sex Discrimination other than Sex-based Harassment, in addition to the persons listed in sections (i), (ii), and (iii) directly above:
 - a. Any Student or employee; or
 - b. Any person other than a Student or employee who was participating or attempting to participate in the University's Education Program/Activity at the time of the alleged Sex Discrimination.

Confidential Employee - (1) An employee of the University whose communications are privileged or confidential under Federal or State law (the employee's confidential status, for purposes of this Policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies); (2) a University Confidential Resource Person; (3) a University employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex Discrimination—but the employee's confidential status is only with respect to information received while conducting the study.

Confidential Resource Person - A University employee who the University has specifically designated as being required to keep confidential (to the extent allowed by federal and state law) any report to them regarding Sex

Discrimination for the purpose of providing services to persons related to Sex Discrimination. If the employee the University has designated as the Confidential Resource Person also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about Sex Discrimination in connection with providing those services.

Consent - See definition listed in Section II(C) of this Policy.

Cross-examination Questions - Questions submitted by a Party to the Decisionmaker for the purpose of the Decisionmaker asking the questions during a live hearing.

Dating Violence - See definition listed in Section II(B)(2) of this Policy.

Decisionmaker - The individual who issues a determination regarding responsibility and determines disciplinary sanctions as part of the Administrative Resolution Process or Grievance Process in an impartial and non-biased manner. The Decisionmaker shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The Decisionmaker will conduct the live hearing in matters that involve allegations of Sex-Based Harassment, if/when a matter moves to a hearing. The Title IX Coordinator may, but is not required to, serve as the Decisionmaker. This individual shall receive annual training on the topics addressed in the Required Training, as well as training on: the University's obligations to respond to Sex Discrimination; the University's Grievance Process; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and the meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of Relevance under the Title IX regulations.

Disciplinary Sanctions - Consequences imposed on a Respondent following a determination under Title IX that the Respondent violated the University's prohibition on Sex Discrimination.

Domestic Violence - See definition listed in Section II(B)(3) of this Policy.

Education Program/Activity - All of the operations of Simmons University. This includes, but is not limited to, conduct that occurs in a building owned or controlled by a student organization that is officially recognized by the University, and conduct that is subject to the University's disciplinary authority. The University will address a sex-based hostile environment under its Education Program/Activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the University's Education Program/Activity or outside the United States.

Facilitator - The individual who conducts the Facilitated Resolution Process. This individual shall receive annual training on the topics addressed in the Required Training, as well as training on the rules and practices associated with the University's informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.

Impermissible Information - The following types of evidence and/or questions seeking the following types of evidence must not be asked, accessed, or considered, except by the University to determine whether an exception (as defined herein) applies, must not be disclosed, and must not otherwise be used, regardless of whether the evidence and/or question is Relevant:

- Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that Party's or witness's voluntary, written consent for use in the Grievance Procedure(s); and/or
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged Sex-Based Harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged Sex-Based Harassment or preclude determination that Sex-Based Harassment occurred.

Incapacitation - See definition listed in Section II(D) of this Policy.

Investigator - The individual who conducts the prompt, fair, and impartial investigation of the allegations contained in a Complaint. The Investigator will not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. This individual shall receive annual training on the topics addressed in the Required Training, as well as training on: the University's obligations to respond to Sex Discrimination; the University's Grievance Process; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and the meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of Relevance under the Title IX regulations.

No Contact Order (NCO) - A written order issued by the University containing one-way or mutual restrictions on contact between two or more members of the Simmons community; sometimes, these NCOs restrict individuals from one or more locations on campus.

Parental Status - The status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is: (i) a biological parent; (ii) an adoptive parent; (iii) a foster parent; (iv) a stepparent; (v) a legal custodian or guardian; (vi) in loco parentis with respect to such a person; or (vii) actively seeking legal custody, guardianship, visitation, or adoption of such a person.

Peer Retaliation - Retaliation by a student against another student.

Pregnancy or related conditions – (1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Protective Order - Massachusetts law provides for two types of protective orders that may be issued by a Massachusetts court of law. A 209A protective order is a court order protecting an individual from unwanted contact or abuse by someone with whom they have a close relationship (a current or former family or household member, or a person with whom they have a substantial dating relationship). A harassment prevention order can offer protection from unwanted contact or abuse in other circumstances where no “dating relationship” exists.

Relevant - Related to the allegations of Sex Discrimination under investigation as part of the Grievance Process provided for under this Policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged Sex Discrimination occurred, and evidence is relevant when it may aid a Decisionmaker in determining whether the alleged Sex Discrimination occurred. Duplicative Cross-examination Questions are not Relevant.

Remedies - Measures provided, as appropriate, to a Complainant or any other person identified as having had their equal access to the University’s Education Program/Activity limited or denied by Sex Discrimination. These measures are provided to restore or preserve that person’s access to the University’s Education Program/Activity after there is a determination that Sex Discrimination occurred.

Required Training - Training provided by the University to an employee upon their hire and annually thereafter on: (a) the University's obligation to address Sex Discrimination in its Education Program/Activity, (b) the scope of conduct that constitutes Sex Discrimination under Title IX and its regulations, including the definition of Sex-Based Harassment; and (c) all additional applicable notification and information requirements required under sections 106.40(b)(2) and 106.44 of the Title IX regulations.

Respondent - A person who is alleged to have violated the University's prohibition on Sex Discrimination. Individually, the Respondent may be referred to as **a Party**; collectively, the Complainant and Respondent are referred to as **the Parties**.

Responsible Employee - Each and every University employee, other than Confidential Employees, and University students holding the role(s) of Resident Advisor, Betsy's Friends Peer Supporter, Wellness Ambassador, and/or Orientation Leader at the University. **Every University employee that is a Responsible Employee must do the following:**

- Complete each Required Training the employee is assigned by the University;
- Immediately notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Sex Discrimination; and
- When a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student's pregnancy or related conditions, unless the employee reasonably believes that the Title IX Coordinator has been notified, the employee must promptly provide that person with the Title IX Coordinator's contact information and inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the University's Education Program/Activity.

Every Student serving in the role(s) of Betsy's Friends Peer Supporter, Orientation Leader, and/or Wellness Ambassador must do the following:

- Complete each Required Training they are assigned by the University; and
- Immediately notify the Title IX Coordinator when they have information about conduct that reasonably may constitute Sex Discrimination if they receive the information while they are functioning within the scope of their duties.

Retaliation - Intimidation, threats, coercion, or discrimination against any person by the University, a student, or an employee or other person authorized by the University to provide aid, benefit, or service under the University's Education Program/Activity for the purpose of interfering with any right or privilege secured by Title IX or its attendant regulations, or because the person has reported information, made a complaint,

testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing allowed for under Title IX, its attendant regulations, and/or this Policy, including in an informal resolution process, in the Grievance Process, and/or in any other actions taken by the University in accordance with Title IX or its attendant regulations. Nothing in this definition precludes the University from requiring an employee or other person authorized by the University to provide aid, benefit, or service under the University's Education Program/Activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this part.

Sex-Based Harassment - See definition listed in Section II(B) of this Policy.

Sex Discrimination - Discrimination on the basis of sex, which includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Sexual Assault - See definition listed in Section II(B)(1) of this Policy.

Stalking - See definition listed in Section II(B)(4) of this Policy.

Student - A person who has gained admission to the University.

Timely Warning - A warning issued by Public Safety to the Simmons community when deemed necessary to protect the safety of the community.

Title IX - Title IX of the Education Amendments Act of 1972.

Title IX Coordinator - The employee responsible for directing the University's response to reports of Sex Discrimination as described in this Policy, often in conjunction with one or more Deputy Title IX Coordinators or other designees. Whenever a responsibility is designated within this Policy for the Title IX Coordinator or the Deputy Title IX Coordinator, that responsibility can be delegated to another individual in appropriate circumstances. Any reference in this Policy to the Title IX Coordinator may also refer to a designee of the Title IX Coordinator. Any reference to a designee in this policy is not intended to exclude use of a designee by the Title IX Coordinator for any other obligation or action addressed in the policy where a designee is not specifically mentioned.

The Title IX Coordinator shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The Title IX Coordinator shall receive annual training on the topics addressed in the Required Training, as well as training on: the University's obligations to respond to Sex Discrimination; the University's Grievance Process; how to serve impartially,

including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; the meaning and application of the term “relevant” in relation to questions and evidence, and the types of evidence that are impermissible regardless of Relevance under the Title IX regulations; their responsibilities under the Title IX regulations; the University’s recordkeeping system and the Title IX requirements around recordkeeping; and any other training necessary to coordinate the University’s compliance with Title IX.

Trespass Order - A legal notice provided to individuals requiring that they stay off Simmons’ property. A Trespass Order is issued, verbally or in writing, by Simmons Public Safety.

B. Sex-Based Harassment

Sex-Based Harassment means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that satisfies one or more of the following:

1. An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University’s Education Program/Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;
2. Unwelcome sex-based conduct that, based upon the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the University’s Education Program/Activity² (“Hostile Environment Harassment”); and/or
3. Sexual Assault, Dating Violence, Domestic Violence, or Stalking (as defined below)

Sex-Based Harassment also includes an incident of sexual violence that does not qualify as Sexual Assault (as defined by the Policy), gender-based violence, and/or violence based on sexual orientation or gender identity or expression.³

Sex-Based Harassment comes in many forms and can be committed:

- By or against anyone, regardless of gender, age, position, or authority.

² Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following: (i) the degree to which the conduct affected the Complainant’s ability to access the University’s Education Program/Activity; (ii) the type, frequency, and duration of the conduct; (iii) the Parties’ ages, roles within the University’s Education Program/Activity, previous interactions, and other factors about each Party that may be relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other Sex-Based Harassment in the University.

³ These forms of Sex-Based Harassment need not be on the basis of sex.

- By a stranger, an acquaintance, or someone with whom the Complainant has an intimate or sexual relationship.
- By or against an individual, or may be a result of the actions of a group of individuals.
- By or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- In the presence of others, or when the parties are alone.

1. Sexual Assault

Sexual Assault is an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, which, for the purposes of this Policy, only includes⁴:

- **Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or temporary or permanent mental incapacity.
- **Incest** - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law, which includes one's own mother, father, grandmother, grandfather, daughter, son, granddaughter, grandson, sister, brother, niece, nephew, aunt, or uncle.
- **Rape** - The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their 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 another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- **Sodomy** - Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- **Statutory Rape** - Sexual intercourse with a person who is under the statutory age of Consent, which in Massachusetts is anyone under the age of 16 years old.

⁴ What constitutes "Sexual Assault," and how those actions (i.e. Fondling, Incest, Rape, Sexual Assault with an Object, Sodomy, and Statutory Rape) are titled and defined is established by law and regulation. Simmons is without discretion to change these definitions.

2. Dating Violence

Dating Violence is violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship.
 - The type of relationship.
 - The frequency of interaction between the persons involved in the relationship.

3. Domestic Violence

Domestic Violence is an act(s) and/behavior that qualifies as a felony or misdemeanor crime committed by a person who:

- Is a current or former spouse or victim of the victim under the family or domestic violence laws of Massachusetts, or a person similarly situated to a spouse of the victim;
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner,
- Shares a child in common with the victim, and/or
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of Massachusetts, which includes any person:
 - The victim is or was residing with within the same household; and/or
 - Who is or was related to the victim by blood or marriage.

4. Stalking

Stalking is defined as engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to: (a) fear for their safety or the safety of others; or (b) suffer substantial emotional distress. Stalking behavior prohibited by this Policy may include, without limitation, unwelcome contact by phone, email, or social media, as well as in-person conduct. Stalking may involve individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals not known to one another.

C. Consent

Consent is agreement which is freely and actively given through clear words or actions, and creates mutually understandable permission regarding the conditions of sexual activity. Consent given at one time does not imply Consent for further sexual activity at another time.

Remember:

- Consensual sexual conduct requires the Consent of both participants.
- Consent to engage in sexual activity must be given knowingly, voluntarily, and affirmatively.
- Silence or lack of resistance, by itself, cannot constitute Consent.
- Relying on non-verbal communication alone can lead to serious misunderstandings.
- An individual is expected to seek and receive Consent to each act of sexual activity and for each form of sexual contact.
- If at any time it is reasonably apparent that a participant is hesitant, confused, upset, or unsure, the other participant should stop and obtain verbal Consent before continuing such activity.
- Consent may be withdrawn at any time by mutually understandable words or clear, unambiguous actions that indicate a desire to end sexual activity. Once Consent has been withdrawn, sexual activity must cease immediately.
- Previous Consent does not imply Consent to future sexual acts.
- A verbal “no” always indicates a lack of Consent, even if it may sound tentative, indecisive or insincere.

Consent can never be given or obtained:

- Through or in response to threats of physical force (words, gestures, or non-verbal actions), intimidation, or coercion, or any other factor that eliminates an individual’s ability to exercise free will.
- By an individual who is, voluntarily or involuntarily, incapacitated from alcohol and/or other drug consumption, or is otherwise unconscious, unaware, or otherwise physically helpless.
- By a person who is asleep or passed out.
- By or through a third party.
- By individuals with mental disabilities that make Consent not possible.
- By or from minor individuals, which are persons under the age of sixteen (16), the age of Consent in Massachusetts. Sexual activity with individuals under 16 is against the law and violates this Policy.

D. Incapacitation and Use of Alcohol/Drugs

Incapacitation is the inability to make informed, rational decisions due to the use of drugs or alcohol, due to being asleep or unconscious, due to injury that disables the ability to communicate, or due to an intellectual or other disability that prevents the individual from having the capacity to give Consent. An incapacitated person does not understand what is happening and/or cannot communicate clearly and coherently. Someone who is incapacitated cannot provide Consent to sexual activity. Someone who is incapacitated cannot make a rational, reasonable decision because they are unable to understand the consequences of their actions.

Where alcohol, other substances, and/or other drugs (prescription or non-prescription) are involved, incapacitation is a state beyond a heightened state of drunkenness or intoxication. Warning signs that a person may be approaching incapacitation can include slurred speech, vomiting, unsteady gait, odor of alcohol or other substances, and concerns expressed by others about the individual's combativeness and/or emotional volatility.

If someone engages in sexual activity with someone they know or reasonably should know is incapable of making a rational, reasonable, informed decision about whether to engage in sexual activity, they may be engaging in conduct that violates this Policy. Incapacity may result from ingestion of a "date-rape" or "predatory" drug; possession, use, and/or distribution of any of these drugs is prohibited at Simmons. Administering any drugs for the purpose of incapacitating another person is prohibited under this Policy and Massachusetts criminal statutes.

Being under the influence of alcohol or drugs does not excuse Sex Discrimination. The use of alcohol or drugs is never an excuse for failing to obtain Consent and will not diminish one's responsibility to obtain Consent. Individuals are responsible for being aware of the other person's level of intoxication, and how it could impact their ability to give Consent.

III. REPORTING SEX DISCRIMINATION

If you have experienced Sex Discrimination, the University encourages you to seek help and support by reporting it. Reporting Sex Discrimination is different than making a Complaint, in that a *report* of Sex Discrimination does not automatically trigger the Grievance Process. A description of how to make a Complaint and what the Grievance Process entails is set forth in Section V of this Policy. Individuals can receive support and access to resources, as appropriate, regardless of whether they choose to make a Complaint.

We encourage anyone with questions or concerns to seek support and guidance from [our campus and community resources](#). These resources can assist with making decisions, offer information about other resources and procedural options, and assist in the event that a report and/or resolution is pursued under this Policy. However, please note that most University employees are deemed Responsible Employees who are required to inform the Title IX Coordinator if you disclose conduct that qualifies as Sex Discrimination.

If you would like to speak to someone confidentially, please consider speaking with a Confidential Resource Person (as defined by this Policy), or other Confidential Employees (such as the University's Counseling Center staff and Health Center staff) at Simmons, who are not classified as Responsible Employees and have an obligation to keep information you tell them about Sex Discrimination confidential, to the extent permitted by federal and state law. A list of confidential and non-confidential employees and their contact information can be found on the Simmons Title IX website: <https://www.simmons.edu/your-simmons/commitment-inclusivity/title-ix/university-and-community-resources>.

The University encourages individuals to report Sex Discrimination in a timely fashion. The passage of time may make it more difficult for the University to investigate and adjudicate behavior. An incident does not have to occur on the Simmons campus to be reported to the University.

A. How to Make a Report of Sex Discrimination to the University

Any person may report Sex Discrimination to the Title IX Coordinator, whether or not that person is the person alleged to have experienced the offending behavior. Reports can be made in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator in this policy, or by any other means that results in the Title IX Coordinator receiving the verbal or written report. Reports may also be made by way of either of Simmons' two web-based forms:

- Simmons' Sex Discrimination Incident Report. Reports submitted by way of this [form](#) will be received directly by the Title IX Coordinator.
- Ethicspoint. Ethicspoint is a third party web-based tool that can be used to report Sex Discrimination. You can find information on Ethicspoint [here](#). Any reports of Sex Discrimination submitted through Ethicspoint will be shared with the Title IX Coordinator. Ethicspoint offers an anonymous reporting option. However, it is important to understand that when a report is made anonymously, the University's ability to respond to the report may be limited because of the incomplete information.

Responsible Employees must immediately notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Sex Discrimination, which includes, without limitation, Sex-Based Harassment. In conjunction with this obligation, every Responsible Employee must complete each Required Training assigned to them by the University.

The University will respond promptly and effectively upon gaining knowledge of conduct that reasonably may constitute Sex Discrimination.

B. Assessment of Report and Next Steps

When the Title IX Coordinator is notified of conduct that reasonably may constitute Sex Discrimination, the Title IX Coordinator will take a number of initial steps that are designed to promptly and effectively end Sex Discrimination in its Education Program/Activity.

These initial steps include, but are not limited to, the following:

- The Title IX Coordinator will contact the Complainant, or if the Complainant is unknown, the individual who reported the conduct, to discuss the nature and circumstances of the reported conduct, and to offer and coordinate Supportive Measures, as appropriate. If the University has initiated the Grievance Process, or offered an informal resolution process to the Respondent, the Title IX Coordinator will also offer and coordinate Supportive Measures, as appropriate, for the Respondent.
- The Title IX Coordinator will also notify the Complainant of the availability of this Policy and the Grievance Process and the informal resolution processes allowed for under this Policy, if appropriate.
- The Title IX Coordinator will assess the reported conduct to determine whether the circumstances warrant any campus-wide safety measures, such as recommendation of the issuance of a timely warning⁵, emergency notification⁶, or Trespass Order; implementation of an emergency removal of the Respondent; or initiation by the Title IX Coordinator of a complaint of Sex Discrimination, each of which may result in the release of the Complainant's identity. When needed, the Director of Public Safety or their designee is responsible for distributing timely warnings.

1. Emergency Removal

The University may remove a Respondent from the University's Education Program/Activity on an emergency basis. Prior to removing a Respondent, the University will undertake an individualized safety and risk analysis and determine there is an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of Sex Discrimination justifies removal of a Respondent from the University's Education Program/Activity on an emergency basis. The Title IX Coordinator may consult with other persons in conducting this assessment.

If the Title IX Coordinator decides to remove the Respondent from Simmons' Education Program/Activity, the Title IX Coordinator will provide notice of the removal to the Respondent. The Title IX Coordinator may also

⁵ Simmons issues timely warnings for certain crimes that are reported to campus security or local police that are considered to represent a serious or continuing threat to students and employees.

⁶ Emergency notifications serve as an alert to a significant emergency or dangerous situation involving an immediate threat to the health or safety of the campus community.

notify the Complainant of the removal decision, as appropriate. The removal will remain in place until such time as the Respondent no longer an imminent and serious threat to the health or safety of the Complainant or any students, employees, or other persons.

Immediately following notification of the removal decision, the Respondent will have an opportunity to appeal the decision by presenting facts that might contradict the existence of an immediate threat to physical health or safety. This appeal is limited only to the removal decision and is not an opportunity to address the underlying allegations of Sex Discrimination against the Respondent.

a. Process for Filing An Appeal

The Respondent has up to **ten (10) business days**, from the date the Respondent is notified of the removal decision, to submit a written, succinct summary to the Title IX Coordinator addressing the facts that allegedly contradict the existence of an imminent and serious threat to health or safety, along with any directly supporting documentation.

The Title IX Coordinator will submit the Respondent's written appeal and supporting documentation to Simmons' Threat Response Intervention Group (TRIG) for consideration and determination. The Title IX Coordinator may also notify the Complainant of the Respondent's appeal, as appropriate. The Respondent will bear the burden of establishing that the removal decision was incorrect. TRIG will not conduct a fresh or "de novo" review of the removal decision.

b. Determination of Appeal

TRIG may decide to speak with the Title IX Coordinator, either Party, or any other person for points of clarification. Based on the Respondent's written appeal and any supporting information, TRIG may affirm and/or alter the removal decision. TRIG will communicate, in writing, the result of the appeal to the Title IX Coordinator, who will share the determination with the Respondent. The Title IX Coordinator may also communicate the result of the appeal to the Complainant, as appropriate. TRIG's determination is final.

2. Administrative Leave

Under appropriate circumstances, the University may place a Respondent on administrative leave during the pendency of a Grievance Process, including during any part of the Grievance Process proceedings.

3. Initiation of a Complaint by the Title IX Coordinator

In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator will make a fact-specific determination

as to whether initiate a Complaint of Sex Discrimination. In making this determination, the Title IX Coordinator will consider:

- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Sex Discrimination would occur if a Complaint is not initiated;
- The severity of the alleged Sex Discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee of the University;
- The scope of the alleged Sex Discrimination, including information suggesting a pattern, ongoing Sex Discrimination, or Sex Discrimination alleged to have impacted multiple individuals;
- The availability of evidence to assist a Decisionmaker in determining whether Sex Discrimination occurred; and
- Whether the University could end the alleged Sex Discrimination and prevent its recurrence without initiating the Grievance Process.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its Education Program/Activity, the Title IX Coordinator may initiate a Complaint. Prior to initiating a Complaint pursuant to this section, the Title IX Coordinator will notify the Complainant and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures, as appropriate.

C. Administrative Agency Resources – External Reporting Options

Complainants may also choose to file a complaint with the following independent agencies, but should recognize that filing a report with any of these agencies does not place Simmons on notice of any Sex Discrimination and does not serve as a Complaint of Sex Discrimination:

U.S Department of Education, Office for Civil Rights
5 Post Office Square, 8th floor
Boston, MA 02109-3921
617-289-0100

Boston, MA 02203
800-669-4000

Equal Employment Opportunity Commission
JFK Federal Building
475 Government Center

IV. OTHER PROVISIONS

A. Supportive Measures

Supportive measures are individualized measures that are offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

- (1) Restore or preserve that Party's access to the University's Education Program/Activity, including, without limitation, measures that are designed to protect the safety of the Parties or the University's educational environment; or
- (2) Provide support during the University's Grievance Process, or during an informal resolution process.

Supportive Measures that the Title IX Coordinator may implement include any of the following:

- Counseling through Simmons Counseling Center
- Assistance through Student Affairs or from other Simmons-related individuals
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- One-way or mutual restrictions on contact between the parties by way of a No Contact Order
- Changes to a student's on-campus housing
- Arranging a leave of absence or temporary withdrawal from the University/program
- Issuing a Trespass Order for Simmons' campus (facilitated through Public Safety)
- Facilitating taking an incomplete in a class without penalty or identifying alternative course completion options
- Providing increased monitoring, supervision, or security at relevant locations or activities
- Providing support through the employee assistance program
- Changing work location, work schedule, or reporting structures in certain circumstances

- Other temporary, reasonable limitations or modifications on or to access to certain University programs or activities

Simmons will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, unless disclosure is necessary in order to implement and/or provide the Supportive Measures. The Title IX Coordinator is responsible for determining what information about a Complainant should be disclosed and to whom this information will be disclosed, and how this decision will be made.

The Title IX Coordinator will coordinate the effective implementation of Supportive Measures. What Supportive Measures are authorized and how they are implemented will depend on the circumstances. Note that some Supportive Measures are appropriate for students and others for faculty and staff. The Title IX Coordinator or their designee will work with each individual, as needed, to implement the appropriate Supportive Measures. The Title IX Coordinator has the authority to modify or terminate a Supportive Measure, except as decided upon appeal of the Supportive Measure, as set forth directly below.

A Party may seek modification or reversal of the University's decision to provide, deny, modify, or terminate Supportive Measures applicable to themselves ("Request to Modify/Reverse").

1. Process for Submitting a Request to Modify/Reverse

A Party must submit their Request to Modify/Reverse to the Title IX Coordinator in writing within three (3) calendar days of the date the Title IX Coordinator notifies the Party of the action relating to the Supportive Measure. The Request to Modify/Reverse must include a written, succinct summary of the basis (or bases) for the Request to Modify/Reverse. If Supportive Measure(s) at issue in the Request to Modify/Reverse are in effect when the Request to Modify/Reverse is submitted and pending, they will remain in effect during the pendency of the Request to Modify/Reverse process.

2. Determination on Request to Modify/Reverse

The Request to Modify/Reverse will be decided upon by an impartial individual appointed by the Title IX Coordinator who will be someone other than the individual who authorized the Supportive Measure(s). The individual may decide to speak with the Title IX Coordinator, either Party, or any other person for points of clarification. The individual will consider the Request to Modify/Reverse, as well as other information the individual may deem relevant, and issue their determination. The Party submitting the Request to Modify/Reverse will bear the burden of establishing that the decision was incorrect. The individual deciding the Request will not conduct a fresh or "de novo" review of the determination at issue. The determination

may: (a) uphold the decision to provide, deny, modify, or terminate the Supportive Measure, or (b) modify that decision.

A Party may, at any time, request from the Title IX Coordinator additional modification or termination of a Supportive Measure applicable to them if circumstances change materially.

In certain instances, the Title IX Coordinator may authorize the continuation of Supportive Measures beyond the conclusion of the Grievance Process.

B. Informal Resolution

At any time prior to determining whether Sex Discrimination occurred, the University may offer to a Complainant and Respondent an informal resolution process. The University reserves the right to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute Sex Discrimination or when a Complaint of Sex Discrimination is made, and may decline to offer informal resolution despite one or more of the Parties' wishes, including, but not limited to, instances when the University determines that the alleged conduct would present a future risk of harm to others, and or when such a process would conflict with Federal, State, or local law.

The University offers two different informal resolution processes: (1) Facilitated Resolution, and (2) Administrative Resolution, as defined below.

Participation in either informal resolution process is strictly voluntary. A Party may indicate their willingness and voluntary consent to participate in either of the informal resolution processes by submitting to the Title IX Coordinator a *Voluntary Consent to Participate in an Informal Resolution Process (Consent Form)*. If there is more than one Complainant and/or more than one Respondent, any Parties who wish to participate may do so even in the absence of full participation by all Parties. If only the Complainant(s) or only the Respondent(s) consent to participate in an informal resolution process, and not the other Party, an informal resolution process shall not take place.

Only a Party and the Facilitator or Title IX Coordinator (or designee), as applicable, may be present during any meetings or sessions held as part of an informal resolution process, except in instances where there are allegations of Sex-Based Harassment, in which case a Party may be accompanied by their respective Advisor, should they choose to have their Advisor present.

Before initiation of an informal resolution process, the University will provide to the Parties written notice that explains:

- The allegations;
- The requirements of the informal resolution process;
- That, prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to initiate or resume the University's Grievance Process;
- That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming the Grievance Process and/or any other grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
- What information the University will maintain and whether and how the University could disclose such information for use in the Grievance Process if the Grievance Process is initiated or resumed.

1. Facilitated Resolution

Facilitated Resolution is defined as an informal process in which a Facilitator assists the Parties in an effort to reach a negotiated resolution of the Complaint. The Facilitated Resolution process does not involve a full investigation and adjudication. The Facilitator does not determine responsibility. A benefit of the Facilitated Resolution process is that it allows the Parties to resolve the Complaint in a manner that is mutually satisfactory to them, subject to approval by the Title IX Coordinator. The Facilitated Resolution process may achieve a resolution of the Complaint more quickly than the Grievance Process.

The Facilitator will maintain in a confidential manner to the extent permitted by law, including, but not limited to, not sharing with the Investigator, Title IX Coordinator, or Decisionmaker, any statement or information provided to the Facilitator by a Party during the Facilitated Resolution process unless expressly authorized by the Party to share the information. If the Facilitated Resolution process is unsuccessful, and the Facilitator testifies in another role at a hearing as part of the Grievance Process in matters involving allegations of Sex-Based Harassment, the Facilitator shall not testify (and neither shall the Decisionmaker ask) about any information shared by either Party during the Facilitated Resolution session unless the Party expressly authorizes such testimony.

i. Process

The Facilitated Resolution process shall commence once the final Party that will be participating submits their respective *Consent Form* indicating their consent to participate in the Facilitated Resolution process.

The Facilitated Resolution process will involve separate communications between the Facilitator and the Parties. The process may also include a scheduled session, which may take place virtually via technology (such as Zoom), during which the Facilitator will meet with each Party separately (and/or together should the Parties request and consent to such) (“Session”). Any Session shall not be recorded. During any Session, unless the Parties and Facilitator are all meeting together per the request and consent of both Parties, the Facilitator shall meet with each Party separately to determine what would enable the Parties to resolve the Complaint by way of the Facilitated Resolution process.

If the Parties are unable to agree on terms for a Voluntary Resolution Agreement that would resolve the Complaint, the Facilitated Resolution process will end and the Facilitator will notify the Title IX Coordinator that the Facilitated Resolution process failed to resolve the Complaint. The Grievance Process will continue.

Should the Parties agree upon terms for resolving the Complaint, the Facilitator will simultaneously send the Parties a Voluntary Resolution Agreement that memorializes the terms agreed upon by the Parties. A Voluntary Resolution Agreement may include terms that are similar to Supportive Measures, remedies, and/or disciplinary sanctions (as described herein), such as, without limitation, restrictions on contact and restrictions on the Respondent’s participation in one or more of the University’s programs or activities at specific events, including restrictions the University could have imposed as remedies or disciplinary sanctions had the University determined at the conclusion of the Grievance Process that Sex Discrimination occurred.

The Parties will have five (5) business days to review the Voluntary Resolution Agreement and request revisions to the language. Upon receipt of the Parties’ reasonable requests for revision, the Facilitator will make revisions to the language of the Voluntary Resolution Agreement, as appropriate. Upon receipt of the revised Voluntary Resolution Agreement from the Facilitator, the Parties will have three (3) business days to sign and submit the Voluntary Resolution Agreement to the Facilitator, indicating their agreement to enter into and be bound by the Voluntary Resolution Agreement.

At any time prior to signing a Voluntary Resolution Agreement, any Party has the right to withdraw from the Facilitated Resolution process and initiate or continue with the Grievance Process. Withdrawing from Facilitated Resolution process shall not reflect negatively on the Party.

When, and only when, the Facilitator has received executed copies of the Voluntary Resolution Agreement from the Complainant and Respondent who wish to be bound by the terms of the agreement, the Complaint shall be deemed resolved and no Party to the agreement may initiate or resume the Grievance Process relating to the same allegations. The Voluntary Resolution Agreement shall only be binding on the Parties. The Facilitator shall send the executed Voluntary Resolution Agreement to the Title IX Coordinator.

The Parties are welcome to both voluntarily consent to participate in the Facilitated Resolution process more than one time while any one Complaint is pending if the Parties have not already entered into a Voluntary Resolution Agreement to resolve the Complaint and no determination as to responsibility as to whether Sex Discrimination occurred has been made in the matter.

Except where the terms must be disclosed in order to effectuate them, Simmons will maintain as confidential the terms of a Voluntary Resolution Agreement to the extent permitted by law and regulation.

ii. Violation of a Voluntary Resolution Agreement By a Party

If a Party violates or is suspected of violating a term(s) of their Voluntary Resolution Agreement, the alleged violation shall be deemed a violation of, and processed under, all relevant policies, including, without limitation, this Policy, and/or the Simmons Student Code of Conduct or Employee Handbook, as appropriate. Should the Party be found to have violated their Voluntary Resolution Agreement, the Party may be subject to sanctions, including and up to expulsion (for students) and termination (for faculty and staff).

2. Administrative Resolution

Administrative Resolution is defined as an informal process in which the Title IX Coordinator (or designee) determines responsibility relating to all or some of the allegations in the Complaint without a full investigation or, for matters being processed in the Grievance Process, a hearing (“Administrative Resolution”). The Administrative Process may, at the discretion of the Title IX Coordinator, involve the imposition of disciplinary sanctions, as well as provide for remedies for the Complainant.

A benefit of the Administrative Resolution process is that it allows the Parties to resolve the Complaint quickly and, for matters being processed under the Grievance Process, without a live hearing. An Administrative Resolution may achieve a resolution of the Complaint more quickly than the Grievance Process.

Any allegations that the Parties do not agree to have resolved through the Administrative Resolution process shall proceed through the Grievance Process.

Simmons will maintain as confidential any determination of responsibility and disciplinary sanctions levied, as well as any remedies provided, through the Administrative Resolution process, except to the extent the remedies or disciplinary sanctions must be disclosed in order to effectuate them.

Either or both parties may appeal the determination of responsibility issued by the Title IX Coordinator (or their designee) through the Administration Resolution process in the manner set forth in Section VI of this Policy.

i. Process

Upon receipt of the executed Consent Forms from the participating Parties, the Title IX Coordinator will contact each Party separately to discuss the allegations of the Complaint. Each Party will have an opportunity to submit documentation relating to the allegations being addressed for review by the Title IX Coordinator. The Title IX Coordinator may also review any other documentation relating to the allegations being addressed. The Title IX Coordinator may also interview individuals other than the Parties for information relating to the allegations under consideration.

Based upon the information provided by the Parties and otherwise gathered by the Title IX Coordinator, the Title IX Coordinator shall make a determination regarding responsibility on the allegations being addressed through the Administrative Resolution process, and impose disciplinary sanctions on the Respondent and provide remedies for the Complainant, as applicable and appropriate. In making the determination, the Title IX Coordinator shall engage in an objective evaluation of the Relevant evidence that is not Impermissible Information. All credibility determinations by the Title IX Coordinator will not be based upon a person's status as a Complainant, Respondent, or witness. The Title IX Coordinator shall exclude all Impermissible Information, and shall not ask questions seeking Impermissible Information, regardless of whether it is Relevant.

Once the Title IX Coordinator issues the determination on responsibility, neither Party may initiate or resume the Grievance Process relating to the same allegations. Both the Complainant and the Respondent may appeal the Title IX Coordinator's determination, as set forth in Section VI of this Policy.

Except as to the Relevant evidence shared in and through the Title IX Coordinator's determination on responsibility, the Title IX Coordinator will maintain all information and evidence gathered during the Administrative Resolution Process in a confidential manner to the extent permitted and required by law.

ii. Withdrawal from Administrative Resolution

Any Party may withdraw from the Administrative Resolution process and initiate or continue with the Grievance Process up to the moment the Title IX Coordinator issues a determination regarding responsibility on the allegations being addressed through the Administrative Resolution process. Withdrawing from the Administrative Resolution process shall not reflect negatively on the Party.

The Title IX Coordinator may share any and all information learned and or gathered by the Title IX Coordinator during the Administrative Resolution process with the Investigator and/or Decisionmaker.

C. No Contact Orders, Protective Orders, and Trespass Orders

A "No Contact Order" (NCO) is a written order issued by the University containing one-way or mutual restrictions on contact between two or more individuals. All NCOs will be in writing, and a copy of an NCO will be provided to all Parties involved with the NCO. In addition, a copy of the NCO may be provided to both Public Safety, HR, and/or Student Affairs, as appropriate, for tracking and enforcement purposes. An NCO shall stay in effect until it is expressly cancelled by the Title IX Coordinator and the Parties to the NCO are notified in writing. A Party to an NCO may make a request to the Title IX Coordinator for modification or termination of an NCO. The Title IX Coordinator will determine if such change is appropriate and will communicate any changes, in writing, to the Parties if the change is approved.

The issuance of an NCO does not necessarily restrict a Party from being on campus nor does it automatically place restrictions on the employment, academic, or co-curricular activities of either the Complainant or the Respondent. However, the Title IX Coordinator, in consultation with other individuals and/or departments, including, but not limited to, HR, Student Affairs, and/or Public Safety, may include provisions regarding the use of certain spaces on campus and may include other restrictions on either or both the Complainant or the Respondent to ensure the NCO is effective. For instance, an NCO may prohibit all direct (in person) or indirect communication or contact (via phone, email, text, or other electronic means), including contact through friends, third parties, or via any form of social media.

Should either the Complainant or the Respondent unexpectedly encounter one another after an NCO has been issued, both individuals must keep their distance and refrain from initiating direct or indirect communication or contact. Unless the parameters of an NCO dictate otherwise, the person who arrives second to a closed space is required to leave that space.

An NCO is not a determination of responsibility. However, if a Party violates an NCO, disciplinary action may result.

D. Harassment Prevention/Abuse Prevention Orders

Massachusetts law provides for two types of protective orders:

- ✓ 209A Abuse Prevention Order: a court order protecting an individual from unwanted contact or abuse by someone with whom they have a close relationship (a current or former family or household member, or a person with whom they have a substantial dating relationship).
- ✓ Harassment Prevention Order: a court order that can offer protection from unwanted contact or abuse in other circumstances where no “dating relationship” exists.

An individual must appear before a judge in a Massachusetts court and file a sworn affidavit in order to obtain an order of this nature. Simmons Public Safety and/or the University’s Office of Violence Prevention and Educational Outreach can provide students with information on how to obtain these orders and can help you through the court process.

Once an individual receives a court-issued protective order, Simmons will meet any applicable requirements under the protective order and will work with the individual to ensure the order is enforced. Simmons community members are encouraged to provide a copy of any prevention orders to Public Safety and the Title IX Coordinator for their records. A violation of a court-issued order can result in criminal charges against the violator.

E. Trespass Orders

Under state law, Simmons has the lawful authority to issue Trespass Orders to individuals requiring that they stay off the Simmons campus. A Trespass Order is issued by Simmons Public Safety; for the purposes of this Policy, the Title IX Coordinator, or their designee, would be the individual requesting a Trespass Order. While an initial Trespass Order may be issued verbally in certain emergency situations, it will subsequently be reduced to writing when the emergency or threat subsides. The written order will then be shared with individuals on campus that have a need-to-know, e.g., the Title IX Coordinator or Residence Life staff. Violation of a Trespass Order may result in arrest and/or criminal prosecution.

A Trespass Order will remain in effect until it is removed by Public Safety and such removal is communicated in writing to those involved.

F. Limited Amnesty

Sometimes students are hesitant to report Sex Discrimination because they fear being charged with other policy or conduct violations, such as underage drinking at the time of the incident. Similarly, students are sometimes hesitant to offer assistance to others to avoid getting themselves in trouble. A Complainant or a witness who initiates an investigation of Sex Discrimination shall not be subject to a disciplinary sanction for a violation of the University's Student Code of Conduct related to the incident (including those provisions relating to drug and/or alcohol use), unless the University determines that the report was not made in good faith or that the violation was egregious (in the opinion of the University). An egregious violation shall include, but not be limited to, taking an action that places the health and safety of another person at risk. The University does reserve the right to ask an individual using the alcohol or drugs to get professional assistance if there are signs of problem behavior.

G. False Reports, Statements, and/or Information

The University takes all reports of Sex Discrimination seriously. An individual who knowingly makes an intentionally false report of Sex Discrimination, or makes false statements or submits false information during the Grievance Process, with the intent to injure the reputation of another, or made without regard for the truth, may be deemed in violation of, and may be subject to appropriate disciplinary actions pursuant to, the Student Code of Conduct or the Employee Handbook, as appropriate. This provision does not apply to reports, statements, and/or submissions of information made in good faith, even if the reports, statements, and/or submissions are not substantiated through an investigation.

H. Reports Involving Minors

The University will report all suspected child abuse and neglect involving minors in accordance with the University's Minors on Campus Policy. Any applicable member of the Simmons community that knows, suspects, or receives information indicating that a minor has been abused or neglected, is expected to inform the Massachusetts Department of Children and Families. In addition, Simmons employees should promptly notify the senior leader (Dean, VP, or SVP) to whom their unit reports, as well as the Office of the General Counsel. If you have questions or need guidance on this provision, please contact the Title IX Coordinator or one of the Deputy Title IX Coordinators.

I. Consensual Relationships Policy

Members of the Simmons community are expected to be familiar with, and comply with, Simmons' [Consensual Relationships Policy](#). Unless determined otherwise by the Title IX Coordinator, conduct that

violates both the Consensual Relationships Policy and this Policy shall be addressed pursuant to and under this Policy; whereas conduct that violates the Consensual Relationships Policy, but does not violate this Policy, will be referred to the appropriate office for handling.

J. Immediate Emergency Assistance and Evidence Preservation

If you have experienced Sex Discrimination, including without limitation, sexual assault and need emergency assistance, we encourage you to seek immediate assistance from a medical provider and/or law enforcement. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response.

The University will assist any Simmons community member in getting to a safe place and will provide transportation to the hospital, coordination with law enforcement, and information about the University's resources and complaint process.

Public Safety or Law Enforcement

Simmons University Public Safety
617-521-1111 (emergency)
617-521-1112 (non-emergency)
1 Palace Road, Suite B-104, Boston, MA 02115

Assistance is available from Public Safety **24 hours a day, 7 days a week**. The University's Public Safety Department typically has at least one officer who can serve as a certified sexual assault investigator. They can also connect you with other medical resources in the area.

Boston Police or your local Police Department

Calling 911 will connect you to your local Police Department, and you can ask for the Sexual Assault Division. The Boston Police Department Sexual Assault Division 24-hour hotline is 617-343-4400.

Medical Resources

Simmons Health Services
617-521-1002; 94 Pilgrim Rd. Available during regular business hours.

Simmons Counseling Services
617-521- 2455; 1 Palace Rd., Suite B-308. Available during regular business hours.

Beth Israel Deaconess Medical Center Emergency Room
617-754-2450; 1 Deaconess Rd, Boston, MA 02215. Available 24 hours a day, 7 days a week.

Beth Israel Deaconess Medical Center is a SANE (Sexual Assault Nurse Examiner)-certified site. SANE-

certified nurses are specifically trained to perform exams and collect forensic evidence from sexual assault survivors. Simmons' Public Safety may be able to assist with transportation to BIDMC.

Preserving Evidence

Evidence can be collected even several days after an assault. To best preserve evidence, do not shower, bathe, douche, brush your teeth, or throw away any clothing that might contain evidence of the assault. Save articles of clothing, bedding etc. in separate paper bags. See the [BIDMC Sexual Assault/Rape Crisis webpage](#) for more information.

We encourage individuals to review [our campus and community resources](#) for counseling and health, safety, academic and other support services available from the University and within the Boston area.

V. COMPLAINTS AND THE GRIEVANCE PROCESS

The University has adopted grievance procedures that provide for the prompt and equitable resolution of Complaints made by students, employees, or other individuals who are participating or attempting to participate in the University's Education Program/Activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations. The University will treat Complainants and Respondents equitably.

The making of a Complaint will trigger the Grievance Process. The University will take reasonable steps to protect the privacy of the Parties and witnesses during the pendency of the Grievance Process.

A. Process for Making a Complaint

If a Complainant wishes for the University to investigate and make a determination about alleged Sex Discrimination, the Complainant must make an oral or written request to the Title IX Coordinator that objectively can be understood as a request for the University to investigate and make a determination about alleged Sex Discrimination⁷.

⁷ Where appropriate, the Title IX Coordinator may initiate the Grievance Process.

A written Complaint can be submitted to the Title IX Coordinator by any means that results in the Title IX Coordinator receiving the Complaint, including by email (sara.simberg@simmons.edu) or by way of either of Simmons' two web-based methods: [Simmons' Sex Discrimination Incident Report](#) form or [Ethicspoint](#).

Complaints shall be reviewed and decided upon pursuant to the preponderance of the evidence standard. Preponderance of evidence means that, after a thorough examination of the available facts, the fact-finder concludes that it is more likely than not that Sex Discrimination alleged to have occurred did, in fact, occur in violation of the Policy. The Decisionmaker will evaluate Relevant evidence that is not Impermissible Information for its persuasiveness; if the Decisionmaker is not persuaded under the preponderance of the evidence standard that Sex Discrimination occurred, whatever the quantity of the evidence is, the Decisionmaker will not determine that Sex Discrimination occurred.

There is a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Process.

B. Consolidation of Complaints

The Title IX Coordinator may consolidate Complaints as to allegations of Sex Discrimination 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 Sex Discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a Party, Complainant, or Respondent include the plural, as applicable.

In addition, in the Title IX Coordinator's sole discretion, in consultation with the Office of Student Affairs and/or HR (as needed and appropriate), the University may consolidate reports of other related policy violations with a Complaint and address all of the matters together.

C. Notice of a Complaint

Upon initiation of the Grievance Process, the Title IX Coordinator or designee will provide written notice to the Parties whose identities are known that will include:

- A copy of this Policy, which includes a description of the Grievance Process, as well as a description of the informal resolution processes; and
- Sufficient information available at the time to allow the parties to respond to the allegations, which shall include:
 - The identities of the Parties involved in the alleged incident(s), if known;

- A description of the allegations of Sex Discrimination, including, but not limited to: the date(s) and location of the alleged incident(s), to the extent the information is available to the University⁸;
- A statement that retaliation is prohibited; and
- A statement that the Parties are entitled to an equal opportunity to access the Relevant evidence that is not Impermissible Information.

In addition, in matters involving allegations of Sex-Based Harassment, the written notice will include statements regarding the following additional information:

- The Respondent is presumed not responsible for the alleged Sex-Based Harassment until a determination is made at the conclusion of the Grievance Process and that, prior to the determination, the Parties will have an opportunity to present Relevant information that is not Impermissible Information to a trained, impartial Decisionmaker;
- The Parties may have an Advisor of their choice in any meeting or proceeding conducted as part of the Grievance Process (as described herein), and the Advisor may be, but is not required to be, an attorney;
- The Parties are entitled to an equal opportunity to access the Relevant evidence that is not Impermissible Information; and
- The University's Employee Handbook and Student Handbook prohibit knowingly making false statements or knowingly submitting false information, including during the Grievance Process.

In matters involving allegations of Sex-Based Harassment, to the extent the University has reasonable concerns for the safety of any person as a result of providing the written notice, the University may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately. A determination as to whether a concern is reasonable will be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

D. Dismissal of the Complaint

The Title IX Coordinator may dismiss a Complaint of Sex Discrimination, or specific allegations in the Complaint, for any of the following reasons:

- (i) The University is unable to identify the Respondent after taking reasonable steps to do so;

⁸ If, in the course of an investigation, the University decides to investigate additional allegations of Sex Discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Complaint that is consolidated, the University will notify the known Parties of the additional allegations.

- (ii) The Respondent is not participating in the University's Education Program/Activity and is not employed by the University;
- (iii) The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and the University determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex Discrimination even if proven; or
- (iv) The University determines the conduct alleged in the Complaint, even if proven, would not constitute Sex Discrimination. Prior to dismissing the Complaint, the University will make reasonable efforts to clarify the allegations with the Complainant.

The Title IX Coordinator will make a determination within seven (7) business days of receiving information relating to a Complaint whether they will dismiss the Complaint based upon that information.

Upon dismissal of a Complaint, the University will promptly notify the Complainant of the basis for the dismissal, and, if the dismissal occurs after the Respondent has been notified of the allegations, then the University will also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Complainant, or simultaneously if notification is in writing⁹. In matters involving allegations of Sex-Based Harassment, the University will obtain the Complainant's withdrawal in writing if dismissing a Complaint based on the Complainant's voluntary withdrawal of the Complaint or allegations under Section V(D)(iii) of this Policy.

The University will also notify the Complainant in writing that a dismissal may be appealed and provide the Complainant with an opportunity to appeal the dismissal of a Complaint on the bases set out in Section VI of this Policy. If the dismissal occurs after the Respondent has been notified of the allegations, then the University will also notify the Respondent that the dismissal may be appealed.

Upon dismissal of a Complaint, the Title IX Coordinator will offer Supportive Measures to the Complainant, as appropriate, and, if the Respondent has been notified of the allegations, offer supportive measures to the Respondent, as appropriate.

⁹ In matters involving allegations of Sex-Based Harassment, notice provided will be writing.

E. Notice of Hearings, Interviews, and Meetings (applies only to matters involving allegations of Sex-Based Harassment)

During an investigation under the Grievance Process on a matter that involves allegations of Sex-Based Harassment, the University 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, proceedings, or other meetings held as part of the Grievance Process, with sufficient time for the Party to prepare to participate. In matters involving allegations other than allegations relating to Sex-Based Harassment, the University may, in its discretion, provide notice pursuant to this section to the Parties.

F. Advisors (applies only to matters involving allegations of Sex-Based Harassment)

During the Grievance Process on a matter that involves allegations of Sex-Based Harassment, the Parties are permitted to be accompanied by an Advisor of their choice in any meeting or proceeding conducted as part of the Grievance Process. The Advisor may be, but is not required to be, an attorney. The role of, and parameters set for, the Advisor is set forth in the definition of Advisor in Section II(A) of this Policy.

In matters that involve allegations other than allegations relating to Sex-Based Harassment, the University may, in its discretion, permit both Parties to be accompanied by an Advisor of their choice in any meeting or proceeding conducted as part of the Grievance Process.

G. Designation of Investigator

Simmons shall provide for adequate, reliable, and impartial investigation of Complaints not resolved through an informal resolution process. The Title IX Coordinator will designate an Investigator. At the University's discretion, more than one Investigator may be assigned and/or an external Investigator(s) may be engaged to conduct the investigation.

The Title IX Coordinator will provide the Parties with the name of the person assigned to investigate the reported conduct (the "Investigator(s)"). As soon as possible, but no later than three (3) calendar days after receiving notice of the identity of the Investigator, the Parties should inform the Title IX Coordinator (in writing) of any conflicts of interest and/or perceived bias relating to the selected Investigator. The Title IX Coordinator will consider the nature of the alleged conflict and/or bias and determine whether to assign a different individual as Investigator. The Title IX Coordinator's decision is final.

H. Investigation of Complaint

The Investigator will ask for, and the Parties are encouraged to provide the Investigator with, the identity of potential witnesses who have specific information relating to the allegations and with whom they would like the Investigator to speak, along with a brief description as to how the person(s) are relevant to the reported conduct. When witnesses are identified by the Parties, the Investigator may exercise discretion in determining who to interview.

In addition to conducting interviews, the Investigator will gather and review Relevant evidence, both inculpatory and exculpatory, in an impartial and objective manner, other than Impermissible Information. The Investigator will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that are Relevant and not Impermissible Information. The Investigator will review all evidence gathered through the investigation and determine what evidence is Relevant and will exclude evidence that is Impermissible Information (regardless of relevance).

The Investigator will offer the Complainant, the Respondent, and any fact witnesses whom the Investigator believes will provide Relevant information the opportunity to participate in separate interviews with the Investigator. Parties in matters involving, at least in part, allegations of Sex-Based Harassment may have an Advisor present at their respective interview(s).

The Parties are permitted to discuss the allegations under investigation. However, disclosure by the Parties and/or their Advisors (as applicable) of any information learned through the investigation for the purpose of retaliation or to embarrass other individuals is strictly prohibited.

The investigation will generally be completed within forty-five (45) days of the date the choice of the Investigator is confirmed, which shall be either: (a) three (3) days following the date the Title IX Coordinator notifies the Parties of the identity of the Investigator if there is no objection by any Party, or (b) if there is an objection, the date the Title IX Coordinator provides the Parties with the Title IX Coordinator's final decision on who will serve as the Investigator.

I. Investigation Prohibitions

The Investigator will not consider, require, allow, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of Impermissible Information. In no case will the sole fact that the Parties have a current or previous consensual dating or sexual relationship imply Consent to the reported conduct or preclude a finding of responsibility for a Policy violation.

J. Evidence

On a date decided by the Investigator, the Investigator will provide the Parties (and the Parties' Advisors in matters that involve allegations of Sex-Based Harassment) an equal opportunity to access the Relevant evidence that was gathered through the investigation that is not Impermissible Information. The Parties shall have ten (10) calendar days from the date the Investigator provides access to the evidence to submit a written response, should they wish to do so. At the conclusion of the ten (10) calendar days, the Investigator will provide to each Party the written response submitted by the other Party (if any).

The University will take reasonable steps to prevent and address the unauthorized disclosure of information and evidence obtained solely through the Grievance Process. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of Sex Discrimination are authorized under the law. The Parties (and Advisors, as applicable) are strictly prohibited from sharing with any other individuals the evidence they receive for review through the Grievance Process. The Parties (and Advisors, as applicable) may only use the evidence for purposes of the Grievance Process.

K. Hearing (applies only to matters alleging Sex-Based Harassment)

The University will conduct a live, recorded hearing on the allegations contained in a Complaint not previously dismissed by the Title IX Coordinator or resolved by way of an informal resolution process. The Title IX Coordinator may serve as the Decisionmaker, but is not required to serve as the Decisionmaker. The live hearing will take place virtually, via technology (such as Zoom) that enables the Decisionmaker and Parties to simultaneously see and hear the Party or the witness answering questions. The live hearing shall take place no sooner than ten (10) calendar days from the date the Investigator issues any responses to the Parties that were submitted by the other Party relating to the evidence (see Section V(I)).

The Title IX Coordinator shall schedule the live hearing. The Title IX Coordinator may postpone the live hearing from its scheduled date for good cause, in which case the Title IX Coordinator shall make reasonable efforts to determine the availability of the Parties and their respective Advisors.

1. Participants

At a minimum, present at the live hearing shall be the Decisionmaker. Prior to the live hearing, the Title IX Coordinator will provide the Parties with the name of the person assigned as the Decisionmaker. As soon as possible, but no later than three (3) calendar days after receiving notice of the identity of the Decisionmaker, the Parties should inform the Title IX Coordinator in writing of any conflicts of interest and/or perceived bias relating to the selected Decisionmaker. The Title IX Coordinator (or designee) will consider the nature of the

alleged conflict and/or bias and determine whether to assign a different individual as Decisionmaker. The Title IX Coordinator's (or designee's) decision is final.

Prior to the live hearing, the Decisionmaker will have designated which witnesses are invited to provide testimony. The Investigator may, but need not, serve as a witness. The Parties, the Parties' chosen Advisors (if any), and witnesses that have received a request to participate in the hearing are expected, and may be required, to attend the live hearing. Any witness who attends the hearing will remain in the digital "waiting room" until it is the witness's time to provide testimony; no witness will have the opportunity to view the proceedings outside of the time period they are providing testimony. At the discretion of the Title IX Coordinator, other individuals, including, but not limited to, legal counsel for the University, may be present at the live hearing in whatever capacity the Title IX Coordinator deems appropriate.

No person may be present at the hearing without the authorization of the Title IX Coordinator. This means that no person present at the hearing may have an unauthorized person in the room with them while the hearing is taking place, even if that unauthorized person is off-screen. All hearing participants must participate in the hearing from a space they can make inaccessible to others so as to protect the confidential nature of the live hearing. If internet access is an issue, the Party or witness requiring assistance should speak to the Title IX Coordinator prior to the date of the live hearing.

2. Pre-hearing and Hearing Process

i. Pre-Hearing Process

In advance of the date of the hearing, the Decisionmaker may, at the Decisionmaker's discretion:

- Hold a pre-hearing conference for any interested Parties and the Parties' chosen Advisors for the purpose of answering questions regarding hearing procedures, providing administrative information about the hearing, and addressing other relevant matters.
- Allow the Parties to submit to the Decisionmaker in writing their objections to any evidence for the purpose of allowing the Decisionmaker to issue preliminary determinations regarding the Relevancy of the evidence prior to the start of the hearing. The Decisionmaker will make the final determination regarding the Relevance of any document evidence at the hearing. The Parties will have an opportunity at the hearing to address their objections with the Decisionmaker regarding the Relevancy of any document evidence.

At least five (5) business days prior to the hearing date, each Party must submit to the Decisionmaker their Cross-examination Questions, if the Party has any questions.

ii. *Hearing Process*

The Decisionmaker will initiate the live hearing with opening remarks, as deemed appropriate by the Decisionmaker. The Decisionmaker shall then offer each Party and witness that is present (in the order that the Decisionmaker deems appropriate) the opportunity to submit to questions from the Decisionmaker. For each Party or witness who submits to questions, the Decisionmaker may ask the Party or witness questions the Decisionmaker developed and will ask the Cross-examination Questions submitted by each Party, if any, prior to the Hearing in accordance with the Policy that:

- Are relevant,
- Do not seek Impermissible Information, and
- Are not unclear or harassing of the Party or witness being questioned¹⁰.

A Party may ask follow-up Cross-examination Questions of another Party or witness subsequent to the questioning of that Party or witness via the Decisionmaker by submitting their questions in writing to the Decisionmaker within a reasonable amount of time (as established by the Decisionmaker) of the end of the questioning of the relevant Party or witness. The Decisionmaker will ask the follow-up Cross-Examination questions during the same live hearing session that are submitted by the Party that are relevant; do not seek Impermissible Information, and are not unclear or harassing of the Party or witness being questioned.

If the Decisionmaker excludes a question due the question not being Relevant or because the question seeks Impermissible Information, the Decisionmaker will explain their decision to exclude the question. If the Decisionmaker determines that a question is unclear or harassing, the Decisionmaker will permit the Party an opportunity to clarify or revise the question, and if the Party sufficiently clarifies or revises the question, the Decisionmaker will ask the question. The Parties are not permitted to challenge determinations by the Decisionmaker regarding the permissibility of questions. Questioning will never be conducted by a Party or Advisor personally.

The Decisionmaker may seek privileged legal counsel or other types of assistance from other individuals prior to, during, and after the live hearing. The Decisionmaker may call for a break of the hearing for a reasonable length of time for various reasons, such as to permit a Party to recover emotionally from a question, or to break for a meal.

¹⁰ A question may not have as its essential function or purpose to embarrass, blame, humiliate, or emotionally berate a Party or witness. Instead, questions must serve to probe the narrative of a Party or witness in order to give the Decisionmaker the fullest view possible of the evidence Relevant to the allegations at issue.

At the live hearing, the Parties will have access to all of the evidence that was subject to the Parties' prior inspection and review. During the hearing, a Party or witness may introduce Relevant evidence that was not previously provided to the Investigator only if: (a) the evidence does not contain Impermissible Information, and (2) the evidence was not reasonably available to the Party or witness prior to the date of the hearing. The Party or witness may not introduce the new evidence until the Decisionmaker has made a determination regarding whether the newly-offered evidence may be introduced.

At the hearing, the Decisionmaker will provide the Parties an opportunity to object to the Relevancy of any particular piece of evidence (as well as argue as to the persuasiveness of any piece of Relevant evidence). The objecting Party shall state their Relevancy objection to the piece of document evidence and give a brief explanation as to the basis of their objection. The Decisionmaker may engage the Parties relating to the Relevancy objection. The Decisionmaker shall state their decision as to the objection and the basis for the decision.

The Decisionmaker may assess the credibility of the Parties and witnesses, including, but not limited to, on the basis of corroborative evidence. The Decisionmaker's credibility determinations shall not be based on a person's status as a Complainant, Respondent, or witness or on any other protected status or characteristic.

At no time during the live hearing are the Parties and/or the witnesses permitted to send or receive electronic messages, either by email, text message, or over social media, to any other person about the live hearing proceedings.

A transcript of the recording of the hearing will be made available to the Parties for their inspection and review within a reasonable amount of time following the conclusion of the hearing.

3. Participation

The Decisionmaker may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions at the hearing that the Decisionmaker deems Relevant and which do not seek Impermissible Information. The Decisionmaker shall not draw an inference about whether Sex-Based Harassment occurred based solely on a Party's or witness' refusal to respond to such questions.

Advisors have no speaking role at the Hearing. Advisors may confer quietly with the Party they have attended in support of during time periods that the Party is not selected to field questions.

4. Rules of Order and Decorum

All individuals participating in or present for a hearing must act in a professional and respectful manner. The University prohibits all individuals participating in or present for a hearing from acting in an intimidating, abusive, and/or aggressive manner, as defined by the Decisionmaker overseeing the live hearing. Examples of intimidating, abusive, and/or aggressive behavior may include, but is not limited to:

- Yelling
- Using profane or inappropriate language
- Interrupting
- Making threats of any kind
- Engaging in behavior that violates this Policy, Simmons' Notice on Non-Discrimination, the Student Handbook, the Employee Handbook, the Faculty Policy Manual, or any other University policy or procedure
- Acts that disrupt the hearing, including, but not limited to, the inappropriate use of technology

If an Advisor refuses to comply with the rules of decorum established by this Policy, the Decisionmaker may remove the Advisor from the hearing. If a Party refuses to comply with the rules of decorum established by this Policy, the Decisionmaker may terminate the hearing and may reschedule the hearing for another date.

Individuals who violate the rules of decorum established in this Policy may be deemed in violation of, and subject to discipline under, the Simmons Student Code of Conduct, the Faculty Policy Manual, the Employee Handbook, or any other Simmons policy or procedure, as appropriate.

The rules regarding conduct set forth in this section also apply to all other proceedings, interviews, and meetings that take place as part of the Grievance Process.

L. Determination Regarding Responsibility

The Decisionmaker will engage in an objective evaluation of all evidence that is Relevant and not Impermissible Information (including both inculpatory and exculpatory evidence) for its persuasiveness, and will engage in credibility determinations that are not be based on a person's status as a Complainant, Respondent, or witness.

Within fourteen (14) business days following the date the hearing concludes, the University will notify the Parties in writing of the Decisionmaker's determination as to whether Sex Discrimination occurred, including

the rationale for such determination and the procedures and permissible bases for the Complainant and Respondent to appeal, if applicable¹¹.

If there is a determination that Sex Discrimination occurred, the Title IX Coordinator will, as appropriate:

- Coordinate the provision and implementation of remedies to a Complainant and other persons the University identifies as having had equal access to the University's Education Program/Activity limited or denied by Sex Discrimination,
- Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions, and
- Take other appropriate prompt and effective steps toward eliminating and/or precluding Sex Discrimination from continuing or recurring within the University's Education Program/Activity.

The University will not impose discipline on a Respondent for Sex Discrimination unless there is a determination at the conclusion of the Grievance Process that the Respondent engaged in Sex Discrimination.

The determination regarding responsibility shall become final either on the date that the University provides the Parties with the written notification of the result of any appeal, if an appeal is submitted, or if an appeal is not submitted, the date on which an appeal of the determination regarding responsibility would no longer be considered timely.

M. Disciplinary Sanctions and Remedies

If there is a determination that Sex Discrimination occurred, the Title IX Coordinator will, as appropriate:

- Coordinate the provision and implementation of remedies to a Complainant and other persons the University identifies as having had equal access to the University's Education Program/Activity limited or denied by Sex Discrimination,
- Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions¹², and

¹¹ In matters involving Sex-Based Harassment, written notice of the determination will be provided to the Parties simultaneously, and will also include the following information: (a) a description of the alleged Sex-Based Harassment; (b) information about policies and procedures that the University used to evaluate the allegations; (c) the Decisionmaker's evaluation of the Relevant evidence that is not Impermissible Information; (d) when the Decisionmaker finds that Sex-Based Harassment occurred, information regarding any disciplinary sanctions imposed on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the University to the Complainant, and, to the extent appropriate, other students identified to be experiencing the effects of the Sex-Based Harassment.

¹² Various individuals may be involved in determining appropriate disciplinary sanctions. For instance, and without limitation, in deciding appropriate disciplinary sanctions, the following individuals may be involved for a Respondent who is a: (a) student: the Dean

- Take other appropriate prompt and effective steps to ensure that Sex Discrimination does not continue or recur within the University's Education Program/Activity.

Other than the Appeals Officer, no individual school, department, or person may reverse or alter a Decisionmaker's determination and/or any sanction or remedy ordered upon a determination that Sex Discrimination occurred.

The range of disciplinary sanctions is described below. The published ranges are purely for purposes of notice as to the possible range disciplinary sanctions and do not reflect the probability that any particular outcome will occur.

Examples of disciplinary sanctions that may be imposed include, but are not limited to, the following:

- A copy of the determination of responsibility being placed in an employee's personnel record or in a student's student record, as applicable;
- Paid or unpaid suspension from employment;
- Termination from employment;
- Referral to the faculty's member's Dean for consideration relating to revocation of tenure and/or dismissal;
- Written disciplinary warning (for employees, this would be maintained in the employee's personnel record);
- Exclusion from Simmons-related events;
- Probation (meaning, a set period of time during which the student or employee is given the opportunity to modify behavior, to complete specific assignments, to meet with designated persons, and to demonstrate positive contributions to the University community);
- Removal from Simmons-supported and/or on-campus housing;
- Loss of Simmons-related privileges;
- Removal from a Simmons-authorized sports team, group, club, or organization;
- Student suspension from Simmons (meaning, exclusion from classes and from all privileges and activities of the University, for a defined period of time);

of Students and Director of the Office of Accessibility Services; (b) faculty member: the Provost and/or Dean; or (c) staff member: the respective Vice President and/or staff member's manager.

- Student expulsion from Simmons (meaning permanent termination of the student’s status without the possibility of readmission to the University);
- Participation in or review of an in-person or online educational workshop or webinar;
- Any measure listed as a Supportive Measure in this Policy; and/or
- Other time-limited or permanent restrictions on access to the University’s programs and activities.

A Party’s violation or failure to fulfill any assigned sanction may be deemed a violation of this Policy and/or the Simmons Student Code of Conduct or Employee Handbook, as appropriate. Should a Party be found to have violated or failed to fulfill any assigned sanction, the Party may be subject to additional sanctions, including and up to expulsion (for students) and termination (for faculty and staff).

Remedies may include the same individualized services described as Supportive Measures, however, remedies may be disciplinary or punitive and may place a burden the Respondent.

VI. APPEALS PROCESS

Both the Complainant and the Respondent are entitled to appeal: (a) dismissal by the Title IX Coordinator of a Complaint or any allegations in a Complaint, and/or (b) a determination whether Sex Discrimination (including, but not limited to, Sex-Based Harassment) occurred. No Party may appeal the severity or proportionality of disciplinary sanctions imposed in conjunction with a determination of responsibility. The University will implement the appeal procedures equally for the Parties.

A. Grounds for Appeals

A Party’s appeal must be based upon at least one of **three grounds** for appeal:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the determination whether Sex Discrimination (including, but not limited to, Sex-Based Harassment) occurred or dismissal was made; and
3. The Title IX Coordinator, Investigator, or Decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

B. Process for Filing Appeals

The appealing Party must submit the appeal to the Title IX Coordinator in writing within **ten (10) calendar days** of the date the determination regarding responsibility or decision dismissing all or part of the Complaint was issued to the appealing Party.

The appeal must include a written, succinct summary addressing:

- The basis (or bases) for the appeal, which must include specific reference to one or more of the three grounds for an appeal;
- A description of the procedural error(s), the new evidence, and/or bias. If new evidence is being presented, it is important that the Appellant indicate why it was not available at the time the determination regarding responsibility was made. No matter the basis (or bases) for the appeal, the Appellant must describe in detail how the outcome of the matter was affected or could be affected, as appropriate depending on the basis of the appeal.

Upon receipt of an appeal by either Party, the Title IX Coordinator will notify the other Party in writing that the appeal has been filed so long as the other Party was on notice already of the Complaint, and will provide that Party with a copy of the appeal. The Title IX Coordinator will also include notice of the allegations to the Respondent in writing, as appropriate, if notice was not previously provided to the Respondent. The Title IX Coordinator will notify the Parties as to who has been selected to serve as the Appeals Officer on the appeal. The Appeals Officer will not have taken part in the investigation of the allegations or dismissal of the Complaint, as applicable.

Both Parties have five (5) calendar days from the date the Title IX Coordinator notifies the other Party of the appeal to submit to the Title IX Coordinator (either in hard copy or via email), should they wish to do so: (a) a written statement in support of, or challenging, the outcome (i.e. the finding regarding responsibility or dismissal of the Complaint), and/or (b) a written statement describing any perceived conflicts of interest and/or perceived bias relating to the selected Appeals Officer. The Title IX Coordinator will consider the nature of the alleged conflict and/or bias and determine whether to assign a different individual as Decisionmaker. The Title IX Coordinator's decision is final.

Once time has expired for the Parties to submit their respective written statements to the Title IX Coordinator in support of or challenging the outcome, and identifying any perceived conflicts of interest or bias, the Title IX Coordinator will forward to the Appeals Officer all pertinent materials.

C. Determination of Appeal

The Appeals Officer shall review the appeal(s) and all pertinent materials. The Appeals Officer may seek guidance from other individuals. The burden of proof to succeed in the appeal rests with the Appellant (the person who submitted the appeal). The appeal is not a fresh or “de novo” review of the entire matter.

Within thirty (30) business days of receipt of the pertinent materials from the Title IX Coordinator, the Appeals Officer will issue a written decision simultaneously to Parties that describes the result of the appeal and the rationale for the result, subject to any approved delays or extensions of deadlines permitted or granted by the Title IX Coordinator or Appeals Officer for good cause. The Appeals Officer may do the following: affirm or modify the original determination regarding responsibility or dismissal of all or part of the Complaint, and/or remand the matter to the Decisionmaker for additional action on one or more issues as specified by the Appeals Officer.

VII. TIMING

The University will in most instances resolve matters going through the Grievance Process, but exclusive of any appeal of a determination regarding responsibility, within ninety (90) calendar days of the date the Title IX Coordinator received the Complaint, subject to any approved delays or extensions of deadlines permitted or granted by the Title IX Coordinator for good cause.

Parties may request and be granted for good cause reasonable extensions of any deadlines imposed within the Grievance Process per the discretion of the Title IX Coordinator on a case by case basis. To request a reasonable extension, a Party must submit the request detailing the basis for the request via email to the Title IX Coordinator. The Title IX Coordinator may request documentation relating to the Party’s request in conjunction with their review of the request. The Title IX Coordinator’s decision relating to the Party’s request is final.

The University will provide the Parties with written notice of any delay or extension and the reasons for the action.

A Party will be deemed to have received an email on the date the sender sends the email. In the event the University is unable in any case to meet these designated timeframes, the University will provide notice to the Parties of the extension and the reasons for the extension.

VIII. RETALIATION

Simmons University is committed to responding to reports of Sex Discrimination and encourages members of the community to report such incidents without fear of retaliation. The University strictly prohibits retaliation, including peer retaliation, which means no person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, including Appendix A. Retaliation, whether actual or threatened, destroys the sense of community and trust that is critical to a learning and work environment.

Retaliation can be committed by an individual or a group, and can take many forms. For instance, any Party who shares information with others regarding any determination of responsibility (including information contained in the determination of responsibility) for the purpose of harming, embarrassing, or humiliating a Party or witness may be deemed to have engaged in retaliatory conduct prohibited by this Policy. All retaliation is prohibited, regardless of how or where it is done, including retaliation committed in person, through electronic means, social media, or some other mode or platform.

Reports of potential retaliation will trigger the Grievance Process, as applicable, and/or, as appropriate, the opportunity to engage in an informal resolution process.

Individuals found to have retaliated may be subject to disciplinary action, up to and including dismissal or exclusion. Retaliation may also be treated as a violation of, and/or processed under, Simmons' Student Code of Conduct, Employee Handbook, or any other Simmons policy or procedures, as applicable and appropriate.

Retaliation should be reported promptly to the Title IX Coordinator. The University shall keep confidential the identity of any individual who has made a report of Sex Discrimination and those individuals who participate in the Grievance Process following the filing of a Complaint, except as needed to: conduct the Grievance Process ; implement Supportive Measures, remedies or disciplinary sanctions; document the existence of the determination of responsibility; and/or comply with law or regulation.

IX. RECORD RETENTION¹³

The University shall maintain for a period of seven (7) years from the date a record is created:

- For each complaint of Sex Discrimination, records documenting any informal resolution process and/or the Grievance Procedures, and the resulting outcome.
- For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute Sex Discrimination under Title IX or its attendant regulations, including any notifications by Responsible Employees, records documenting the actions the University took to meet its obligations under Title IX and its attendant regulations.
- All materials used to provide training required under the Title IX regulations. The University will make these training materials available upon request for inspection by members of the public.

¹³ When sharing information for purposes of complying with its obligations under the Clery Act, Simmons shall not include a Complainant's personally identifiable information.