

# CABRINI UNIVERSITY

## Sexual and Gender-Based Harassment and Misconduct Policy

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1. Introduction
2. The Law
3. Scope & Jurisdiction
4. Title IX Coordinator
5. Definitions
6. Prohibited Conduct
7. Statement on Privacy and Confidentiality
8. How to Report an Incident of Sexual and Gender-Based Harassment & Misconduct
9. Grievance Process
10. Formal Grievance Process
11. Sanctions & Remedies
12. Appeals
13. Statement of Rights of the Complainant
14. Statement of Rights of the Respondent

### **Appendices:**

- A. Campus & Community Resources
- B. Supportive Measures to Protect Safety & Well-Being
- C. Title IX Notice
- D. Notice of Non-Discrimination
- E. Prevention & Education Efforts

## **1. INTRODUCTION**

Cabrini University seeks to foster and maintain a safe community of mutual respect and concern for all of its members. The University expects all members of the Cabrini community to conduct themselves in a manner consistent with its published policies, including but not limited to the Cabrini Mission Statement and its Core Values as described in the Community Standards for Student Conduct, the Faculty Handbook, the Employee Handbook, and this Sexual and Gender-Based Harassment and Misconduct Policy. There can be no greater violation of the terms of that community, or of the essential dignity of any member of it, than an act of sexual or gender-based violence or harassment. Sexual misconduct, including sexual harassment and sexual violence, is prohibited and will not be tolerated in any form. These acts constitute the deepest affront to Cabrini standards, and the University is committed to addressing and preventing sexual misconduct within its community through the application of the University's Sexual and Gender-Based Harassment and Misconduct Policy (hereafter "Policy").

Title IX of the Education Amendments of 1972 (Title IX) states that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." This Policy will define the scope and jurisdiction of Title IX governance within the Cabrini Community, provide definitions of prohibited conduct, explain how to report an alleged violation, and detail the grievance process along with adjudication procedures, sanctions, remedies, appeals, and rights of the parties.

Cabrini maintains its commitment to the safety, health, and well-being of those affected by sexual misconduct, harassment and discrimination. Pursuant to the applicable laws and regulations governing the prohibited conduct, Cabrini has developed a process to specifically address these concerns. This process differs from the student conduct process that is highlighted in the Cabrini University Community Standards for Student Conduct. Cabrini requires all members of its community to review and understand the terms of this Policy, along with all other published policies impacting the Community.

Confidential and non-confidential (yet private) options for support and reporting are available both on and off campus, and are described in more detail in Section 5 and Appendix A.

Due to the nature of incidents involving gender-based violence, sexual misconduct and sexual harassment, Cabrini University has developed a process to specifically address these concerns. As a result, the investigation and adjudication process for incidents of gender-based violence, sexual misconduct and sexual harassment will differ from the student conduct process that is highlighted in the Cabrini University Community Standards for Student Conduct.

## **2. THE LAW**

Title IX of the Education Amendments of 1972 is a federal law prohibiting sex and gender-based discrimination in education programs or activities. The law forbids discrimination based on sex in all university education programs or activities including, but not limited to, admissions, financial aid, academic advising, residential life, athletics, discipline, recreational services, health, wellness

and support services, academic assignments and grading. Title IX also forbids discrimination based on sex in university employment and recruitment consideration or selection.

Cabrini reserves the right to address sexual and gender-based misconduct, harassment, and discrimination affecting its students or employees that fall outside Title IX's jurisdiction in any manner the University chooses, including providing supportive measures or pursuing discipline.

The Office for Civil Rights (OCR) in the U.S. Department of Education is responsible for enforcing Title IX. OCR engages in compliance enforcement to ensure that institutions that receive certain federal funds comply with Title IX and its mandates.

### **3. SCOPE & JURISDICTION**

All members of this community, including current and prospective students, faculty, staff, employees, applicants for employment, persons doing business with or acting on behalf of the University, and visitors to campus – are afforded the protections provided under this Policy, and are also bound by its terms. All community members share in the responsibility for creating and maintaining an environment that promotes the safety and dignity of each person. Towards that end, this Policy provides the framework for addressing all forms of discrimination within our community, preventing its occurrence and recurrence, and addressing its effects.

#### **Jurisdiction**

This policy applies to the educational program and activities of the University, to conduct that takes place on the campus or on property owned or controlled by the University, at University-sponsored events, or in buildings owned or controlled by University recognized student organizations.

The Respondent must be a member of the University community in order for its formal resolution procedures to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to the University's educational programs, as well as applicable to off-campus and/or to online conduct when the Title IX Coordinator determines, based on a reasonable discretion standard, that the conduct affects a substantial University interest.

Regardless of where the conduct occurred, the University will review reports of alleged prohibited conduct to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity.

#### **Duty to Report**

The University strongly encourages reporting of any incident to the Title IX Coordinator or persons designated in Appendix C and/or to local law enforcement.

*Select University employees*, including all faculty, and all professional staff members in Student Life, Athletics, Human Resources, and Public Safety, except those who must maintain confidentiality by

law (see Appendix A), are expected, and in some cases required, to report sexual assault, sexual harassment, and other sexual misconduct to the University authorities designated in this Policy.

When an incident is reported, the University will respond promptly and in a manner that is not deliberately indifferent to allegations of sexual misconduct, sexual violence, or sexual harassment. Anyone making a report, filing a complaint, or participating in the investigation or resolution of an allegation of sexual or gender-based misconduct, harassment or discrimination, is protected by law and by this Policy from retaliation (see Section 6). The University will take prompt responsive action to any allegations of retaliation consistent with the terms of this Policy.

#### **4. TITLE IX COORDINATOR**

The University has appointed Nikki Gillum-Clemons, SHRM-CP, Director of Human Resources, as its Title IX Coordinator. The Title IX Coordinator oversees the University's processes and procedures arising under this Policy, and coordinates the University's compliance with Title IX. See Appendix C for the complete Title IX Notice. The Title IX Coordinator is responsible for the development, implementation, and efforts associated with Title IX Compliance. The University's Title IX Coordinator is also responsible for ensuring that individuals engaged in the processes and procedures outlined in this Policy are provided with information about supportive measures and access to appropriate resources.

#### **Educational Programs and Prevention**

The prevention of prohibited conduct pursuant to this policy and the establishment of educational programs is a priority for Cabrini University and its community. The University educates its community about sexual and gender-based misconduct, harassment and discrimination through diverse educational opportunities and trainings for faculty, professional staff, and students. These include, but are not limited to, mandatory on-line employee training, educational programs for freshman and transfer-student orientation each fall, in-person programs for residential living, and programs offered to and/or required of all athletic teams, coaches and other personnel.

The Title IX Coordinator, in conjunction with the Title IX Investigator and Education Officer, offer sexual assault education and information programs to University students and employees upon request.

#### **5. DEFINITIONS**

##### **Complainant**

When used in this Policy, "Complainant" is an individual who is alleged to be the victim of conduct that, if true, would violate the terms of this Policy.

While parents/guardians are not considered Complainants, they have the right to act on behalf of the Complainant and may file formal complaints.

In some cases, Cabrini University may serve as the Complainant (e.g., in cases where a person involved in an incident of alleged sexual violence does not wish to participate in the process, but the University decides that the alleged misconduct needs to be addressed through the process).

### **Respondent**

A “Respondent” is an individual who has been reported to be the alleged perpetrator of conduct that, if true, would constitute a violation of the terms of this Policy.

### **Coercion**

Coercion is defined as the application of unreasonable pressure to take part in a sexual activity or in any of the prohibited conduct outlined in this Policy through the use of physical or emotional force, intimidation, abuse of authority or threats.

### **Consent**

Consent is defined as a voluntary, unambiguous and freely given agreement, expressed through words, actions, or a combination thereof, to engage in a mutually agreed upon sexual activity. In evaluating whether consent has been freely sought and given, the University will consider the presence of any force, threat of force, or coercion; whether the Complainant had capacity to give consent, and whether the communications between the parties would be interpreted by a reasonable person under similar circumstances as consent to engage in a particular act.

Also in evaluating consent, it is important to note that:

- Consent to one form of sexual activity does not imply or constitute consent to another form of sexual activity;
- Consent to sexual activity on prior or separate occasion does not constitute consent for subsequent occasions;
- Consent to an act with one person does not constitute consent to the same act with another person;
- The existence of a prior or current intimate relationship does not, by itself, constitute consent;
- Consent can be withdrawn or modified at any time, and sexual contact must cease immediately once consent is withdrawn;
- Consent cannot be inferred from the absence of a “no;”
- It is the responsibility of the initiator of sexual contact to make sure that they understand fully what the person with whom they are involved wants and does not want sexually; and
- Consent cannot be inferred from silence, passivity, or a lack of verbal or physical resistance.

Consent *cannot* be given when:

- A person’s judgment is substantially impaired by alcohol or drugs or otherwise incapacitated;
- Intimidation, coercion or threats are involved;
- Physical force is used;

- A physical or mental condition is present such that the person cannot knowingly or voluntarily give consent; or
- A person has not achieved the age required for consent, as defined by state law.

An objective standard will be used in determining whether a person's judgment is "substantially impaired" by alcohol or drugs, or a physical or mental condition as described above is present. That is, consent is *not valid* when:

- From the standpoint of a reasonable person, the Respondent knew, or reasonably should have known, that the person's judgment was substantially impaired as a result of alcohol or drugs or was otherwise incapacitated, or that the person's physical or mental condition would prevent knowing and voluntary consent; or
- The person's judgment was, in fact, substantially impaired as a result of alcohol, drugs, or the person was incapable of providing knowing or voluntary consent due to a physical or mental condition.

The use of alcohol or drugs does not minimize or excuse a person's responsibility for alleged violations of this Policy, including as it relates to determining whether another is capable of giving consent, as described above.

### **Formal Complaint**

A formal complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging a violation of the terms of this Policy against a Respondent or Respondents and requesting that the University investigate such alleged violation.

### **Investigation**

The investigation will be conducted by neutral, unbiased and trained investigators. During the course of the investigation, the investigator will typically conduct interviews with the Complainant, the Respondent and third-party witnesses; gather any evidence from the Complainant, the Respondent and/or any witnesses; visit and take photographs and review video at each relevant site as appropriate; and, where appropriate, coordinate with law enforcement agencies to collect and preserve relevant evidence.

### **Investigative Report**

Prior to the completion of the investigation, the investigator will prepare a preliminary investigative report, containing relevant and directly related evidence obtained through the investigation, even if such evidence does not end up being relied upon by the decision-maker in making a determination regarding responsibility.

The parties will have an equal opportunity to inspect and review the preliminary investigation report and evidence. The University will provide the evidence made available for each party and each party's Advisor, if any, to inspect and review. The parties will have ten (10) business days to inspect and review the evidence and submit a written response to the investigator, including any additional information or comment, or request that additional investigative steps be taken. The investigator

will review and consider the parties' written responses, and will conduct any additional investigative steps, as needed, before completing a Final Investigative Report.

### **Supportive Measures**

Supportive measures are individualized services reasonably available to both Complainants and Respondents that are non-punitive, non-disciplinary, and not reasonably burdensome to the other party while designed to restore or preserve equal access to the University's employment and/or educational program or activity, protect safety, and/or deter sexual harassment.

## **6. PROHIBITED CONDUCT**

### **Dating Violence**

Dating Violence, as formally defined in 34 U.S.C. § 12291(a)(1), means any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. 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; and
- The frequency of interaction between the persons involved in the relationship.

### **Domestic Violence**

Domestic violence, as formally defined in 34 U.S.C. § 12291(a)(8), means a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

### **Inappropriate Sexual Conduct**

Inappropriate sexual conduct includes unwelcomed sexual conduct that does not meet the definition of sexual assault but is sexually violating in nature. It includes but is not limited to the following:

- Nonconsensual physical contact of a sexual nature. This includes intentional contact with intimate body parts, including but not limited to, the breasts, buttocks, groin, mouth, or genitals;
- Sexually exploitative behavior. Examples include but are not limited to:

- Capturing, through any means, images of sexual activity, sexually explicit images, or another's nudity without consent, and/or sharing this material with others without all participants' consent;
- Viewing or allowing or aiding others to view sexual activity or another's nudity without all participants' consent; and/or
- Indecent exposure, which includes a display of genitals or other private body parts, whether in-person or through media, without the consent of the recipient.

*Exception:* This section is not intended to prohibit the use of sexually explicit materials that are reasonably related to the academic mission of the University. Specifically, this section is not intended to proscribe or inhibit the use of sexually explicit materials, in or out of the classroom, when in the judgment of a reasonable person they arise appropriately to promote genuine discourse, free inquiry, and learning.

### **Retaliation**

Retaliating directly or indirectly against a person who has in good faith filed, supported, or participated in an investigation of a complaint of sexual misconduct as defined above is prohibited.

Retaliation includes but is not limited to ostracizing the person, pressuring the person to drop or not support the complaint, providing false or misleading information, or engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living, or work environment.

Except as required by law, or as necessary to carry out the Grievance Process, the University will keep confidential the identities of the Complainant, Respondent and any witnesses.

The University will take immediate responsive action to instances of retaliation when made aware of such instances. Individuals who, in bad faith, provide false or misleading information may be charged with code of conduct violations.

### **Sexual Assault**

Sexual Assault, as formally defined in 20 U.S.C. § 1092(f)(6)(A)(v), means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent (such as incapacitation, age, family relation to the other party, or intellectual or other disability). Sexual Assault can be committed by or against individuals of any sex or gender and can occur between individuals of the same sex/gender or different sexes/genders. The University will rely on the definition of sexual assault provided in the Federal Uniform Crime Reporting system, which includes the following:

- i. sexual intercourse with another person, including oral or anal sexual intercourse, or the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without 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;



- ii. 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 their age or because of their temporary or permanent mental or physical incapacity;
- iii. sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- iv. sexual intercourse with a person who is under the statutory age of consent.

### **Sexual or Gender-Based Discrimination**

Sexual discrimination is defined as disparate treatment of an individual on the basis of sex or gender, and may include but is not limited to unfair treatment, attitudes, or behaviors towards an individual on the basis of their sex or gender.

### **Sexual Exploitation**

Sexual Exploitation means to take advantage of another person without consent, including but not limited to:

- Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person;
- Causing the prostitution of another person;
- Recording, photographing or transmitting identifiable images of private sexual activity and/or the intimate parts (including genitalia, groin, breasts or buttocks) of another person;
- Allowing third parties to observe private sexual acts;
- Engaging in voyeurism; and/or
- Knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection, including HIV.

### **Sexual Harassment**

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

- an individual conditioning the provision of an aid, benefit or service on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo);
- unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to an education program or activity (i.e., hostile environment); and/or
- sexual assault (as defined by Clery Act), or "dating violence," "domestic violence" and "stalking" (as defined by Violence Against Women Act).

### **Sexual Misconduct**

Sexual misconduct includes many behaviors including rape, non-consensual sexual contact, sexual assault, sexual violence, sexual harassment, sexual exploitation, indecent exposure and any other

discriminatory or harassing conduct, whether physical or verbal, based on sex or gender that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing a person.

### **Stalking**

Stalking, as formally defined in 34 U.S.C. 12291(a)(30), means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. This definition includes cyber stalking, a particular form of stalking in which electronic media is used to pursue, harass, or make unwelcome contact with another person.

### **Prohibited Romantic or Sexual Relationships**

The following policy sets forth rules and guidelines for employees regarding relationships in the workplace. Faculty members should consult the Faculty Handbook for additional information. Because of the relationship of trust between Cabrini employees and Cabrini students, Cabrini takes this policy seriously, and employees who violate this policy will be subject to discipline, up to and including termination from employment.

### **Undergraduate Students**

Cabrini University prohibits intimate, romantic, or sexual relationships between Cabrini employees and Cabrini undergraduate students. For purposes of this policy, the word “student” includes undergraduate students of any age, those who are part-time or full-time, and those who are enrolled in online programs. This prohibition against relationships with undergraduate students applies to all employees. In particular, this policy applies to resident assistants, resident directors, athletic trainers, full- or part-time athletic coaches, teaching or graduate assistants, adjunct faculty, laboratory assistants, facilities employees, and clinical preceptors. If an employee has a relationship with an individual who seeks to become or becomes a student (for example, the employee’s spouse or partner has enrolled as an undergraduate student), the employee should inform Human Resources immediately.

If you have a question about whether a relationship with a student may violate this Policy or need to declare a relationship, please confer with Human Resources.

### **Graduate Students**

Cabrini prohibits intimate, romantic, or sexual relationships between Cabrini employees and Cabrini graduate students when the Cabrini employee is (or might reasonably be expected to be) in a position of power or authority over that graduate student. This means Cabrini faculty and staff may not engage in an intimate, romantic, or sexual relationship with a graduate student enrolled in any course, academic program, or department in which that faculty member, regardless of rank, teaches, advises, or holds an appointment. If an employee has a relationship with an individual who seeks to become or becomes a student (for example, the employee’s spouse or partner has enrolled as a graduate student), the employee should inform Human Resources immediately.

If you have a question about whether a relationship with a student may violate this Policy or need

to declare a relationship, please confer with Human Resources.

### **Direct Reports and Supervisory Relationships**

Cabrini prohibits employees with supervisory or evaluative authority from engaging in intimate, romantic, or sexual relationships with those employees they supervise, evaluate, or over whom they otherwise have direct or indirect influence or authority. Such relationships can compromise professional integrity and may generate claims of unfair treatment by others. If a promotion or change in reporting structure leads to this situation, or if such a relationship develops, the manager or supervisor must notify the Vice President or Dean who oversees the employee's department so that the University can ensure unbiased supervision and evaluation of the employee. Failure to report such a relationship is considered a violation of this Policy.

Once a relationship is reported, it is the Vice President's or Dean's responsibility to notify Human Resources so the situation can be addressed promptly and confidentially. Circumstances may necessitate a transfer or reassignment of one or more employees to address the conflict, actual or perceived. It is the responsibility of both employees to cooperate in actions taken to eliminate any actual or potential conflicts of interest and to mitigate adverse effects on other employees and/or third parties.

All violations of this Policy should be reported to Human Resources for investigation and appropriate administrative action, which could include disciplinary action up to and including loss of employment. Retaliation against anyone who reports concerns about consensual relationships is prohibited and constitutes a separate violation of this Policy.

## **7. STATEMENT ON PRIVACY AND CONFIDENTIALITY**

### **Privacy and Confidentiality: Understanding the Differences**

The University is committed to protecting the privacy of all individuals involved in the investigation and resolution of reports under this Policy. The University also is committed to assisting students, employees, and third parties in making informed choices. With respect to any report under this Policy, the University will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. All University employees who are involved in the University's Title IX response receive specific instruction about respecting and safeguarding private information.

Privacy and confidentiality have distinct meanings under this Policy.

### **Privacy**

"Privacy" generally means that information related to a report of Prohibited Conduct will only be shared with a limited circle of individuals who "need to know" in order to assist in the assessment, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the University’s FERPA policy. The privacy of an individual’s medical and related records may be protected by the Health Insurance Portability and Accountability Act (“HIPAA”).

While there are certain limitations on privacy, the University generally will not release the names of the Complainant or Respondent to the general public without express written consent or absent another exception consistent with the law. The release of names will be guided by applicable law, including the Family Educational Rights and Privacy Act (FERPA) and the Clergy Act.

In addition, no information shall be released from a proceeding to enforce this Policy except as required or permitted by law and University policy.

### **Confidentiality**

“Confidentiality” generally means that information shared by an individual with designated “Campus Confidential Resource” (see Appendix A for list of Campus Confidential Resources) cannot be revealed to any other individual without the express permission of the individual.

The confidentiality of information shared by an individual with designated “Campus Confidential Resource” generally is governed by law, including restrictions on disclosure of information by mental health providers, ordained clergy, rape crisis counselors, and attorneys, all of whom have legally protected confidentiality. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others.

An individual who seeks confidential assistance may do so by speaking with “Campus Confidential Resource” who have a legally protected confidentiality.

The confidential resources available to individuals on campus are listed in Section Confidential Reporting Options, below. Note, however, that these confidential resources are required by state law to notify child protective services and/or local law enforcement of any report which involves suspected abuse of a minor under the age of 18.

## **8. HOW TO REPORT AN INCIDENT OF SEXUAL AND GENDER-BASED HARASSMENT AND MISCONDUCT**

Any person may make a report of an alleged violation of this policy in person, by mail, by telephone, by e-mail, or by any other means that results in the Title IX Coordinator receiving the verbal or written report. The report may be made regardless of whether or not the person reporting is the person alleged to be the victim of conduct that could constitute an alleged violation of this Policy. Supportive measures will be offered to the Complainant whether or not they file a formal complaint. Information on how to file a formal complaint will also be provided.

A Complaint may also be filed through EthicsPoint, Cabrini’s on-line reporting tool. The reporting person may choose to remain anonymous. The dedicated website to make an on-line report through EthicsPoint can be found here: <https://www.cabrini.edu/about/departments/human-resources/anonymous-reporting>

An individual may pursue a complaint through the criminal process or through the University disciplinary process consecutively or concurrently.

The University encourages individuals who have experienced physical or sexual violence to seek immediate medical treatment and to make a prompt report to law enforcement in response to an incident of sexual violence in order to address immediate safety concerns, allow for the preservation of evidence, and trigger a prompt investigative and remedial response. When the incident is reported to a campus resource (Title IX Coordinator/Deputy Title IX Coordinator, faculty member, professional staff member in Student Life, Athletics, Human Resources, or Public Safety), the University will help the individual get to a safe place and assist the individual in seeking immediate medical attention or in reporting an allegation to local law enforcement if he/she so chooses. The University will provide transportation to the hospital, assist with notification of local law enforcement as requested, and provide information about the University's resources and complaint process. The University will also provide appropriate Supportive Measures, as needed, to help ensure the safety and well-being of the parties affected.

Faculty, Staff and Administrators should make known to all of their members the available resource offices for information, counseling and support, as well as the informal and formal procedures for resolving complaints of sexual harassment.

See Appendix B for more details on Supportive Measures.

### **Reporting Options and Resources**

<b>Cabrini University Department of Public Safety</b>	610-902-8111
<b>Local Law Enforcement: Radnor Township Police</b>	610-688-0503

### **Medical/Hospital Care:**

<b>Philadelphia Sexual Assault Response Center</b>	215-425-1625
<b>Bryn Mawr Hospital</b>	484-337-3000

### **Support/Resources:**

<b>Philadelphia Domestic Violence Hotline</b>	866-723-3014
<b>National Domestic Violence Hotline</b>	800-799-7233 (SAFE)
<b>National Sexual Assault Hotline</b>	800-656-4673 (HOPE)
<b>Delaware County Victim Assistance Center</b>	610-566-4342
<b>Women Against Rape</b>	215-985-3333

An individual's physical well-being should be addressed as soon as possible, whether or not that individual wishes to make a report to the University or local law enforcement. A medical provider can provide emergency and/or follow-up medical services, which has two goals: first, to diagnose and treat the full extent of any injury or physical effect and second, to properly collect and preserve evidence. There is a limited window of time (typically 72 to 96 hours) following an incident of sexual violence to preserve physical and other forms of evidence for proof of a criminal offense. In the event of a report immediately following an incident of sexual violence, an individual is encouraged to not shower, bathe, douche, brush teeth, drink, or change clothing prior to seeking medical treatment. Similarly, any clothing or bedding should remain untouched pending collection by law enforcement. Whether or not an individual has chosen how to proceed at the time of the medical examination, taking the step to gather evidence will preserve the full range of options to seek resolution through the University's Grievance Processes or through the pursuit of criminal action. Please note that under Pennsylvania law, a medical provider may be required to notify law enforcement of a reported sexual assault under most circumstances. Although the medical provider will provide information to law enforcement, the individual may decline to speak with a law enforcement officer or participate in a criminal prosecution.

### **Confidential Reporting Options**

There are options for individuals to confidentially report alleged violations of this Policy. The degree to which confidentiality can be protected depends upon the professional role of the person being consulted.

Professional counselors and medical staff are able to provide confidentiality (within reasonable limits as described below) and will not disclose the details of your report to any outside source. They include counselors such as those employed by the Cabrini University Counseling and Psychological Services, Cabrini University Health Services.

Exceptions to maintaining confidentiality are generally set by law; for example, confidential resources may need to report certain incidents. The grounds for breaking confidentiality include when a minor or elderly person is involved in an allegation of abuse; there is imminent harm to self or others; or an individual has been subpoenaed or court ordered to testify in a criminal case.

Contact information for confidential sources on campus are:

<b>Health Services</b>	610-802-8400
<b>Counseling and Psychological Services</b>	610-902-8561

### **Formal Reporting Options**

University employees as identified in Section 3 of this Policy are required as part of their role to report incidents. Federal law requires these staff members to report information and they are not able to maintain confidentiality. Mandatory reporters are required to report the details of any incident to the Title IX Coordinator or appropriate deputy Title IX Coordinator. The report must include, if known, the name of the alleged Complainant, the alleged Respondent, and the date, time, location, and nature of the incident.

Prior to information being disclosed, the employee should make clear to the complaining individual that they are not a confidential resource and refer the individual to the appropriate confidential resources if they do not want the information shared to be disclosed. In so doing, however, the employee should take care that in identifying themselves as a non-confidential resource that they do not discourage an individual from making a report or otherwise seeking assistance.

### **Requests for Confidentiality**

Cabrini University will make every effort reasonably possible to preserve an individual's privacy and protect the confidentiality of information. If the individual does not wish to pursue a formal complaint and/or requests that their complaint remain confidential the individual will be informed that the University's ability to respond may be limited, and that Title IX still requires the University to investigate and take reasonable action in response to the individual's information. The following factors will be considered when assessing the individual's request for confidentiality: the severity of the alleged violations of this Policy; whether there have been other complaints of alleged violations of this Policy against the same alleged Respondent; any ongoing threat posed to the greater Cabrini community; and the alleged Respondent's right to receive information about the allegations if the information is maintained by the University as an "education record" under FERPA. Students alleged with a violation of Community Standards for Student Conduct are afforded certain rights, one of which includes the ability to know one's accuser. The Respondent will be provided with the name of the individual.

### **Amnesty - Drug and Alcohol Use**

Cabrini University's primary concern is ensuring that individuals feel comfortable reporting a complaint and are able to safely access resources when in need. As such, the University does not want to discourage victims from reporting an incident because they have participated in the consumption of alcohol or drugs in a manner which may constitute a violation of local, state, or federal law, or a separate violation of another University Policy. To ensure members of the Cabrini Community feel safe reporting alleged violations of this Policy without fear of sanction, the University will not subject any individual involved in the formal grievance process detailed in this policy to disciplinary proceedings if alcohol or drug consumption that is in violation of the Community Standards for Student Conduct has taken place at the time of the incident. The University may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drug use. In addition, the use of alcohol and/or drugs by either party will not diminish the alleged student's responsibility as consent is not valid if given while an individual is incapacitated by alcohol and/or drugs.

## **9. OVERVIEW OF GRIEVANCE PROCESS**

### **Intake**

Upon receipt of an allegation of a violation of this Policy, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures and explain both the formal and informal grievance procedures outlined in this Policy (Appendix B). There is no time limit to invoking this Policy. Nevertheless, students, faculty and staff are encouraged to report allegations of violations of this Policy immediately in order to maximize the University's ability to

obtain evidence, and conduct a thorough, impartial, and reliable investigation. Failure to promptly report alleged violations of this Policy may result in the loss of relevant evidence and witness testimony, and may impair the University's ability to enforce this Policy.

As a part of the initial intake process, the Title IX Coordinator will assess the nature and circumstances of the report to determine whether the reported conduct raises a potential violation of the Policy, address the immediately physical safety and emotional well-being of the Complainant and other impacted community members, notify the Complainant of their right to contact law enforcement, and notify the Complainant of their right to seek medical treatment.

### **Supportive Measures**

In all complaints of alleged violations of this Policy, Cabrini University will investigate and take prompt and effective action as is reasonably practical under the circumstances. This includes implementing supportive measures pending the investigation. Supportive Measures are defined as individualized services reasonably available that are non-punitive, non-disciplinary, and not reasonably burdensome to the other party while designed to ensure equal educational access, protect safety, and/or deter sexual harassment.

Such measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, and increased security and monitoring of certain areas of the campus. All Supportive Measures are outlined in Appendix B. Supportive measures are available to Complainants and Respondents alike, as well as witnesses or others impacted by alleged violations of this Policy.

### **Emergency Removal**

The Title IX Coordinator, in consultation with other university employees as appropriate, retains the right to remove a Respondent from the university's program or activities on an emergency basis. A Respondent may be removed from campus on an emergency basis when, based on an individualized threat assessment analysis, the university determines that an immediate threat to the physical health and safety of any individual exists. A Respondent who is subject to emergency removal from the university's programs or activities will be provided notice and an opportunity to appeal the decision immediately following removal.

A decision to temporarily remove a Respondent from campus on an emergency basis pending the outcome of the formal resolution process does not indicate a finding regarding the alleged policy violations.

### **Receipt of Report**

If the Complainant wishes to proceed through the Grievance Process outlined in this Policy, they must file a formal complaint. The formal complaint is defined as a document filed by the Complainant (or signed by the Title IX Coordinator or Deputy Title IX Coordinator) alleging a violation of this Policy against a named Respondent, including, to the best ability of the declarant, the date, time, and location of the alleged violation, and requesting that the University investigate. Complainants and Respondents will be provided a written copy of this Policy. Both the Complainant



and the Respondent have the right to have an advisor present to provide support during the process. The advisor may be present during the investigative process. The Complainant and/or the Respondent may use an advisor of their choice who is not affiliated with the University.

A Complainant may change their mind at any point in time and pursue a formal complaint, regardless of where they are currently engaged in the informal resolution process. Even if a Complainant does not wish to file a report or participate in any form of informal resolution, Cabrini University is still required to provide reasonable accommodations that are deemed appropriate for the situation, including but not limited to, directing appropriate University officials to alter the alleged victim's and/or Complainant's academic, housing, and/or employment arrangements, as well as assisting the Complainant with referrals to counseling and obtaining orders of protection. Any Supportive Measures taken will be designed to minimize the burden on both the Complainant and Respondent as much as possible.

### **Dismissals**

The University must dismiss a Formal Complaint made under the terms of this Policy if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the Formal Complaint would not constitute sexual harassment as defined in the Policy hereinabove, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by the University (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the University.

The University may dismiss a Formal Complaint made under the terms of this Policy if, at any time during the investigation or hearing:

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

Upon any dismissal, the University will promptly send written notice of the dismissal, and the rationale for doing so, simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal detailed below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate.

## **Notice of Allegations**

The University will promptly notify all Parties in writing of the filing of the Formal Complaint and will provide the Parties with information about the investigation and adjudication process, Alternative Resolution options, and available Supportive Measures. The written notice will include information regarding the allegations including any specific details known, information regarding University complaint resolution procedures, and information about supportive measures and the right to have an advisor.

## **Advisors**

The Parties may each have an Advisor of their choice present with them for all meetings and interviews within the resolution process, if they so choose. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available. Choosing an Advisor who is also a witness may create potential for bias and conflicts of interest, and the University reserves the right to disallow certain individually selected Advisors from serving that role in the interests of justice and fairness.

The Advisor may be a friend, mentor, family member, attorney, or any other individual a Party chooses to advise, support, and/or consult with them throughout the grievance process. The Parties may choose advisors from inside or outside of the University community. The University may require Advisors to undergo certain training in order to be familiar with University policies and procedures.

The Parties may be accompanied by their Advisor in all meetings and interviews at which the Party is entitled to be present, including intake and interviews. Advisors should help the Parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. The University cannot guarantee equal advisory rights, meaning that if one Party selects an Advisor who is an attorney but the other Party does not or cannot afford an attorney, the University is not obligated to provide an attorney.

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing and must be conducted by the Parties' Advisors. The Parties are not permitted to directly cross-examine each other or any witnesses. If a Party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the limited purpose of conducting any cross-examination. A Party may reject this appointment and choose their own Advisor but they may not proceed without an Advisor at the hearing.

All Advisors are subject to the same University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address University officials in a meeting or interview unless invited to (e.g., asking procedural questions.) The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the investigator(s) or other Decision-maker(s) except during a cross-examination in a hearing proceeding. The Parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes

during any grievance process meeting or interview. Advisors must act in a respectful and non-adversarial manner at all times. Any Advisor who oversteps their role as defined by this Policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting or proceeding will be ended or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's noncompliance and future role.

### **Informal Resolution:**

If the Complainant does not wish to move forward with a formal investigation, discussed in more detail below, the option for informal resolution of the complaint, such as mediation or restorative justice will be explored if appropriate. Some incidents can be resolved through facilitation or other interventions as long as both parties give voluntary, informed written consent to attempt informal resolution. The Title IX Coordinator or Deputy Title IX Coordinator (or their designee) who facilitates the informal resolution must be fully trained to oversee this process.

The University may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment. Additionally, the University may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a Formal Complaint is filed.

Facilitation and other forms of informal resolution are not appropriate for any form of sexual assault, domestic violence, dating violence, or stalking. Facilitation of informal resolutions are not appropriate for any allegations involving an employee and a student. In these circumstances, Cabrini will never facilitate informal resolution.

### **False Reports**

A good faith complaint that is not substantiated does not constitute a false report. Submission of a good faith complaint, concern, or report under this Policy will not affect a Complainant's employment, grades, academic standing, or work assignments. An individual found to have made a false complaint or report, or to have knowingly and willingly given false information during an investigation, will be subject to disciplinary action.

### **Reporting To Local Law Enforcement**

The University Grievance Process and the criminal justice process are separate and independent courses of action. A Complainant who wishes to pursue a criminal complaint is encouraged to make a report to local law enforcement. Incidents occurring on campus are within the jurisdiction of the Radnor Township Police Department. Actions occurring off campus are within the jurisdiction of one of several surrounding townships. If the Complainant does not know in which township the incident occurred, the Complainant should contact Public Safety or 911 for assistance. Upon request, the Title IX Coordinator or their designee will appoint a representative or someone the Complainant chooses, who will accompany a Complainant to the local police department and assist a Complainant in making a criminal report. Notifying local law enforcement will generally result in the Complainant and in some cases the Respondent, being contacted by a police officer. The police

will determine if a criminal investigation will occur and if the case will be referred for prosecution. Unless there are compelling circumstances (i.e., Complainant is under 18, or risk of immediate danger), the University will typically not file an independent police report without the consent of the Complainant.

## **10. FORMAL RESOLUTION**

Due to the nature of incidents involving gender-based violence, sexual misconduct and sexual harassment, Cabrini University has developed a process to specifically address these concerns. As a result, the investigation and adjudication process for incidents of gender-based violence, sexual misconduct and sexual harassment will differ from the student conduct process that is highlighted in the Cabrini University Community Standards for Student Conduct.

The University will conduct an objective evaluation of all relevant evidence, inculpatory and exculpatory, and will avoid credibility determinations based on a person's status as a Complainant, Respondent, or witness.

The following provisions apply to cases of Sexual and Gender-Based Harassment and Misconduct:

### **Undergraduate/Graduate Students**

Formal Undergraduate/Graduate Student complaints will be forwarded to the Public Safety Investigator(s) designated by the Title IX Coordinator. Investigators receive annual training on the definition of sexual harassment, the scope of the University's educational programs or activities, how to conduct an investigation and Grievance Process, including hearings, appeals, and informal resolution processes. Training will also include issues of relevance, including how to apply the rape shield protections provided only for Complainants. The investigators must know how to serve impartially, including by avoiding pre-judgment of the facts at issue, conflicts of interest, and bias. The University also reserves the right to hire independent Investigators. Information regarding training of Title IX personnel is posted on the University's website.

All Title IX personnel (Coordinator, Deputy Coordinator, Investigator(s), decision-makers, and anyone who facilitates an informal resolution process) must be free from conflicts of interest or bias for or against Complainants or Respondents. Additionally, the Title IX personnel must have 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.

### **Faculty and Staff**

In order to avoid any conflicts of interest, the University may partner with outside independent Investigators specializing in these types of incidents to investigate any complaints involving Faculty or Staff.

### **The Investigation**

Written notice will be sent to both parties of the allegations upon receipt of a formal complaint. The burden of gathering evidence and the burden of proof is on the University and not on either

party. The Investigators are neutral fact-finders, who, during the course of the investigation, typically conduct interviews with the Complainant, the alleged Respondent and third-party witnesses; gather any evidence from the Complainant, the Respondent and/or any witnesses; visit and take photographs at each relevant site; and, where applicable, coordinate with law enforcement agencies to collect and preserve relevant evidence.

The entire Investigative Process will be completed within a reasonably prompt time frame. Should there be a need for the investigation to extend beyond what is reasonable, the reasons for the extension will be formally documented and communicated to both parties. Extensions will only be considered and granted for good cause (i.e., complexity of allegations, evidentiary issues, number of witnesses involved, effect of concurrent criminal investigation or intervening school breaks and vacations).

Both parties have a right to present witnesses and information during the Grievance Process. A list of potential witnesses, as well as any additional information either party plans to present, should be submitted to the Investigator during the investigation. Witnesses must be able to provide relevant, first-hand information regarding the incident. Character witnesses will not be allowed. The privacy of both parties medical, psychological, and similar treatment records will be protected and not used by the University in the Grievance Process unless and until they obtain the party's voluntary, written consent.

Both the Complainant and the Respondent may have their Advisor or attorney present during any parts of the investigation. Both parties have the same opportunity to select an advisor of their choice who may be, but need not be, an attorney.

### **Investigative Report**

The Investigator will prepare a draft investigative report.

#### **a. Opportunity for Review and Comment**

The draft investigative report and related exhibits and evidence will be provided by the Investigator to both the Complainant and Respondent and their named Advisors for review and comment, under strict instructions that they are and at all times remain strictly confidential, and are not to be shared with anyone other than their families and advisors and/or outside counsel. Sharing of the report by either party, their families, advisors or outside counsel with any additional persons is strictly prohibited and anyone with whom the report is shared must be so advised. Each party will be provided the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The Complainant and the Respondent will be given ten (10) business days to comment on the draft investigative report and respond in writing to the Investigator.

#### **b. Final Investigative Report**

As a result of the response and comments received, the Investigator may conduct a further investigation and/or amend the draft report, if the Investigator determines either action to be warranted. The Investigator will prepare a final investigative report, incorporating any changes they believe are appropriate, and then share it with the Complainant and the Respondent. The

Complainant and Respondent may submit formal objections or comments to the final report, which will become part of the final report of the matter.

### **Notification of Hearing**

If the determination has been made that the elements of a policy violation have been raised, or that a reasonable person could conclude, based on the information gathered in the investigation, that a policy violation occurred, the Title IX Coordinator will direct the manner of resolution, which may include an Informal Resolution (see above), acceptance of responsibility by the Respondent or holding a live Hearing. At a live Hearing, the standard for evaluating whether the policy has been violated is preponderance of the evidence.

The University will conduct an objective evaluation of all relevant evidence, inculpatory and exculpatory, and will avoid credibility determinations based on a person's status as a Complainant, Respondent, or witness.

The University will send both parties the following information at least 10 days prior to the Hearing:

1. Investigative Report summarizing the allegations;
2. Any evidence directly related to the allegations;
3. Interviews, and/or
4. Hearing notices.

The University reserves the right to consolidate formal complaints where the allegations arise out of the same facts.

At least five (5) days prior to the hearing, the Investigator will forward a copy of the Final Investigative Report to the Adjudicator.

### **Acceptance of Responsibility**

After receiving the formal charge(s) from the Title IX Coordinator or Deputy Title IX Coordinator, the Respondent may choose not to contest the charge(s) and give up the right to a Hearing by accepting responsibility for all charges. If a Respondent accepts responsibility, the Complainant will be notified in writing and both parties will have the opportunity to submit written information for consideration by Adjudicator; a Complainant may submit an impact statement, and a Respondent may submit a mitigation statement. The Respondent must meet with an Advisor prior the Adjudicator agreeing to the Respondent accepting responsibility for the allegations.

The Adjudicator will impose the appropriate sanction(s) (see below for guidelines and range of permissible sanctions). The Complainant and Respondent will be simultaneously notified of the sanction(s) and rationale for the sanction in writing, and this sanction decision may only be appealed by both parties based on Severity of Sanction. If there is no appeal by either party, the sanction imposed by Adjudicator will be final.

### **Withdrawal from the University**

If a Respondent chooses to withdraw from the University at any time during the Grievance Process, the Title IX Coordinator (or designee) has the discretion to continue or pause (temporarily or

indefinitely) the Process. If a hearing is held, the Adjudicator will still make a determination if the Respondent did or did not violate the Policy. The standard of proof remains preponderance of evidence.

## **Hearing**

As per the Title IX regulations, a live Hearing will be held for every formal complaint filed by a Complainant against an alleged Respondent. The following is a list of individuals involved in the Hearing process and their roles:

- |                             |   |
|-----------------------------|---|
| 1. Hearing Adjudicator      |   |
| 2. Advisor for Complainant: | Will ask questions of the Complainant and conduct cross examination of the Respondent |
| 3. Advisor for Respondent:  | Will ask questions of the Respondent and conduct cross examination of Complainant     |
| 4. Adjudicator of Appeals   |   |

## **Advisors**

Both the Complainant and the Respondent will have an Advisor of their choice represent them at the Hearing. The Advisor can, but doesn't have to be, an attorney. The role of the Advisor is as follows:

- Represent the student at all phases of the investigation and/or Hearing and/or the appeal process.
- Conduct cross examination of all witnesses.
- Neither the Complainant nor the Respondent may ask any questions. All questioning must go through their Advisor.
- The Advisor may be a witness in the case. In this instance, a second or alternate Advisor will question and conduct cross examination of the initial Advisor when they provide testimony.
- If a student is unable to secure the services of an Advisor, the University will appoint one from the list of trained individuals.

Advisors shall be subject to this Policy's Rules of Decorum and may be removed at the discretion of the Adjudicator upon violation of those Rules during a hearing. Rules of Decorum are outlined in Appendix E.

## **Evidence**

All evidence gathered during the investigation, both inculpatory and exculpatory, will be presented at the live Hearing.

At least 10 days prior to the scheduled Hearing, all Investigative Reports, including evidence gathered during the investigation, will be supplied to the Complainant and Respondent and their Advisors. All information will be sent either in hard copy form or through electronic means.

However, the following items will not be turned over to the Complainant and Respondent and their Advisors:

1. Pornography including but not limited to any nude photographs, videos, images and the like, of the victim and/or any witness whether they be in hard copy format or digital/on-line format;
2. Personal biographical information of the victim and/or any witness to include: date of birth, social security number, or home address;
3. Any illegal drugs;
4. Any alcohol; and/or
5. Any medical, psychological or therapeutic reports unless a signed release is obtained from the victim and/or witness.

The Parties and their Advisors will have the opportunity to review the aforementioned items in person with the Title IX Investigator prior to the Hearing if such review is required by law. No copies, photographs, videos or any other digital media will be made of this evidence by the Parties and/or their Advisor.

All items of evidence turned over to the Parties and their Advisors must be held in confidence and only used for the Hearing and/or Appeal. At no time will any evidence, including but not limited to investigative reports, witness statements, photograph, text messages, e-mails, medical reports, and the like, be copied and distributed to anyone else including uploading these items to the Internet, social media or any digital platform. If it is discovered that items of evidence were distributed to another party, the Investigator will immediately notify the Title IX Coordinator and the Deputy Title IX Coordinator. A Code of Conduct Investigation will be instituted and investigated by the Title IX Coordinator or Deputy Title IX Coordinator and official sanctions imposed if appropriate.

Within 10 days of the conclusion of the Appeal Process, all items of evidence sent to the Respondent and their Advisor must be returned to the Title IX Coordinator. All information regarding the entire complaint, investigation, Hearing, and appeal will be sealed and secured by the University for the required 7 years.

### **Hearing Process**

The Adjudicator will facilitate the Hearing. The Complainant and Respondent will not be in the Hearing room at the same time. However, each party will be in a separate room with the ability to watch the proceedings via live stream or closed circuit video, or the hearing can be held virtually through Zoom or similar platforms, with Zoom rooms made available for all parties involved. The following is the flow of how the Hearing will run:

1. The Adjudicator will open and establish rules and expectations for the Hearing.
2. The Investigator will provide the outline of the case to the Adjudicator.
3. The Adjudicator will ask any relevant questions of the Investigator.
4. The Advisor for the Complainant will ask relevant questions of the Investigator.
5. The Advisor for the Respondent will ask relevant questions of the Investigator.
6. The Complainant will provide an opening statement.
7. The Respondent will provide an opening statement.
8. The Adjudicator will ask questions of the Complainant.



9. The Advisor for the Respondent will ask questions of the Complainant, known as cross examination.
10. The Adjudicator will ask questions of the Respondent.
11. The Advisor for the Complainant will ask questions of the Respondent, known as cross examination.
12. The witnesses will then be called for questioning by Adjudicator, followed by cross-examination by the Complainant's Advisor and the Respondent's Advisor.
13. The Adjudicator will ask any follow up questions of either party.
14. The Complainant will provide a closing statement.
15. The Respondent will provide a closing statement.

The Adjudicator will take all information under advisement and render a decision, based upon a preponderance of the evidence standard, within 10 calendar days. The written determination will be issued simultaneously to all parties.

All hearings will be recorded and the recordings will be kept in accordance with Title IX rules and regulations for 7 years. All parties must submit to their consent for the recording of the Hearing. The consent of all persons involved will be put on the record prior to that person providing any information during the Hearing.

### **Cross-Examination**

Both the Complainant and the Respondent must answer questions on cross-examination posed by the Advisor of the other party. The cross-examination must be conducted directly, orally and in real time. At no time will either party (Complainant or Respondent) personally conduct the cross-examination.

Only relevant questions on direct and cross-examination will be allowed during the Hearing. The Adjudicator will determine the relevance of each question prior to the person answering. If the Adjudicator determines a question to be irrelevant, he/she must explain to the party asking the question the decision to exclude the question as not relevant.

If the Complainant, Respondent, or any witness does not submit to cross-examination at the Hearing, the Adjudicator may rely on any statement that person gave in order to determine if the Respondent is responsible or not responsible for the action alleged.

### **Rape Shield Protections for Complainant**

Title IX and Cabrini University provide rape shield protections for Complainants. The Adjudicator will deem irrelevant any and all questions and evidence about a Complainant's prior sexual behavior unless the following circumstances exist:

1. The information offered is to prove that someone else other than the Respondent committed the alleged misconduct; or
2. The information is offered to prove consent.

### **Adjudication and Notification of Outcome**

A written determination regarding responsibility will be issued by the Adjudicator which will include:

- Findings of fact;
- Conclusions about whether the alleged conduct occurred;
- Rationale for the result of each allegation;
- Any disciplinary sanctions that may be imposed on the Respondent;
- If the Respondent is found to be Responsible, a Complainant may submit an impact statement, and a Respondent may submit a mitigation statement; and/or
- Whether remedies will be provided to the Complainant.

Both the Complainant and Respondent will be informed of the outcome of the Hearing and information about the appeal process.

## **11. SANCTIONS AND REMEDIES**

### **Disciplinary Action and Remedies for Students**

Any student found responsible for violating the Title IX policy will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous violations of the Community Standards for Student Conduct.

The Dean of Students/Deputy Title IX Coordinator reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior.

Other remedies may also be offered and provided. Appropriate remedies may include, but are not limited to:

- providing an escort on campus;
- assistance with academics, including rescheduling exams and assignments,
- receiving an incomplete in a course,
- facilitating a classroom change;
- housing assignment relocation;
- Restriction of campus access for the alleged Respondent (restricted from specific buildings, areas, etc.);
- no-contact orders;
- campus employment reassignment; and/or
- And counseling referrals.

### **Disciplinary Action and Remedies for Faculty and Staff**

If a faculty or staff member is found responsible for violation of any part of this Policy, the Title IX Coordinator in consultation with the area Vice President will determine appropriate disciplinary action.

Any faculty or staff member found responsible for violating the Title IX policy will likely receive a discipline ranging from counseling to termination, depending on the severity of the incident, and taking into account any previous violations of Cabrini Policies.

The Title IX Coordinator reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior.

Other remedies may also be offered and provided. Appropriate remedies may include, but are not limited to:

- providing an escort on campus;
- rescheduling assignments,
- office relocation;
- restriction of campus access for the alleged faculty or staff member (restricted from specific buildings, areas, etc.);
- no-contact orders;
- campus employment reassignment; and/or
- counseling referrals.

## **12. APPEALS**

Either party may appeal the decision by filing an appeal to the Title IX Coordinator within five (5) business days after delivery of the formal outcome of the Adjudicator. Both parties will be informed in writing if either party appeals, any change to the result, and when such results become final.

Appeal requests must fall into one of the following grounds:

- Procedural irregularity that affected the outcome of the Hearing;
- New evidence available that was not available prior to the original Hearing that could affect the outcome of the Hearing; and/or
- Title IX personnel had a conflict of interest or bias that affected the outcome of the Hearing.

The appeal shall consist of a concise, written statement outlining the grounds for the appeal. The Appeal Officer for all cases will be an outside partner (not an employee of Cabrini University).

### **Student Appeals Process**

Upon receipt of an appeal from the Title IX Coordinator, the Appeal Officer will notify both parties. Each party will have an opportunity to respond, in writing, to the appeal. Responses to the appeal by either the Complainant and/or Respondent must be submitted to the Dean of Students or his/her designee within five (5) business days from receipt of the appeal.

In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately.

The Appeal Officer can affirm the original findings, alter the findings, and/or alter the sanctions, depending on the basis of the requested appeal. If the appeal is based on procedures not having been followed in a material manner, the Appeal Officer can ask that a new Hearing occur before a newly appointed Adjudicator. In the case of new and relevant information, the Appeal Officer can

recommend that the case be returned to the original Adjudicator to assess the weight and effect of the new information and render a determination after considering the new facts.

The Title IX Coordinator or his/her designee will communicate the outcome of the appeal to the student who requested it within ten (10) business days from the date of submission. However, additional time may be necessary depending on the nature of the case and basis of appeal. All appeal decisions made by the Appeal Officer are final.

### **Faculty and Staff Appeals Process**

Upon receipt of an appeal from a faculty or staff member, the Appeal Officer will notify both parties. Each party will have an opportunity to respond, in writing, to the appeal. Responses to the appeal by either the Complainant and/or Respondent must be submitted to the Title IX Coordinator or his/her designee within five (5) business days from receipt of the appeal.

In any request an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately.

The Appeal Officer shall consider the merits of an appeal only on the basis of the three (3) grounds for appeal identified above and any supporting information provided in the written request for appeal and the record of the original Hearing. The Appeal Officer can affirm the original findings, alter the findings, and/or alter the sanctions, depending on the basis of the requested appeal. If the appeal is based on procedures not having been followed in a material manner, the Appeal Officer can ask that a new Hearing occur before a newly appointed Investigator. In the case of new and relevant information, the Appeal Officer can recommend that the case be returned to the original Investigator to assess the weight and effect of the new information and render a determination after considering the new facts.

The Title IX Coordinator or his/her designee will communicate the result of the appeal to the faculty or staff member requesting the appeal within ten (10) business days from the date of the submission of all appeal documents by both parties, but the time may be longer or shorter depending on the nature of the case. Appeal decisions are final.

### **13. STATEMENT OF THE RIGHTS OF THE COMPLAINANT**

- A Complainant may have their Advisor present during the Grievance Process.
- A Complainant will be afforded similar and timely access to any information that will be used during the Grievance Process and Hearing.
- A Complainant will be given periodic status updates throughout the process.
- A Complainant will have equal opportunity to present relevant witnesses and other information during the Grievance Process and Hearing.
- A Complainant will never be questioned directly by or be in the presence of the Respondent during the Grievance Process and Hearing.
- A Complainant may submit a list of questions related to the alleged incident to the Investigator that they feel the Respondent should be asked during the Grievance Process. The Investigator may use their discretion in evaluating the relevancy of the questions submitted and may choose to reframe or omit them as necessary.
- A Complainant may not have their irrelevant past conduct, including sexual history, discussed during the Grievance Process and Hearing.
- A Complainant has the right to know the outcome of the Grievance Process and Hearing.
- A Complainant has the right to appeal the outcome of the Grievance Process and Hearing.
- A Complainant has the right to be treated with respect during the Grievance Process and Hearing.
- A Complainant has the right to be notified of available counseling, mental health, medical, or student services for victims of sexual assault or gender-based misconduct both on campus and in the community.
- A Complainant has the right to preservation of privacy, to the extent possible and allowed by law.

### **14. STATEMENT OF THE RIGHTS OF THE RESPONDENT**

- A Respondent may have their Advisor present during the Grievance Process.
- A Respondent will be afforded similar and timely access to any information that will be used during the Grievance Process and Hearing.
- A Respondent will be given periodic status updates throughout the Grievance Process.
- A Respondent will have equal opportunity to present relevant witnesses and other information during the Grievance Process and Hearing.
- A Respondent will never be questioned directly by or be in the presence of the Complainant during the process.
- A Respondent may submit a list of questions related to the alleged incident to the Investigator that they feel the Complainant should be asked during the Grievance Process. The Investigator may use their discretion in evaluating the relevancy of the questions submitted and may choose to reframe or omit them as necessary.
- A Respondent may not have their irrelevant past conduct, including sexual history, discussed during the Grievance Process and Hearing.
- A Respondent has the right to know the outcome of the Grievance Process and Hearing.
- A Respondent has the right to appeal the outcome of the Grievance Process and Hearing.
- A Respondent has the right to be treated in a respectful and unbiased manner during the Grievance Process and Hearing.

- A Respondent has the right to be informed of and have access to campus resources for medical, counseling, and advisory services.
- A Respondent has the right to preservation of privacy, to the extent possible and allowed by law.

## APPENDIX A

### Campus and Community Resources For Sexual Violence and Sexual Harassment

#### CONFIDENTIAL ON-CAMPUS RESOURCES

**Health Services:** 610-902-8400  
[healthservices@cabrini.edu](mailto:healthservices@cabrini.edu)

**Counseling and Psychological Services (CaPS):** 610-902-8766  
[counselingcenter@cabrini.edu](mailto:counselingcenter@cabrini.edu)

Short-term and crisis counseling is available for students who have been sexually assaulted or have had an upsetting sexual encounter. These services are confidential, except in the limited circumstances described herein. Mental health professionals are required to report to law enforcement authorities the sexual assault of a person under the age of 18, or where there is risk of immediate danger to self, others, or property. Consequently, in some limited circumstances, providers may not be able – legally or ethically – to maintain confidentiality.

**Employee Assistance Program (for staff and faculty only):** 800-382-2377

The University's Employee Assistance Plan provides confidential counseling and referral services to reduce stress and improve the quality of life for employees. The EAP provides confidential assessment and referral services, and short-term counseling. The services of the EAP are free to employees, up to the limits of the plan. All assistance is confidential; no one at Cabrini University will know that an employee has used the EAP.

#### OFF-CAMPUS RESOURCES

**Bryn Mawr Hospital:** 484-337-3000

Individuals preferring to seek treatment off-campus may receive care at Bryn Mawr Hospital. The hospital staff offers medical treatment and can collect physical evidence. There may be a Sexual Assault Nurse Examiner available, but this is not guaranteed.

**Delaware County Victim Assistance Center**

610-566-4342 (24-hour hotline)  
[www.delcovictimassistance.org](http://www.delcovictimassistance.org)

#### Reporting Options and Resources:

**Cabrini University Department of Public Safety** 610-902-8111

**Local Law Enforcement: Radnor Township Police** 610-688-0503

**Medical/Hospital Care:**

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**Philadelphia Sexual Assault Response Center** 215-425-1625

**Bryn Mawr Hospital** 484-337-3000

**Support/Resources:**

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**Philadelphia Domestic Violence Hotline** 866-723-3014

**National Domestic Violence Hotline** 800-799-7233 (SAFE)

**National Sexual Assault Hotline** 800-656-4673 (HOPE)

**Delaware County Victim Assistance Center** 610-566-4342

**Women Against Rape** 215-985-3333

**Laurel House (Domestic Violence Hotline)** 800-642-3150



## APPENDIX B

### Supportive Measures to Protect Safety and Well-Being

Following a report of sexual violence or sexual harassment, the University will provide Supportive Measures and reasonable protection against further acts of violence, harassment, or retaliation as needed, as well as provide services and resources to provide a safe educational and employment environment. For a listing of services and resources, see Appendix A.

Individuals seeking such assistance should speak with the Dean of Students or Title IX Coordinator. The University will maintain consistent contact with the parties to ensure that all safety, emotional, and physical well-being concerns are being addressed.

The University will determine the necessity and scope of any Supportive measures pending the completion of the complaint process. Even when a Complainant or Respondent does not specifically request that protective action be taken, the University may still choose to impose Supportive measures at its discretion to ensure the safety of any individual, the broader University community, or the integrity of the review process.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by a Supportive measure. The University will take prompt responsive action to enforce a previously implemented Supportive measure.

The University may impose any remedy that can be tailored to achieve the goals of this Policy, even if not specifically listed here. The range of Supportive measures includes:

1. **Contact Restriction:** The Complainant or Respondent may request, or the University may impose, communication and contact restrictions to prevent further potentially harmful interaction. These communication and contact restrictions generally preclude in person, telephone, electronic or third party communications.

An individual may also seek a protection/anti-harassment order from the local court of the Commonwealth of Pennsylvania. This is a civil proceeding independent of the University. If a court order is issued the University will, to the extent possible, assist the protected person in benefitting from the restrictions imposed by the court and will also facilitate on-campus compliance with the order.

2. **Escort:** The University may provide an escort to a Complainant to ensure safe movement between classes and activities.
3. **Academic, Employment or Living Arrangements:** A Complainant or Respondent may request a change in his/her own academic, employment, or living arrangements after a report of sexual violence or sexual harassment by speaking with the Dean of Students, or the Title IX Coordinator. A request for an employment change in the case of sexual harassment where the Respondent is an employee may also be directed to the Title IX Coordinator. Upon request the University will inform the Complainant or Respondent of the options and will accommodate the request if those changes are reasonably available. In some cases the University may initiate these changes without a request. These may include a change in

class or work schedule, a change in living accommodations, academic accommodations, and/or a voluntary leave of absence.

## **APPENDIX C**

### **Title IX Notice**

Title IX of the Education Amendments of 1972 (“Title IX”) prohibits discrimination on the basis of sex in any federally funded education program or activity. Sexual harassment, which includes sexual violence, is a form of sex discrimination. Under the University Sexual Violence and Sexual Harassment Policy, the University prohibits sexual harassment, sexual assault, sexual exploitation, stalking and retaliation. Title IX and the University’s Policy also applies to acts of intimate partner violence. As a recipient of federal funds, Cabrini University complies with Title IX and has appointed Nikki Gillum-Clemons, Director of Human Resources as its Title IX Coordinator, with overall responsibility for Title IX compliance. Nikki Gillum-Clemons’s Office is located in Grace Hall Room 160, (610) 902-8206. The University has appointed Anne Filippone, Dean of Student Engagement & Leadership, as its Deputy Title IX Coordinator to assist with Title IX compliance in student cases. Anne Filippone’s office is located in Grace Hall, Room 150, (610) 902-8407.

Any student, employee or applicant for employment or admission to the University, who believes that he or she has been discriminated against on the basis of sex, in violation of Title IX, or has been a complainant of sexual violence or sexual harassment, may file a complaint with the Title IX Coordinator or Deputy Coordinators designated below. The Title IX Coordinator or Deputy Coordinators will assist the Complainant in identifying the appropriate University policy (with its grievance procedure) to resolve the complaint in a prompt and equitable manner. The Title IX Coordinator or Deputy Coordinators may consult with other Cabrini administrators, as needed, to resolve the complaint in the most effective manner.

The Title IX Coordinator is supported by several Deputy Title IX Coordinators, all of whom are knowledgeable and trained in state and federal laws that apply to matters of sexual assault, sexual harassment or other sexual misconduct, as well as University policy and procedure.

## **APPENDIX D**

### **Notice of Non-Discrimination**

The University seeks to provide all Cabrini community members with a safe and non-discriminatory environment free from harassment. The University does not discriminate on the basis of personal characteristics such as race, color, national origin, religion, gender, sexual orientation, gender identity, age, veteran status, disability, or any other basis protected by federal or state law. For the University's general Non-Discrimination Policy, click here:

<https://www.cabrini.edu/about/departments/policies/equal-opportunity-statement>.

The University does not discriminate on the basis of sex in its education programs and activities or in the context of employment. Sexual harassment, including sexual violence as defined in this policy, is a form of sex discrimination prohibited by Title IX of the Education Amendments of 1972. Title IX requires that No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964, the Pennsylvania Human Relations Act, and other applicable statutes.

## **Appendix E**

### **Rules of Decorum for Grievance Process Hearings**

#### **Purpose of the Rules of Decorum**

Title IX Hearings are not civil or criminal proceedings and are not designed to mimic formal trial proceedings. They are primarily educational in nature, and the U.S. Department of Education (“the Department”), writing about Title IX in the Final Rule, “purposefully designed these final regulations to allow recipients to retain flexibility to adopt rules of decorum that prohibit any party advisor or Adjudicator from questioning witnesses in an abusive, intimidating, or disrespectful manner.” 85 Fed. Reg. 30026, 30319 (May 19, 2020). The Department has determined that institutions “are in a better position than the Department to craft rules of decorum best suited to their educational environment” and build a hearing process that will reassure the Parties that the institution “is not throwing a party to the proverbial wolves.”

To achieve this purpose, Colleges and Universities may provide for reasonable rules of order and decorum, which may be enforced through the removal of an Advisor who refuses to comply with the rules. *Id.*, at 30320. As the Department explains, the removal process “incentivizes a party to work with an advisor of choice in a manner that complies with a recipient’s rules that govern the conduct of a hearing and incentivizes colleges and universities to appoint advisors who also will comply with such rules, so that hearings are conducted with respect for all participants.”

These Rules of Decorum require that all Parties, Advisors, and University staff treat others who are engaged in the process with respect.

The Rules of Decorum and processes set forth herein apply equally to all Parties and their Advisors regardless of sex, gender, or other protected class, and regardless of whether they are in the role of Complainant or Respondent.

#### **Rules of Decorum**

The following Rules of Decorum (“the Rules”) are to be observed in the Hearing and applied equally to the Parties (meaning the Complainant and Respondent) and Advisors:

- Questions must be conveyed in a neutral tone.
- Parties and Advisors will refer to other Parties, Witnesses, Advisors, and University staff using the name and gender used by the person and shall not intentionally mis-name or mis-gender that person in communication or questioning.
- No Party may act abusively or disrespectfully during the Hearing toward any other Party or to Witnesses, Advisors, or the Adjudicator.

- The Advisor may not yell, scream, badger, or physically “lean in” to a Party or Witness’ personal space. Advisors may not approach the other Party or Witnesses without obtaining permission from the Adjudicator.
- The Advisor may not use profanity or make ad hominem attacks upon a Party or Witness. Questions must be interrogative statements used to test knowledge or understand a fact; they may not include accusations within the text of the question.
- The Advisor may not ask repetitive questions. When the Adjudicator determines a question has been “asked and answered” or is otherwise not relevant, the Advisor must move on.
- Parties and Advisors may take no action at the Hearing that a reasonable person in the shoes of the affected Party would see as intended to intimidate that person (whether Party, Witness, or University official) into not participating in the process or meaningfully modifying their participation in the process.

### **Warning and Removal Process**

The Adjudicator shall have sole discretion to determine if the Rules have been violated. The Adjudicator will notify the offending person of any violation of the Rules.

Upon a second or further violation of the Rules, the Adjudicator shall have discretion to remove the offending person or allow them to continue participating in the hearing or other part of the process.

Where the Adjudicator removes a Party’s Advisor, the Party may choose a different Advisor, or accept an Advisor provided by the University for the limited purpose of questioning at the Hearing. Reasonable delays, including temporary adjournment of the Hearing, may be anticipated should an Advisor be removed. A Party cannot serve as their own Advisor in this circumstance.

The Adjudicator shall document any decision to remove an Advisor in the Determination Regarding Responsibility.

For flagrant, multiple, or continual violations of the Rules, in one or more proceedings, Advisors may be prohibited from participating in future proceedings at the University in the Advisor role, on a temporary or permanent basis. Evidence of violation(s) of the Rules will be gathered and used by the Deputy Title IX Coordinator proceedings involving students or to the Title IX Coordinator for cases involving employees. The Advisor in question may provide an explanation or alternative evidence in writing to appeal the prohibition from participation. This appeal must be submitted to the outside partner (not an employee of Cabrini University) within fifteen (15) calendar days of receipt. There shall be no right to a hearing, oral testimony, or questioning.

The Outside Partner shall consider the evidence, using a preponderance of the evidence standard, and issue a finding in writing regarding removal. The finding shall be issued in writing to all Parties and Advisors (if there is a current case pending) within thirty (30) days, unless extended for good cause. There is no appeal of this finding.

### **Relevant Questions Asked in Violation of the Rules of Decorum**

Should an Advisor ask a relevant question in a manner that violates the Rules, such as yelling, screaming, badgering, or leaning-in to the Witness' or Party's personal space, the question will not be deemed irrelevant by the Adjudicator simply because of the manner in which it was delivered. Under that circumstance, the Adjudicator will notify the Advisor of the violation of the Rules, and, if the question is relevant, will allow the question to be re-asked in a respectful, non-abusive manner by the Advisor (or a replacement Advisor, should the Advisor be removed for violation of the Rules).

## **APPENDIX F**

### **SEXUAL and GENDER-BASED HARASSMENT and MISCONDUCT**

#### **PREVENTION AND EDUCATION EFFORTS**

Cabrini University is committed to the prevention of sexual misconduct and sexual harassment through education and awareness. Throughout the year, programs designed to promote awareness and prevention are presented by a variety of campus resources including New Student Orientation, New Employee Orientation, Health Services, Public Safety, and various other Cabrini departments. Additionally, the University provides on-line and in-person training for faculty and staff. The University also promotes participation of student groups in prevention activities, through training provided in Residence Life, Athletics, Dean of Students, among others. Prevention programs stress the added risks involved when the use of alcohol and/or illegal drugs is present. Incoming first year students, as part of their orientation, attend programs that cover the topic of sexual violence given by the Dean of Students, Public Safety and the Office of Residence Life. Flyers about sexual misconduct and sexual harassment are posted in residence halls. The educational programs review strategies for prevention and inform faculty, staff and students of options and resources available should such misconduct or harassment occur.

*Approved by President's Cabinet: 2/6/24*