

Title IX Resolution Procedures

LANDER UNIVERSITY

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1 Summary

These procedures are intended to meet Lander University's responsibilities under the provisions as required by the Title IX Regulations. When brought to the attention of Lander University, issues deemed Title IX will be promptly and fairly addressed and remedied by Lander University in accordance with the below resolution process. Lander University values and upholds the dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all involved.

2 Scope

The core purpose of these procedures are to address all forms of sexual harassment and retaliation as defined by Title IX. When the respondent is a member of the Lander University community, a grievance process may be available regardless of the status of the complainant, who may or may not be a member of the Lander University community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and such third parties as guests, visitors, volunteers, invitees, and campers.

Lander University must dismiss a formal complaint or any allegations therein 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 proven; 2) The conduct did not occur in an educational program or activity controlled by Lander University (including buildings or property controlled by recognized student organizations); Lander University does not have control of the respondent; and/or 3) The conduct did not occur against a person in the United States.

All other allegations of misconduct that fall outside the scope of Title IX will be addressed through procedures as outlined in otherwise pertinent, published policies.

Lander University may dismiss a formal complaint or any allegations therein 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; 2) The respondent is no longer enrolled in or employed by Lander University; or 3) Specific circumstances prevent Lander University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, Lander 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. A decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. It is also important to note that a complainant who decides to withdraw a complaint may later request to reinstate it.

3 Initial Assessment

Upon receipt of a complaint or notice to the Title IX coordinator of an alleged violation, Lander University initiates a prompt initial assessment to determine the necessary steps to be followed. The Title IX coordinator works with the complainant to determine whether the complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.

Lander University will initiate at least one of three responses: 1) Offering supportive measures because the complainant does not want to proceed formally; 2) An informal resolution; and/or 3) A formal grievance process, including an investigation and a hearing.

The steps of an initial assessment can include:

- 3.1 If notice is given, the Title IX coordinator seeks to determine if the person impacted wishes to make a formal complaint and will assist them to do so, if desired.
- 3.2 If the person does not wish to do so, the Title IX coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- 3.3 If a formal complaint is received, the Title IX coordinator assesses its sufficiency and works with the complainant to ensure that it is correctly completed.
- 3.4 The Title IX coordinator reaches out to the complainant to offer supportive measures.
- 3.5 The Title IX coordinator works with the complainant to ensure that they are aware of the right to have an advisor.
- 3.6 If a supportive and remedial response is preferred, the Title IX coordinator works with the complainant to identify their wishes and then seeks to facilitate implementation. No formal grievance process is initiated, although the complainant can elect to initiate one later, if desired.
- 3.7 If an informal resolution option is preferred by the complainant, the Title IX coordinator will assess whether the complaint is suitable for informal resolution, and which informal mechanism may best serve the situation, as applicable. The Title IX coordinator may also seek to determine if the respondent is willing to engage in informal resolution.
- 3.8 If a formal grievance process is preferred, the Title IX coordinator determines if the alleged misconduct falls within the scope of Title IX. If so, the Title IX coordinator will initiate a formal investigation and grievance process, direct the investigation to address an incident and/or a pattern of alleged misconduct and/or a culture/climate issue, based on the nature of the complaint.
- 3.9 If not, the Title IX coordinator determines that Title IX does not apply and will “dismiss” that aspect of the complaint, if any. As appropriate, the Title IX coordinator will assess which policies apply and which resolution process is suitable. Please note that dismissing a complaint under Title IX is merely procedural and does not limit Lander University’s authority to address a complaint with an appropriate process and remedies.

The investigation and grievance process will determine whether or not the policy has been violated. If so, Lander University will promptly implement effective remedies designed to ensure

that it is not deliberately indifferent to harassment or discrimination, the potential recurrence, or the effects.

4 Counterclaims

Lander University is obligated to ensure that the grievance process is not abused for retaliatory purposes. Lander University permits the filing of counterclaims, but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a respondent may be made in good faith, but they may also be, on occasion, made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted. Counterclaims determined to have been made in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur. Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation policy.

5 Rights of the Parties

- 5.1 The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to Lander University officials.
- 5.2 The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- 5.3 The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- 5.4 The right to be informed, in advance, of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- 5.5 The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- 5.6 The right to be treated with respect by Lander University officials.
- 5.7 The right to have Lander University policies and procedures followed without material deviation.
- 5.8 The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.

- 5.9 The right not to be discouraged by Lander University officials from reporting sexual misconduct or discrimination to on-campus and/or off-campus authorities.

6 Disability Accommodations During the Resolution Process

Lander University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to Lander University resolution processes. Any person needing such accommodations or support should contact the director of disability services or the director of human resources, as applicable. The appropriate official will review the request and, in consultation with the person requesting the accommodation and determine which accommodations are appropriate and necessary for full participation in the process.

7 Grievance Process Pool

The formal grievance process relies on a pool of administrators, faculty, and/or staff to carry out the process. External, trained third-party neutral professionals may also be used to serve in pool roles. Members of the pool can serve in any of the following roles, at the direction of the Title IX coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints.
- To act as an advisor to the parties.
- To serve in a facilitation role in informal resolution or alternate resolution.
- To perform or assist with initial assessment.
- To investigate complaints.
- To serve as a hearing facilitator (process administrator, no decision-making role).
- To serve as a decision-maker regarding the complaint.
- To serve as an appeal decision-maker.

The Title IX coordinator appoints the pool, which acts with independence and impartiality. While members of the pool are typically trained in a variety of skill sets and can rotate among the different roles listed above in different cases, Lander University can also designate standing roles for individuals in the pool. This process of role assignment may be the result of specific skills, aptitudes, or talents identified in members of the pool that make them best suited to particular roles. In accordance with federal regulations, pool members will be trained annually.

8 Advisors

8.1 Who Can Serve as an Advisor?

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 resolution process. The parties may choose advisors from inside or outside of the Lander University community. The Title IX coordinator will also offer to assign a trained advisor for any party if the party so chooses. If the parties choose an advisor from the pool available from Lander University, the advisor will be trained by Lander University and be familiar with the Lander University resolution process. If the parties choose an advisor from outside of the pool of those identified by Lander University, the advisor may not have been trained by Lander

University and may not be familiar with Lander University's policies and procedures. Parties also have the right to choose not to have an advisor in the initial stages of the resolution process, prior to a hearing.

8.2 Advisors in Hearings/Lander University-Appointed Advisor

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but 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, Lander 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. If the party's advisor will not conduct cross-examination, Lander University will appoint an advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses may also be conducted by the decision-maker during the hearing.

8.3 Advisor's Role

The parties may be accompanied by their advisor in all meetings and interviews at which the parties are 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. Lander University cannot guarantee equal advisory rights, meaning that if one party selects an advisor that is an attorney, but the other party does not have access to an attorney, Lander University is not obligated to provide an attorney.

8.4 Pre-Interview Meetings

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows advisors to clarify and understand their role and Lander University's policies and procedures.

8.5 Advisor Violations of Lander University Policy

All advisors are subject to the same Lander University policies and procedures, whether or not they are attorneys. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address Lander University officials in a meeting or interview unless invited to do so (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 or other decision-maker except in a hearing proceeding during cross-examination. 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 resolution process meeting or interview. For longer or more involved discussions, the parties and their advisors should ask for breaks to allow for

private consultation. 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 will be ended, or other appropriate measures implemented. Subsequently, the Title IX coordinator will determine how to address the advisor's non-compliance and any future role.

8.6 Privacy and Sharing Information with the Advisor

Lander University expects that the parties may wish to have Lander University share documentation and evidence related to the allegations with their advisors. Parties may share this information directly with their advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process. Before information can be released directly to an advisor, the involved parties must provide acknowledged consent. Advisors are expected to maintain the privacy of the records shared with them. Pursuant to FERPA, these records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Lander University. Lander University may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by privacy expectations as set forth.

8.7 Expectations of an Advisor

Lander University generally expects an advisor to adjust their schedule to attend meetings when planned; however, scheduling adjustments may be made to accommodate an advisor's inability to attend, as long as doing so does not cause an unreasonable delay. Lander University may also make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies that are readily available and convenient.

8.8 Expectations of the Parties with Respect to Advisors

A party may elect to change advisors during the process and is not obligated to use the same advisor throughout. The parties are expected to inform the investigator of the identity of their advisor at least two (2) business days before the date of their first meeting with the investigator or as soon as possible if a more expeditious meeting is necessary or desired. Parties are expected to provide timely notice to the Title IX coordinator if they change advisors at any time. It is assumed that, if a party changes their advisor, consent to share information with the previous advisor is terminated and a release for the new advisor must be secured. Parties are expected to inform the Title IX coordinator of the identity of their hearing advisor at least two (2) business days before the hearing.

9 Confidentiality During the Resolution Process

Resolution proceedings are confidential. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with Lander University policy. While there is an expectation of privacy regarding the information that investigators share with parties during interviews, the parties have discretion to share their own

knowledge and evidence with others if they so choose. Lander University encourages parties to discuss this with their advisors before doing so.

10 Informal Resolution

Informal resolution can include three different approaches:

- When the parties agree to resolve the matter through an alternate resolution mechanism, including mediation, restorative practices, etc.;
- When the respondent accepts responsibility for violating a policy and desires to accept a sanction and end the resolution process; or
- When the Title IX coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

To initiate informal resolution, a complainant must submit a formal complaint, as defined above. If a respondent wishes to initiate informal resolution, they should contact the Title IX coordinator and so indicate. It is not necessary to pursue informal resolution first in order to pursue a formal grievance process, and any party participating in informal resolution can stop the process at any time and begin or resume the formal grievance process.

Prior to implementing informal resolution, Lander University will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by Lander University. Lander University will obtain voluntary, written confirmation that all parties wish to resolve the matter through informal resolution before proceeding. Parties will never be pressured to participate in informal resolution.

The Title IX coordinator may consider the following factors to assess whether informal resolution is appropriate, or which form of alternate resolution may be most successful for involved parties:

- The parties' amenability to alternate resolution;
- The likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- The civility of the parties;
- The disciplinary history;
- Whether an emergency removal is needed;
- The skill of the alternate resolution facilitator with this type of complaint;
- The complexity of the complaint;
- The emotional investment/intelligence of the parties;
- The rationality of the parties;
- The goals of the parties; and/or
- The adequacy of resources to invest in alternate resolution (e.g., time, staff).

The ultimate determination of whether alternate resolution is a viable option will be made by the Title IX coordinator. The Title IX coordinator maintains records of any resolution reached. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by informal resolution or alternate resolution are not appealable.

The respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX coordinator will determine whether informal resolution can be used in accordance with the established criteria. If informal resolution is applicable, the Title IX coordinator will determine whether all parties are able to agree on responsibility, sanctions, and/or remedies. If so, in consultation with other appropriate administrator(s), any such agreed-upon sanctions and/or remedies will be implemented accordingly. Any result is not subject to appeal once all parties have indicated their written assent to all agreed-upon terms of resolution. If the parties cannot agree on all terms of resolution, the formal grievance process will resume at the point at which it had been paused.

When a resolution is accomplished, the appropriate sanctions or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the complainant and the Lander University community.

11 Formal Grievance Process

The Title IX coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the respondent upon commencement of the formal grievance process. This facilitates the respondent’s ability to prepare for the interview and to identify and choose an advisor to accompany them. The NOIA is also copied to the complainant, who is to be given advance notice of when the NOIA will be delivered to the respondent. The NOIA will include:

- A meaningful summary of all of allegations;
- The identity of the involved parties (if known);
- The precise policy violation being alleged;
- The date and location of the alleged incident(s) (if known);
- The specific applicable policies;
- A description of the applicable procedures;
- A statement of the potential sanctions/responsive actions that could result;
- A statement that Lander University presumes that the respondent is not responsible for the alleged misconduct unless and until the evidence supports a different determination;
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will have an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period;
- A statement about Lander University’s policy on retaliation;
- Information about the privacy of the process;
- Information on the need for each party to have an advisor of their choosing and suggestions for ways to identify an advisor;
- A statement informing the parties that Lander University’s policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process;
- Information on how either party may request disability accommodations during the interview process;

- A link to the applicable policies and procedures, to include the afforded rights of participating parties;
- The name(s) of the investigator, along with a process to identify, in advance of the interview process, to the Title IX coordinator any conflict of interest that the investigator may have; and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

The notice of allegations will be made, in writing, and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official Lander University records, or emailed to the parties' Lander University-issued email or designated accounts. Once mailed, emailed, and/or received in-person, the notice will be presumptively delivered.

The formal grievance process involves an objective evaluation of all relevant evidence obtained, including evidence that the respondent engaged in a policy violation and evidence that the respondent did not engage in a policy violation. Credibility determinations may not be based solely on a participant's status or participation as a complainant, respondent, or witness. Lander University operates with the presumption that the respondent is or has not engaged in the alleged misconduct unless and until the respondent is determined to be responsible for a policy violation by a preponderance of the evidence.

11.1 Resolution Timeline

Lander University will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including any appeal, which can be extended as necessary for appropriate cause by the Title IX coordinator. The coordinator will provide a notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

11.2 Appointment of Investigators

Once the decision to commence a formal investigation has been made, the Title IX coordinator appoints pool members to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

11.3 Ensuring Impartiality

Any individual materially involved in the administration of the resolution process, including the Title IX coordinator, investigator, and decision-maker, may not have or demonstrate a conflict of interest or bias for a party generally, or for a specific complainant or respondent.

The Title IX coordinator will vet the assigned investigator to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX coordinator will determine whether the concern is reasonable

and supportable. If so, another pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX coordinator, concerns should be raised by a student to the vice president for student affairs or by an employee to the director of human resources.

11.4 Investigation Process

11.4.1 Timeline

Investigations are completed expeditiously, typically within thirty (30) business days, although some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, the availability of witnesses, police involvement, etc. Lander University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation. Lander University may undertake a delay in its investigation (lasting from several days to a few weeks) if circumstances require. Such circumstances may include but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions. Lander University will communicate, in writing, with the parties about the anticipated duration of the delay and the reason for the delay and provide the parties with status updates, if necessary. Lander University will promptly resume its investigation and the resolution process as soon as feasible. During such a delay, Lander University will implement supportive measures, as deemed appropriate. Lander University's action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

11.4.2 Steps

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. Involved parties have a full and fair opportunity, throughout the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record. The investigator typically takes the following steps, if not already completed (and not necessarily in this order):

- Determine the identity and contact information of the complainant.
- In coordination with campus partners (e.g., the Title IX coordinator), initiate or assist with any necessary supportive measures.
- Identify all policies implicated by the alleged misconduct and notify the complainant and respondent of all of the specific policies implicated.
- Assist the Title IX coordinator in conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation.

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties.
- Meet with the complainant to finalize their interview/statement, if necessary.
- Prepare the initial NOIA, which may be amended with any additional or dismissed allegations. Notice should inform the parties of their right to have the assistance of an advisor, who could be a member of the pool or an advisor of their choosing present for all meetings attended by the party.
- Provide each interviewed party and witness with an opportunity to review and verify the investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings.
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Interview all available, relevant witnesses and conduct follow-up interviews, as necessary.
- Allow each party the opportunity to suggest witnesses and questions they wish the investigator to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide regular status updates to the parties throughout the investigation.
- Prior to the conclusion of the investigation, provide the parties and their respective advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding.
- Write a comprehensive investigation report fully summarizing the investigation and all witness interviews and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included.
- Prior to the conclusion of the investigation, provide the parties and their respective advisors (if so desired by the parties) with a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the alleged policy violation, including any evidence upon which Lander University does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days.
- The investigator may elect to respond, in writing, in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses.
- The investigator will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant

evidence, make any necessary revisions, and finalize the report. The investigator should document all rationales for any changes made after the review and comment period.

- The investigator will incorporate any relevant feedback and share the final report with all parties and their advisors through secure electronic transmission or via hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.

11.4.3 Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of Lander University are expected to cooperate with and participate in Lander University's investigation and resolution processes. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant disciplinary action up to and including termination.

While in-person interviews for parties and all potential witnesses are ideal, circumstances may require individuals to be interviewed remotely. Teleconferencing technologies may be used for interviews if the investigator determines that timeliness or efficiency dictate a need for remote interviewing. Lander University will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Though not preferred, witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the investigator. If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may still be considered by the decision-maker.

11.4.4 Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If the investigator elects to audio and/or video record interviews, all involved parties will be made aware of, and consent to, audio and/or video recording.

11.4.5 Evidentiary Considerations in the Investigation

The investigation does not consider:

- Incidents not directly related to the alleged policy violation, unless they evidence a pattern;
- The character of the parties; or
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that a person other than the respondent engaged in the conduct alleged by the complainant, or if the

questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

11.5 Referral for a Hearing

In the event that the complaint is not resolved through informal resolution, once the final investigation report has been shared with the parties, the Title IX coordinator will refer the matter for a hearing. The hearing cannot occur fewer than ten (10) business days from the conclusion of the investigation, when the final investigation report is transmitted to the parties and the decision-maker, unless all parties and the decision-maker agree to an expedited timeline.

The Title IX coordinator will select appropriate decision-makers from the pool (depending on whether the respondent is an employee or a student). Allegations involving student-employees will be directed to the appropriate decision-makers depending on the context of the alleged policy violation. At the discretion of the hearing chair, formal proceedings may be fully facilitated via teleconference.

11.5.1 Hearing Decision-maker Composition

Lander University will designate either a single decision-maker or a three-member panel from the pool, at the discretion of the Title IX coordinator. The single decision-maker will also chair the hearing. With a panel, one of the three members will be appointed as chair by the Title IX coordinator. The decision-maker will not have had any previous involvement with the investigation. The Title IX coordinator may elect to have an alternate from the pool sit in throughout the resolution process in the event that a substitute is needed for any reason. Any person who has served as an investigator will be a witness in the hearing and therefore may not serve as a decision-maker. Any person who served as an advisor for any party may not serve as a decision-maker in that matter. The Title IX coordinator may not serve as a decision-maker or chair in the hearing but may serve as an administrative facilitator of the hearing as long as their previous role does not create a conflict of interest. As appropriate, the Title IX coordinator's role is limited to assisting with the flow of the hearing (i.e., arranging for seating, escorting participants, etc.), and providing needed clarification on the applicable procedures. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the chair (or designee).

11.5.2 Hearing Notice

No less than ten (10) business days prior to the hearing, the Title IX coordinator or the chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, the notice will have been presumptively delivered. The notice will contain:

- A description of the alleged policy violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.

- The time, date, and location of the hearing and a reminder that attendance is imperative and supersedes all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the decision-maker and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX coordinator at least five (5) business days prior to the hearing.
- A list of all persons who will attend the hearing, along with an invitation to object to any decision-maker on the basis of demonstrated bias or conflict of interest. Any objection must be raised with the Title IX coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on the parties' access to the recording after the conclusion of the hearing.
- A statement that, if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the decision-maker. For compelling reasons, the chair may reschedule the hearing. Should the parties decide not to participate in the resolution process, the process proceeds absent their participation to a reasonable resolution.
- Notification that the parties may have the assistance of an advisor of their choosing at the hearing and that the parties will be required to have an advisor present for any questions they may desire to ask. A party must notify the Title IX coordinator if they do not have an advisor, and Lander University will appoint one. Each party must have an advisor present. There are no exceptions.
- A copy of all the materials provided to the decision-maker about the matter, unless they have been provided already.
- An invitation to each party to submit to the chair a pre-hearing impact statement that the decision-maker will review during any sanction determination, as applicable.
- An invitation to contact the Title IX coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- A statement that parties cannot bring mobile phones/devices into the hearing.

11.5.3 Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX coordinator or the chair at least five (5) business days prior to the hearing. The Title IX coordinator or the chair can arrange for the use of teleconference technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX coordinator or the chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

11.5.4 Extenuating Circumstances

Hearings for possible violations that occur near or after the end of an academic term (assuming that the respondent is still subject to this policy) and that cannot be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by Lander University and remain within the sixty-to-ninety (60-90) business day goal for resolution. If the respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this policy is not in good standing to graduate.

11.5.5 Withdrawal or Resignation While Charges Pending

11.5.5.1 Students

If a student respondent permanently withdraws from Lander University, the resolution process ends, as Lander University no longer has disciplinary jurisdiction over the withdrawn student. Lander University will, however, continue to address and remedy any systemic issues or concerns, variables that may have contributed to the alleged policy violation(s), and any ongoing effects. The student who withdraws or leaves while the process is pending may not return to Lander University. Such exclusion applies to all campuses of Lander University. The records retained by the deputy Title IX coordinator for students will reflect this status. Admissions will be notified that they cannot be readmitted. They may also be barred from Lander University property and/or events. If the student respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student will not be permitted to return to Lander University unless and until all sanctions have been satisfied, as applicable.

11.5.5.2 Employees

Should an employee respondent resign with unresolved allegations pending, the resolution process ends, as Lander University no longer has disciplinary jurisdiction over the resigned employee. Lander University will, however, continue to address and remedy any systemic issues or concerns, variables that contributed to the alleged policy violation(s), and any ongoing effects of the alleged harassment or discrimination. The employee who resigns with unresolved allegations pending is not eligible for rehire by Lander University, and the records retained by the deputy Title IX coordinator for employees will reflect this status. All Lander University responses to future inquiries regarding employment references for that individual may include the information that the former employee resigned during a pending disciplinary matter.

11.5.6 Pre-Hearing Preparation and Meetings

The chair, after any necessary consultation with the parties, investigator, and/or Title IX coordinator, will provide the names of any persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the investigator or have proffered a written statement or answered written questions, unless all parties and the chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and the chair do not assent to the admission of evidence newly offered at the hearing, the chair will delay the hearing and require that the investigation re-open to consider the new evidence.

The parties will be provided with the name(s) of the decision-maker(s) at least five (5) business days in advance of the hearing. All objections to any decision-maker must be raised, in writing; include the rationale for the objection; and be submitted to the Title IX coordinator as soon as possible and no later than two (2) business days prior to the hearing. A decision-maker will only be removed if the Title IX coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX coordinator will give the decision-maker a list of the names of all parties, witnesses, and advisors at least five (5) business days in advance of the hearing. Any decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and advisors in advance of the hearing. If a decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties will have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the chair at the pre-hearing meeting or at the hearing and will be provided to the parties by the chair.

The chair may convene (a) pre-hearing meeting(s) with the parties and/or their advisors and invite them to submit the questions or topics that the parties and/or their advisors wish to ask or discuss at the hearing, so that the chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the advisors from asking at the hearing for a reconsideration based on any new information or testimony offered at the hearing. The chair must document and share their rationale for any exclusion or inclusion at this pre-hearing meeting.

With full agreement of the parties, the chair may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the investigator in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their advisor, the chair will consider arguments that evidence identified in the final investigation report is not relevant. Similarly, evidence identified as directly related, but not considered relevant by the investigator, may be argued to be relevant. The chair may rule on these arguments at the pre-hearing meeting and will provide those rulings to the parties prior to the hearing to assist in preparation for the hearing. The chair may consult with the general counsel and/or the Title IX coordinator or ask either or both to attend the pre-hearing meeting.

Pre-hearing meetings may be recorded when permission is granted by the applicable parties.

11.6 Evidentiary Considerations in the Hearing

Any evidence that the decision-maker determine(s) is relevant and credible may be considered. The hearing does not consider:

- Incidents not directly related to the possible policy violation, unless they evidence a pattern;
- The character of the parties; or
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that a person other than the respondent engaged in the behavior alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process. The parties may each submit a written impact statement prior to the hearing for the consideration of the decision-maker at the sanction stage of the process when a determination of responsibility has been reached.

After post-hearing deliberation, the decision-maker renders a determination based on the preponderance of the evidence, i.e., whether it is more likely than not that the respondent violated the policy, as alleged.

11.7 Hearing Procedures

At the hearing, the decision-maker has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the allegations of discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within this policy.

Participants at the hearing will include the chair, any additional panelists, the hearing facilitator, the investigator who conducted the investigation, the parties (or two [2] organizational representatives when an organization is the respondent), advisors to the

parties, any called witnesses, the Title IX coordinator (as applicable), and any person providing authorized accommodations or assistive services.

The chair will answer all questions of procedure. Any person appearing at the hearing to provide information will respond to questions on their own behalf. The chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the decision-maker and the parties and then be excused.

11.7.1 Joint Hearings

In hearings involving more than one respondent or in which two (2) or more complainants have alleged that the same respondent engaged in similar or substantially similar conduct, a default procedure will be to hear the allegations jointly. However, the Title IX coordinator may permit the investigation and/or hearings pertinent to each respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each respondent with respect to each alleged policy violation.

11.7.2 The Order of the Hearing – Introductions and Explanation of Procedure

The chair explains the procedures and introduces the participants. This may include a final opportunity for a challenge to or the recusal of the decision-maker on the basis of bias or conflict of interest. The chair will rule on any such challenge unless the chair is the individual who is the subject of the challenge, in which case the Title IX coordinator will review and decide upon the challenge. The chair then conducts the hearing according to the hearing script. At the hearing, recordings, witness logistics, party logistics, the curation of documents, the separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX coordinator. The hearing facilitator may attend to: the logistics of rooms for various parties/witnesses as they wait, the flow of parties/witnesses in and out of the hearing space, ensuring that recording and/or virtual conferencing technology is working as intended, copying and distributing materials to participants, as appropriate, etc.

11.7.3 Investigator Presents the Final Investigation Report

The investigator will then present a summary of the final investigation report, including items that are and are not contested, and will be subject to questioning by the decision-maker and the parties (through their advisors). The investigator will be present throughout the hearing process, but not during deliberations. Neither the parties nor the decision-maker should ask the investigator about the investigator's opinions on credibility, recommended findings, or determinations, and the investigator, advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the chair will direct that it be disregarded.

11.7.4 Testimony and Questioning

Once the investigator presents the investigation report and is questioned, the parties and witnesses may provide relevant information in turn, beginning with the complainant and then in the order determined by the chair. The parties and witnesses will submit to questioning by the decision-maker and then by the parties through their advisors (i.e., “cross-examination”). All questions are subject to a relevance determination by the chair. The advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the chair, upon request or agreed to by the parties and the chair), the proceeding will pause to allow the chair to consider the question, and the chair will determine whether the question will be permitted or disallowed or should be rephrased.

The chair may explore arguments regarding relevance with the advisors, if the chair so chooses. The chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed accordingly. The chair will explain any decision to exclude a question as not relevant or to rephrase it for relevance. The chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The chair has final say on all questions and determinations of relevance, subject to any appeal.

11.7.5 The chair may consult with the general counsel on any questions of admissibility. The chair may ask advisors to address the relevance or lack of relevance of a question from their perspective but will not entertain argument from the advisors on relevance once the chair has ruled on a question. If the parties raise an issue of bias or conflict of interest on the part of an investigator or decision-maker at the hearing, the chair may elect to address those issues, consult with the general counsel, refer them to the Title IX coordinator, and/or preserve them for any appeal. If bias is not an issue at the hearing, the chair should not permit irrelevant questions that probe for bias.

11.7.6 Refusal to Submit to Cross-Examination and Inferences

A decision-maker may consider statements made by the parties and witnesses during the investigation, emails or text exchanges between the parties leading up to the alleged sexual harassment, and statements about the alleged sexual harassment that satisfy the regulation’s relevance rules, regardless of whether the parties or witnesses submit to cross-examination at the live hearing. A decision-maker may also consider police reports, Sexual Assault Nurse Examiner documents, medical reports, and other documents, even if those documents contain statements of a party or witness who is not cross-examined at the live hearing.

The decision-maker may not draw any inference solely from a party’s or witness’s absence from the hearing or refusal to respond to cross-examination or answer other questions. Relevance determinations regarding cross-examination will be made in real-time during the hearing.

If charges of policy violations other than sexual harassment are considered at the same hearing, the decision-maker may consider all evidence they deem relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their advisors.

If a party's advisor of choice refuses to comply with Lander University's established rules of decorum for the hearing, Lander University may require the party to use a different advisor. If a Lander University-provided advisor refuses to comply with the rules of decorum, Lander University may provide that party with a different advisor to conduct cross-examination on behalf of that party.

11.7.7 Recording Hearings

Hearings (but not deliberations) are recorded by Lander University for purposes of review in the event of any appeal. The parties may not independently record the proceedings, and no other unauthorized recordings are permitted.

The decision-maker, the parties, their advisors, and other participants of Lander University will be permitted to listen to the recording in a controlled environment determined by the Title IX coordinator. No person will be given or be allowed to make a copy of the recording without the express authorization of the Title IX coordinator.

11.7.8 Deliberation, Decision-making, and Standard of Proof

The decision-maker will deliberate in closed session to determine whether the respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the chair, but only for the purpose of facilitating hearing procedures (and not to address the substance of the allegations).

When there is a finding of responsibility on one or more of the allegations, the decision-maker may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party. The decision-maker will review the statements and any pertinent conduct history and will recommend the appropriate sanction(s). The chair will then prepare and deliver to the Title IX coordinator a written deliberation statement that describes the determination, the rationale, the evidence used in support of the determination, the evidence disregarded, the credibility assessments, and, as applicable, any recommended sanctions/measures. This information must be submitted to the Title IX coordinator within two (2) business days of the end of deliberations, unless the Title IX coordinator grants an extension. If an extension is granted, the Title IX coordinator will notify the parties.

11.7.9 Notice of Outcome

Using the deliberation statement, the Title IX coordinator will work with the chair to prepare a notice of outcome. The Title IX coordinator will then share the notice of outcome, including the final determination, rationale, and any applicable sanction(s) with the parties and their advisors within five (5) business days of receipt of the decision-maker's deliberation statement.

The notice of outcome will then be simultaneously shared with the parties. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official Lander University records, or emailed to the parties' Lander University-issued email or an otherwise verified email address. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice of outcome will identify the specific policy reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by Lander University from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The notice of outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; the conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and the rationale for, the result of each allegation to the extent that Lander University is permitted to share such information under state or federal law; any sanctions issued that Lander University is permitted to share according to state or federal law; and any remedies provided to the complainant that would ensure access to Lander University educational or employment programs or activities, to the extent that Lander University is permitted to share such information under state or federal law (this information is not typically shared with the respondent unless the remedy directly relates to the respondent). The notice of outcome will also include information on the date on which Lander University will consider the results to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

11.8 Appeals

Any party may file a request for appeal, in writing, to the Title IX coordinator within five (5) business days of the delivery of the notice of outcome. A three-member appeal panel chosen from the pool will be designated by the Title IX coordinator. No appeal decision-maker will have been involved in the prior determination process, including any dismissal appeal that may have been heard earlier in the process. A voting chair of the appeal panel will be designated by the Title IX coordinator. The request for appeal will be forwarded to the appeal panel chair for consideration to determine if the request meets the grounds for appeal (a review for standing). This review is not a review of the merits of the appeal but is solely a determination as to whether the request meets the grounds for appeal and has been filed in a timely manner.

11.8.1 Grounds for Appeal

Appeals are limited to the following grounds:

- Procedural error(s): A procedural irregularity affected the outcome of the matter.
- New evidence: New evidence has been discovered that was not reasonably available at the time on the determination of responsibility or dismissal.
- Conflict of interest: A conflict of interest on the part of a Title IX coordinator, an investigator who compiled the evidence, or a decision-maker that affected the outcome.

If any of the grounds in the request for appeal do not meet the grounds for appeal in this policy, that request will be denied by the appeal panel chair and the parties and their advisors will be notified, in writing, of the denial and the rationale.

If any of the grounds in the request for appeal meet the grounds for appeal in this policy, then the appeal panel chair will notify the other party and their advisors, the Title IX coordinator, and, when appropriate, the investigator decision-maker.

The other party and their advisors, the Title IX coordinator, and, when appropriate, the investigator and/or the original decision-maker will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then will have three (3) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the appeal panel chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that appeal would be reviewed for standing by the appeal panel chair and either be denied or approved. If approved, it would be forwarded to the party who initially requested the appeal, the investigator, and/or original decision-maker, as necessary, who will have three (3) business days to submit their responses, which would then be circulated for review and comment by all parties.

Neither party may submit a new request for appeal after this time period. The appeal panel chair will collect any additional information needed. All documentation regarding the approved grounds for appeal and the subsequent responses will be shared with the appeal panel, and the appeal panel will render a decision in no more than seven (7) business days, barring exigent circumstances. All decisions of the appeal panel will be based on the preponderance of the evidence and will be by majority vote.

11.8.2 Notice of Appeal Outcome

A notice of appeal outcome will be sent to all parties simultaneously, including the decision on each approved ground and the rationale for each decision. The notice of appeal outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result and that Lander University is permitted to share according to state or federal law, and the

rationale supporting the essential findings to the extent that Lander University is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' Lander University-issued email or an otherwise verified email address. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

11.8.3 Sanctions Status During the Appeal

Any sanctions imposed as a result of the determination hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above. If any of the sanctions were to be implemented immediately post-hearing, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must occur within 48 hours of implementation. Lander University may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation from Lander University.

11.8.4 Appeal Considerations

- Decisions on the appeal are to be deferential to the original decision, making changes to the finding only if there was a clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- An appeal is not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, an appeal will be confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for appeal decision-makers to substitute their judgment for that of the original decision-maker because they disagree with the finding and/or sanction(s).
- The appeal panel and chair may consult with the Title IX coordinator for clarification of questions of procedure or rationale, if needed. Documentation of all such consultations will be maintained.
- An appeal granted on the basis of new evidence should typically be remanded to the original investigator and/or decision-maker for reconsideration. Other appeals may be remanded at the discretion of the Title IX coordinator or, in limited circumstances, decided on appeal.
- When an appeal results in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on any of the grounds for appeal listed above and in accordance with these procedures.
- In rare cases in which a procedural error cannot be cured by the original decision-maker (e.g., in the event of bias), the appeal panel may order a new hearing with a new decision-maker.

- In the event that an appeal results in a respondent's reinstatement to Lander University or resumption of privileges, all reasonable attempts will be made to restore the respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

12 Terms

12.1 Advisor

A person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, as applicable.

12.2 Complainant

An individual who alleges or is alleged to have been the victim of conduct that could constitute harassment or discrimination based on a protected class or retaliation for engaging in a protected activity.

12.3 Day

A business day when Lander University is in normal operation.

12.4 Education Program or Activity

Locations, events, or circumstances for which Lander University exercises substantial control over both the respondent and the context in which the sexual harassment or discrimination is alleged to have occurred, including any building owned or controlled by a student organization that is officially recognized by Lander University.

12.5 Final Determination

A conclusion based on the preponderance of evidence that the alleged conduct occurred and whether it did or did not violate policy.

12.6 Finding

A conclusion based on the preponderance of evidence that the conduct did or did not occur, as alleged.

12.7 Formal Complaint

A document filed/signed by a complainant or the Title IX coordinator alleging harassment or discrimination based on a protected class or in retaliation for engaging in a protected activity against a respondent and requesting that Lander University investigate the allegation.

12.8 Formal Grievance Process

A method of formal resolution designated by Lander University to address conduct that falls within the policies included below, and that complies with the requirements of 34 CFR Part 106.45.

12.9 Grievance Process Pool

Also referred to as “the pool,” and includes any investigators, hearing officers, appeal officers, and advisors who may perform any or all of these roles (although not at the same time or with respect to the same case).

12.10 Hearing Decision-Maker or Panel

Person or persons who have decision-making and sanctioning authority within Lander University’s formal grievance process.

12.11 Investigator

The person or persons charged by Lander University with gathering facts about an alleged violation of this policy, assessing relevance and credibility, synthesizing the information, and compiling this information into an investigation report and file of directly related evidence.

12.12 Notice

An employee, student, or third-party who informs the Title IX coordinator or other official with authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

12.13 Parties

Complainant(s) and respondent(s), collectively.

12.14 Preponderance of Evidence

Whether it is more likely than not that the respondent violated the policy, as alleged.

12.15 Remedies

Post-finding actions directed to the complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to Lander University’s educational programs.

12.16 Respondent

An individual who has been reported to have engaged in conduct that could constitute harassment or discrimination based on a protected class or for retaliation for engaging in a protected activity.

12.17 Resolution

The result of an informal or formal grievance process.

12.18 Sanction

A consequence imposed by Lander University on a respondent who has been found to have violated this policy.

12.19 Title IX of the Education Amendments of 1972

A federal law that protects people from discrimination, based on sex, in educational programs or activities that receive federal financial assistance. 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.”

12.20 Title IX Coordinator

An official designated by Lander University to ensure compliance with Title IX and Lander University’s Title IX program. References to the coordinator throughout this policy may also encompass a designee (or deputy Title IX coordinator) of the coordinator for specific tasks.

13 Policy Updates

Lander University, subject to approval from the Board of Trustees, reserves the right to make changes to this document, as necessary; once those changes are posted online, they are in effect. If government laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings. This document does not create legally enforceable protections beyond the protection of the background state and federal laws that frame such policies and codes, generally.

14 Attributions and Citations

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15 Procedures Revision History

- Last revised by Title IX Coordinator (Student Affairs) on 09/04/2021.