



GENDER-BASED MISCONDUCT POLICY FOR STUDENTS, FACULTY, STAFF, AND VISITORS

Initial distribution October 14, 2014

UPDATED as of August 15, 2018

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 If you believe the Policy contains erroneous or outdated information, we encourage you to contact the Title IX Coordinator and/or our General Counsel.

I. TABLE OF CONTENTS

<i>Introduction, Scope of Policy, and Notice of Non-Discrimination</i>	5
A. Introduction	5
B. Scope of Policy	5
C. Notice of Non-Discrimination	6
<i>II. Definitions</i>	6
A. General Terms	6
B. Sexual and/or Gender-Based Harassment	8
C. Sexual Assault	9
1. Non-Consensual Sexual Contact	9
2. Non-Consensual Sexual Intercourse or Penetration	9
D. Sexual Exploitation	10
E. Stalking, including Cyber-stalking	10
F. Intimate Partner Violence	11
G. Other Prohibited Forms of Harassment	11
H. Effective Consent	11
I. Incapacitation and Use of Alcohol/Drugs	13
J. Coercion	14
<i>III. Accessing Resources and Reporting Gender-Based Misconduct</i>	14
A. Requests for Confidentiality	15
B. Making a Formal Report of Misconduct	15
1. Simmons Title IX Team	15
2. Ethicspoint	16
3. Simmons Public Safety	16
4. Boston Police Department (or other local law enforcement)	16
C. Simmons Title IX Team	17

D. Administrative Agency Resources – External Reporting Options	18
IV. Other Provisions	18
A. Non-Retaliation	18
B. No Contact Orders, Protective Orders, and No Trespass Orders	19
1. No Contact Orders	19
2. Harassment Prevention/Abuse Prevention Orders	20
3. No Trespass Orders	21
C. Alcohol and Drugs Amnesty	21
D. Bystander Intervention	21
E. Intentionally Filing a False Report	22
F. Reports Involving Minors	22
V. Consensual Relationships Policy	22
VI. Interim Measures	24
VII. Investigation and Resolution Process	25
A. Initial Assessment	25
B. Formal Investigation of Complaints	26
4. Notice of an Investigation	27
5. Timing of Investigation	27
6. Designation of Investigator	27
7. Nature of the Investigation	27
8. The Parties' Identification of Potential Witness and Documentation	28
9. Investigation Prohibitions	28
10. Advisors	28
11. Content of the Investigative Report	29
12. Review by the Parties.	29
13. Determination of Violations and Sanctions	30
14. Notification to Parties	30
VIII. Appeals Process	31

A. Grounds for Appeals	31
B. Process for Filing Appeals	31
C. Determination of Appeals	32

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

A. Introduction

At Simmons, we recognize the inherent dignity and worth of each member of our community, which includes the right to live, learn and work in an environment free from gender-based misconduct. Gender-based misconduct is a broad term used to identify a number of unwelcome behaviors, of a sexual nature, that are prohibited by Simmons University. Simmons takes allegations of gender-based misconduct seriously and is committed to preventing and addressing this conduct, as it violates our community standards and is inconsistent with mutual respect, dignity, and personal integrity.

B. Scope of Policy

This Gender-Based Misconduct Policy ("Policy") governs all community members, including undergraduate and graduate students, faculty, staff, those employed by others but working on the Simmons campus, and visitors to Simmons. The Policy defines the behavior that Simmons identifies as prohibited gender-based misconduct, the process for addressing such conduct, and the potential sanctions for engaging in prohibited conduct. This Policy expressly prohibits sexual harassment, sexual assault, sexual exploitation, stalking, and intimate partner violence. In addition to the foregoing, this Policy also:

1. Explains how to report incidents of gender-based misconduct to Simmons.
2. Details the process for assessing, investigating, and resolving complaints of gender-based misconduct, including the implementation of interim measures when appropriate, and the use of sanctions against those who violate the Policy.
3. Identifies on and off campus resources available to individuals impacted by gender-based misconduct, and how to access those resources.
4. Identifies Simmons's Title IX Coordinator and Deputy Title IX Coordinator and describes their roles.

There is no time limit for reporting allegations of gender-based misconduct, however, the passage of time may make it more difficult for the University to investigate and adjudicate behavior. Complainants and third-party witnesses are encouraged to report misconduct promptly to maximize the University's ability to respond effectively. Even if a Respondent is no longer a student or employee, the University can take steps to end the harassment, prevent its recurrence, and address its effects.

An incident does not have to occur on the Simmons campus to be reported to the University. Off-campus conduct that is likely to have a substantial effect on your campus life and activities or pose a threat or danger to you or other members of the Simmons community can also be addressed under this Policy.

C. Notice of Non-Discrimination

Simmons University does not discriminate on the basis of race, color, national or ethnic origin, ancestry, religion, age, sex, gender identity or expression, sexual orientation, genetics, disability, veteran's status, or any other characteristic protected by federal, state, or local laws in its practices, programs, or activities. While this Policy specifically focuses on discrimination as it pertains to the prohibited conduct detailed below, the University has additional policies that protect students, employees, and other University community members from other forms of discrimination.

II. DEFINITIONS

A. General Terms

The word “**Complainant**” and “**Respondent**” appear frequently in this Policy and are terms employed in laws and policies regarding gender-based misconduct. **Complainant** is the person who alleges that she/he/they was a victim of gender-based misconduct. **Respondent** is the person against whom allegations of gender-based misconduct are made. Collectively, the Complainant and Respondent are referred to as **the Parties**.

Confidential Resource Person - A University staff or faculty member or third-party partner who is not required to report allegations of gender-based misconduct to the Title IX Coordinator.

Gender-Based Misconduct - A broad term used to identify various forms of unwelcome behavior, of a sexual nature, that are prohibited by Simmons University. The term gender-based misconduct includes, but is not limited to, behaviors often described as **sexual harassment, sexual assault, sexual violence, rape, stalking, sexual exploitation, and intimate partner or relationship violence**. Sexual misconduct can vary in severity, and consists of a range of behaviors described in greater detail below. In this Policy, Gender-Based Misconduct is also referred to as **Prohibited Conduct**.

Gender-based misconduct may occur between any individuals, regardless of their sex, sexual orientation, gender, or gender identity, and between members of the opposite sex or the same sex.

No Contact Order - A written order issued by the University prohibiting contact between two or more members of the Simmons community; sometimes, these Orders restrict individuals from one or more locations on campus. NCOs generally are mutual, meaning that they restrict each party from contacting, or communicating with, the other. A NCO prohibits all direct (in person) or indirect communication or contact (via phone, email, text, or other electronic means) between the parties, including contact through friends, third parties, or via any form of social media.

No Trespass Order – A legal notice provided to individuals requiring that they stay off the Simmons campus. A No Trespass Order is issued, verbally or in writing, by Simmons Public Safety.

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

Reporting Party - Any individual who raises a complaint, concern or policy violation related to this Policy. Such individual need not be directly involved with the incident of misconduct in order to make a report, and often is not.

Responsible Employee - Someone who has a duty to report and/or the authority to take action to redress sexual harassment or sexual or gender-based misconduct.

Simmons classifies all employees as responsible employees who must report gender-based misconduct to the Title IX Coordinator.

Responsible employees do *not* include Simmons staff who may assert a statutory privilege to maintain confidentiality (licensed psychologists, mental health counselors, social workers, clergy, and designated medical personnel) on behalf of a student/employee, and are acting within that privileged role. Likewise, individuals the University explicitly designates as Confidential Resource Persons are not considered Responsible Employees.

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

Title IX Coordinator - The person responsible for directing the University's response to complaints of gender-based misconduct as described in this policy, often in conjunction with the Deputy Title IX Coordinator. Whenever a responsibility is designated within this Policy for the Title IX Coordinator or the Deputy Title IX Coordinator, that responsibility can be delegated to another individual in appropriate circumstances.

B. Sexual and/or Gender-Based Harassment

Sexual and/or Gender-Based Harassment is unwanted or unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, or other unwanted/unwelcome verbal, physical, or graphic conduct of a sexual nature, when:

- Submission to, or rejection of, such conduct is an explicit or implicit condition of an individual's employment, academic standing, or participation in social, co- or extra-curricular activities; or
- Submission to, or rejection of, such conduct is used as the basis for employment decisions or academic decisions; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's working conditions, academic or co-curricular experience, or living conditions, or of creating a hostile working, academic, or living environment.

Sexual harassment has the purpose or effect of unreasonably interfering with an individual's working, academic, or living conditions, for example, if it is sufficiently serious, pervasive, or persistent so as to create an intimidating, hostile, humiliating, demeaning, discriminatory, or sexually offensive working, academic, social, or residential environment. Even one instance of sexual harassment, if severe enough, may create a hostile environment. In determining whether a hostile environment exists, consideration will be made as to whether a reasonable person in a similar situation would have also perceived the conduct as objectively offensive.

Sexual harassment comes in many forms and:

- Can be blatant and intentional and involve an overt action, a threat or reprisal, or can be subtle and indirect, with a coercive aspect that is unstated.

- Does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- Can be committed by anyone, regardless of gender, age, position, or authority.
- Can be committed by a stranger, an acquaintance, or someone with whom the Complainant has an intimate or sexual relationship.
- Can be committed by or against an individual, or may be a result of the actions of a group.
- Can occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- Can occur in the classroom, in the workplace, in residential settings, or in any other setting.
- Can be a one-time event, or can be part of a pattern of behavior.
- Can be committed in the presence of others, or when the parties are alone.
- Can affect third parties who witness or observe harassment and are affected by it.

C. Sexual Assault

Sexual Assault is unwanted physical contact of a sexual nature. Sexual contact is unwanted when it occurs either without *effective* consent or by force (Effective Consent is defined [here](#)). There are many degrees and forms of sexual assault, which are defined below. Sexual contact with a person who is incapacitated or unable to give effective consent is always considered non-consensual.

1. Non-Consensual Sexual Contact

- ✓ Any intentional touching that a reasonable person would find sexual in nature;
- ✓ However slight;
- ✓ With any object or body part;
- ✓ By a person upon another person;
- ✓ Without consent or upon a person unable to consent as defined below.

Examples include, but are not limited to: non-consensual touching of a person's intimate body parts (genitalia, groin, breast, buttocks, mouth) and/or clothes covering them; non-consensual touching of a person with one's own intimate body parts; or forcing a non-consenting person to touch another person in a sexual manner.

2. Non-Consensual Sexual Intercourse or Penetration

- ✓ Any sexual **intercourse** or **penetration** of the anus, mouth or vagina;
- ✓ However slight;

- ✓ With any object or body part;
- ✓ By a person upon another person;
- ✓ **Without consent** or upon a person who is unable to give effective consent, as defined below.

Examples include, but are not limited to: unwilling or non-consensual penetration of the mouth, vagina or anus with any objects or body part, including, but not limited to, fingers, penis, tongue, or any foreign object.

D. Sexual Exploitation

Sexual exploitation occurs when an individual takes non-consensual, unfair, or abusive advantage of another person in a sexual manner for the purpose of one's own sexual gratification, financial gain, personal benefit or advantage, or any other purpose.

Examples of sexual exploitation include, but are not limited to:

- *Inducing incapacitation to make another vulnerable to non-consensual sexual activity.*
- *Non-consensual audio recording, videotaping, streaming, or distribution of images, photography, video or audio recordings of sexual activity or nudity without the knowledge and consent of all those involved.*
- *Observing another's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all those involved.*
- *Prostituting another individual.*
- *Exposing one's genitals in non-consensual circumstances.*
- *Knowingly exposing another individual to a sexually transmitted infection without that individual's knowledge.*

E. Stalking, including Cyber-stalking

Stalking is defined as an intentional course of conduct or behavior over a period of time, directed at a specific person, which causes the person to feel alarm, annoyance, emotional distress, and/or fear. Stalking behavior prohibited by this policy may include, without limitation, unwelcome contact by phone, email, or social media, as well as in-person conduct, where the content of the messages or the nature of the in-person conduct is gender-based or of a sexual nature. Stalking may involve individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals not known to one another.

Further examples of stalking include, but are not limited to: Following a person; appearing at a person's home, class, or work uninvited; making frequent unwanted phone calls; sending frequent unwanted emails, or text messages; leaving written messages or objects; making repeated unwanted contact via social media (e.g., Facebook, Twitter); or vandalizing a person's property.

F. Intimate Partner Violence

Intimate partner violence (also called domestic violence, dating violence, and relationship violence) includes any act of violence or threatened act of violence against a person who is or has been involved in a sexual, dating, domestic, or other intimate relationship, by the other person in the relationship. It may involve one act or an ongoing pattern of behavior. Intimate partner violence encompasses a range of behaviors, including, but not limited to: physical violence, sexual violence, emotional violence, and economic abuse. Intimate partner violence may take the form of threats, assault, property damage, and violence or threat of violence to one's self, one's sexual or romantic partner, and/or to one's family members or friends.

Examples of actions that may constitute intimate partner violence include, but are not limited to the following:

- *Taking away a person's cell phone during an argument so the person cannot call a friend or the police for help.*
- *Threatening harm to a person if they do not do what they are told.*
- *Threatening to physically assault someone the person is dating, if they do not do what they are told.*
- *Hitting, punching, pinching, slapping, or strangling someone with whom the person is or has been intimately involved (or with whom they have a child in common).*
- *Violating a protective or restraining order.*
- *Harming a person's children or animals while in an intimate relationship.*

G. Other Prohibited Forms of Harassment

It is not possible to list all behaviors which may be investigated under this Policy. The University may consider any other inappropriate conduct that has a sexual or sex-based connotation as prohibited harassment under the Policy.

H. Effective Consent

Effective Consent is consent which is informed, freely and actively given through clear words or actions, and creates mutually understandable permission regarding the conditions of sexual activity. Effective Consent is achieved only where each party mutually understands what behavior the party's partner consents to and what

behavior the party's partner does not consent to with regard to physical and sexual interactions. Effective Consent given at one time does not imply Effective Consent for further sexual activity at another time. Effective Consent cannot be obtained: (1) through silence alone (absent a non-verbal action clearly demonstrating consent); (2) from minors (under the age of 16 in Massachusetts), individuals with mental disabilities, or incapacitated persons; or (3) through physical force, threat of physical force (by words, gestures, or non-verbal actions), coercion, fraud, intimidation, or incapacitation.

Remember:

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

Consent can never be given:

- In response to threats of physical force, intimidation, or coercion, or any other factor that eliminates an individual's ability to exercise free will.
- By an individual who is, voluntarily or involuntarily, physically incapacitated from alcohol and/or other drug consumption, or is unconscious, unaware, or otherwise physically helpless.
- By a person who is asleep or passed out.
- By a third party.
- Consent can never be given by persons under the age of sixteen (16), the age of consent in Massachusetts. Sexual activity with under 16 is against the law and violates this Policy.

I. Incapacitation and Use of Alcohol/Drugs

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

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

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

An individual may also be in a state known as a "blackout," where they are also incapacitated. While they may appear to give consent, they do not actually have the conscious ability to do so. Therefore, it is of particular importance that any two people engaging in sexual activity know the other's level of intoxication. When in doubt about an individual's incapacitation and ability to give effective consent, sexual activity should cease.

For the Respondent, being under the influence of alcohol or drugs does not excuse sexual misconduct. The use of alcohol or drugs is never an excuse for failing to obtain effective consent and will not diminish one's responsibility to obtain consent. Individuals are responsible for being aware of the other person's level of intoxication, and how it could impact their ability to give effective consent. Respondents will be judged by the "reasonable person standard" when determining whether misconduct has occurred. That is, given the facts

and circumstances, would a reasonable person have been aware that the other party was incapacitated and incapable of giving effective consent.

J. Coercion

Coercion is a direct or implied threat of force, violence, danger, hardship, or retribution sufficient to persuade a reasonable person to perform or to submit to sexual contact to which they otherwise would not have agreed. Coercion can include pressuring an individual to engage in sexual activity. When someone makes clear that they do not want to engage in sexual activity, or wants to stop, or does not want to go past a certain point of sexual interaction, continued pressure for sexual activity beyond that point is coercive.

Example: Jon and Evan are friends who meet at a party. Evan confides in Jon that he has recently “come out” as gay to a few friends, but several people, including his family, do not yet know. As the evening progresses, Jon and Evan start kissing. Jon wants to have sex, but Evan does not. Jon threatens to “out” Evan on Facebook if he does not have sex with him. Out of fear, Evan submits to sex. Jon’s threats and his sexual activity with Evan violate this Policy.

Another example: Julie and Karen return to Karen’s room after dinner. They begin having sexual contact but Karen repeatedly says she does not want to perform certain sex acts on Julie. Julie repeatedly pressures Karen over the course of an hour to perform those specific sexual acts. Karen tells Julie she wants to go to bed because she has class in the morning and Julie says she is not leaving until Karen performs the requested sexual act. Finally, Karen relents and performs the sex act so Julie will leave and Karen can go to sleep. Julie has coerced Karen into sexual activity in violation of this Policy.

III. ACCESSING RESOURCES AND REPORTING GENDER-BASED MISCONDUCT

If you have experienced gender-based misconduct, the University encourages you to seek help and support by reporting it. Individuals can receive support and access to resources regardless of whether they choose to make a formal report or pursue an investigation, and regardless of when or where an incident occurred. The University recognizes that deciding whether or not to make a report of gender-based misconduct and choosing how to proceed are difficult decisions. We encourage anyone with questions or concerns to seek support and guidance from [our campus and community resources](#). These resources can assist with making decisions, offer information about other resources and procedural options, and assist in the event that a report and/or resolution is pursued under this Policy. However, please note that certain individuals are

deemed “Responsible Employees” and will need to inform the University if you discuss specific sexual misconduct.

If you would like to speak to someone confidentially, there are “Confidential Resources” at Simmons who do not have the same reporting obligations. A list of confidential and non-confidential resources and their contact information can be found on the Simmons Title IX website: www.simmons.edu/about-simmons/title-ix.

A. Requests for Confidentiality

The University values the privacy of individuals involved in the reporting, investigation, and/or resolution of matters subject to this Policy, and is committed to protecting the privacy of individuals involved in a report of gender-based misconduct to the extent it may do so. However, except in limited circumstances involving a small group of “confidential resources,” the University cannot guarantee confidentiality. Simmons is legally obligated to address incidents of gender-based misconduct that come to its attention, even when no formal complaint or report is filed. This legal obligation could require the University to investigate an allegation of gender-based misconduct, even without a Complainant’s participation in such an investigation.

Simmons will take reasonable steps to respond to a report of misconduct in a manner consistent with a Complainant’s request for confidentiality or request to forego an investigation. When determining how to respond, the University will weigh a Complainant’s request for confidentiality against the obligation to provide a safe and non-discriminatory environment for the broader Simmons community. When circumstances require the University to override a request for confidentiality, the University will proceed with the utmost sensitivity and respect for the individuals involved, making every effort to protect their privacy.

Questions about confidentiality can be directed to the Title IX Coordinator or Deputy Title IX Coordinator.

B. Making a Formal Report of Misconduct

1. Simmons Title IX Team

Members of the Simmons community can file a report of gender-based misconduct in the following ways:

- a) **Students** may make a report to a member of the Title IX team or a member of the Office of Student Life. This individual will put the Complainant’s oral report into writing and then share the information with the Title IX Coordinators for further review and action.

- b) **Faculty or staff** may meet with a member of the Title IX team, who will reduce an oral report into writing and share the information with the Title IX Coordinators for further review and action.
- c) **Faculty, staff, or students** may submit a written statement to a Title IX Coordinator. The statement should include the name of the person alleged to have engaged in gender-based misconduct, the location and time of the incident, and as many additional details as possible. If you choose to report in this way, a member of the Title IX team will contact you and may request further information, in addition to connecting you with additional resources or providing the support you need.

2. Ethicspoint

Ethicspoint is a third party web-based tool that can be used to report a violation of this Policy. You can find information on Ethicspoint here: <http://www.simmons.edu/about-simmons/administrative-offices-and-services/general-counsel/ethicspoint>. Any member of the Simmons community can file a complaint of gender-based misconduct on Ethicspoint. Ethicspoint offers an anonymous reporting option providing individuals the option to report anonymously if they choose. It is important to understand that when a report is made anonymously or in an untimely fashion, the University's ability to respond to the report may be limited because of the incomplete information, the current status of the individuals involved (e.g., a student vs. an alumna), the loss of evidence, or other reasons.

3. Simmons Public Safety

Members of the Simmons community can choose to make a report directly to Public Safety. Public Safety will share reports of gender-based misconduct with the Title IX Coordinators. Public Safety can also provide support in a number of different ways, such as:

- Providing assistance with filing a criminal complaint and working with the local law enforcement agency if requested to do so;
- Supporting students in filing a no trespass order at Simmons or seeking a protection order in court;
- Providing transportation to the hospital, if needed; and
- Connecting Complainants with other resources, as needed.

4. Boston Police Department (or other local law enforcement)

If the misconduct is potentially criminal in nature, a Complainant can choose to file a criminal complaint with law enforcement. Except where the Complainant is younger than eighteen (18) years old or there are concerns about an impending threat to the University community that justifies police involvement, the University will respect an individual's choice on whether or not to report an incident to local law enforcement. If requested, the University will assist individuals in making a criminal report and will cooperate with law enforcement agencies to the extent permitted by law.

Note that the definitions of sexual misconduct and the burden of proof under the Simmons Gender-Based Misconduct Policy may differ from Massachusetts criminal law. You can seek resolution through this Policy and through a criminal report at the same time. A report to law enforcement will not change the University's obligation to respond to an incident of gender-based misconduct, but it may briefly delay the timing of an investigation if a law enforcement agency requests the University to delay its process for a reasonable amount of time to allow it to gather evidence. The University's determination of whether a policy violation has occurred is entirely independent of a law enforcement's decision whether or not to pursue criminal charges against a suspect or the outcome of any criminal prosecution.

C. Simmons Title IX Team

The Simmons Title IX team includes community members trained to support students, faculty, and staff impacted by gender-based misconduct. These individuals can help provide support and connect you with resources. In particular, the Title IX Coordinator and Deputy Title IX Coordinator, working with other members of the Title IX Team, will ensure a timely, effective, impartial, and consistent response to all reports of gender-based misconduct.

Title IX Coordinators:

- **Title IX Coordinator:**

Gretchen Groggel Ralston, Associate VP & Associate General Counsel

gretchen.groggelralston@simmons.edu

617-521-2768

Main Campus Building (MCB), Suite E-200

- **Deputy Title IX Coordinators:**

Nancy Nienhuis, Associate Dean of Student Life

Nancy.nienhuis@simmons.edu

617-521-2125

MCB, Suite C-210

Catherine Paden, Associate Provost and Dean of the Undergraduate Program

catherine.paden@simmons.edu

617-521-2501

MCB, Suite C-219

D. Administrative Agency Resources – External Reporting Options

Complainants may also choose to file a complaint with the following independent agencies:

U.S Department of Education, Office for Civil Rights

5 Post Office Square, 8th floor

Boston, MA 02109-3921

617-289-0100

Equal Employment Opportunity Commission

JFK Federal Building

475 Government Center

Boston, MA 02203

800-669-4000

Massachusetts

Commission Against Discrimination

John McCormack Building

One Ashburton Place

Sixth Floor, Room 601

Boston, MA 02108

617-994-6000

IV. OTHER PROVISIONS

A. Non-Retaliation

Simmons University is committed to responding to reports of gender-based misconduct and encourages members of the community to report such incidents without fear of retaliation or intimidation. Threats, acts of retaliation, or any act of intimidation that discourages reporting or participating in the investigative process will result in immediate disciplinary action. Retaliation, whether actual or threatened, destroys the sense of community and trust that is critical to a learning and work environment.

Retaliation is defined as any acts or words that constitute intimidation, threats, or coercion because of that person's: (1) report of sexual misconduct; (2) assistance in reporting of sexual misconduct; (3) participation in any proceeding under this Policy; or (4) protest of sexual misconduct, and that would also deter a reasonable person from reporting or assisting in reporting a violation of the Policy, participating in any proceeding under the Policy, or protesting of sexual misconduct. Retaliation can be committed by an individual or a group, and can take many forms. Retaliation may be committed in person, through electronic means, social media, or some other mode or platform. All retaliation is prohibited, regardless of how or where it is done.

Retaliation has no place at Simmons and will be investigated fully and promptly. Individuals found retaliating against another member of the community may be subject to disciplinary action, up to and including dismissal or exclusion. Retaliation should be reported promptly to the Title IX Coordinator, Deputy Title IX Coordinator, Provost, a Vice President, or a Dean.

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

1. No Contact Orders

A No Contact Order (NCO) is a written order issued by the Simmons Title IX Coordinator, Deputy Title IX Coordinators, or the Dean of Student Affairs prohibiting contact between two or more members of the Simmons community; sometimes, these Orders restrict individuals from one or more locations on campus. NCOs generally are mutual, meaning that they restrict each party from contacting, or communicating with, the other. A NCO prohibits all direct (in person) or indirect communication or contact (via phone, email, text, or other electronic means) between the parties, including contact through friends, third parties, or via any form of social media.

A Simmons community member may request a NCO when reporting a complaint of gender-based misconduct. The Title IX Coordinator, or her or his designee, will approve the issuance of an NCO if appropriate and necessary given the circumstances. The Simmons Title IX Coordinator has broad discretion in determining the appropriateness of an NCO and may consider a wide range of factors as grounds for the NCO. Moreover, the Title IX Coordinator (or anyone issuing NCOs) may revisit a decision to grant or refuse to grant a NCO at any time if circumstances change with regard to the individuals in question.

Either a Complainant or Respondent may initiate a request for a NCO. Even if neither Complainant nor Respondent requests one, the Title IX Coordinator may initiate a NCO if she or he concludes it is in the best interests of the those involved or the Simmons Community.

All NCOs will be in writing, and notice of a NCO will be provided to all parties involved with the order. In addition, depending on who issues the NCO, a copy of the NCO shall be provided to both Public Safety and Student Life for tracking and enforcement purposes. A NCO shall stay in effect until it is expressly cancelled and the parties to the Order are notified in writing. A party to a NCO may make a request to the Title IX Coordinator

for modification or termination of a NCO. The Title IX Coordinator will determine if such change is appropriate and will communicate any changes, in writing, to the parties if the change is approved.

The issuance of an NCO does not necessarily restrict a student from being on campus nor does it automatically place restrictions on the academic or co-curricular activities of either the Complainant or the Respondent. However, the Title IX Coordinator, in consultation with Student Life and/or Public Safety, may add provisions regarding the use of certain spaces on campus and may include other restrictions on either or both the Complainant or the Respondent to ensure the NCO is effective.

Should either the Complainant or the Respondent unexpectedly encounter one another after an NCO has been issued, both individuals must keep their distance and refrain from initiating direct or indirect communication or contact. Unless the parameters of a NCO dictate otherwise, the person who arrives second to a closed space is required to leave that space. NCOs that are issued as a sanction through the Title IX process may have different obligations for one party than what is required of the other party.

A NCO is a directive, not a disciplinary action. It is not a finding of responsibility for a disciplinary action, nor does it preclude future disciplinary action. However, if a student violates a NCO, disciplinary action may result.

2. Harassment Prevention/Abuse Prevention Orders

Massachusetts law provides for two types of protective orders:

- ✓ 209A Abuse Prevention Order: a court order protecting an individual from unwanted contact or abuse by someone with whom they have a close relationship (a current or However slight;
- ✓ Harassment Prevention Order: a court order that can offer protection from unwanted contact or abuse in other circumstances where no “dating relationship” exists

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

Once an individual receives a court-issued protective order, Simmons will work with the individual to ensure the order is enforced. Simmons community members are encouraged to provide a copy of any prevention orders to

Public Safety for their records. A violation of a court-issued order can result in criminal charges against the violator.

3. No Trespass Orders

Under state law, Simmons has the lawful authority to issue no trespass notices to individuals requiring that they stay off the Simmons campus. A no trespass order is issued by Simmons Public Safety. While an initial no trespass order may be issued verbally in certain emergency situations, it will subsequently be reduced to writing when the emergency or threat subsides. The written order will then be shared with the parties, as well as with other individuals on campus that have a need-to-know, e.g., the Title IX Coordinator or residence life staff. Violation of a no trespass order may result in arrest and/or criminal prosecution.

Individuals may request a no trespass order directly from Public Safety. Individuals may also request a no trespass order from the Title IX Team, but Public Safety will determine whether a no trespass order is warranted given the circumstances.

A no trespass order will remain in effect until it is removed by Public Safety and such removal is communicated in writing to those involved.

C. Alcohol and Drugs Amnesty

Sometimes students are hesitant to report gender-based misconduct to University officials because they fear being charged with other Policy violations, such as underage drinking at the time of the incident. Similarly, students are sometimes hesitant to offer assistance to others to avoid getting themselves in trouble. Complainants and witnesses should understand that the University's primary focus is on addressing gender-based misconduct and any related safety concerns, not whether alcohol or drugs were involved in such misconduct. To encourage reporting, Simmons offers limited immunity from drug/alcohol charges to those students alleging gender-based misconduct and those students who help others in need of assistance in instances of such misconduct. The University does reserve the right to ask the individual using the alcohol or drugs to get professional assistance if there are signs of problem behavior.

D. Bystander Intervention

The University urges all community members to assist others in need and to take action, either directly or indirectly, to provide help and stop gender-based misconduct. Such action should be prudent and taken with

due regard for one's own safety. Enlist the help of friends, contact law enforcement, and seek assistance from staff or other persons in authority to end the abuse.

E. Intentionally Filing a False Report

The University takes all reports of misconduct seriously. An individual who makes a report later found to be intentionally false and with the intent to injure the reputation of another, or made without regard for truth, may be subject to appropriate disciplinary actions. This provision does not apply to reports made in good faith, even if the allegations in the report are not substantiated through an investigation.

F. Reports Involving Minors

The University will report all suspected child abuse and neglect involving minors, including sexual assault, to Public Safety. Any member of the Simmons community witnessing or having knowledge of abuse of a child is mandated by law to report such abuse to law enforcement and/or the Massachusetts Department of Children and Families. If you have questions or need guidance on this provision, please contact one of the Title IX Coordinators.

V. CONSENSUAL RELATIONSHIPS POLICY

Relationships between Employees and Students¹

Simmons University prohibits intimate, romantic, or sexual relationships between Simmons employees and Simmons students. The term "employee" includes Simmons administrators and staff at all levels, both full-time and part-time, as well as Simmons faculty of all rank, including professor, associate professor, assistant professor and lecturer; and tenured, tenure-track, contract, or adjunct faculty. The term "student" in this Policy includes, but is not limited to, any individual who is enrolled as an undergraduate, graduate, or Dix scholar in an on- or off-campus or online program leading to the award of academic credit. Such enrollment

¹ There is a narrow exception to this Policy for employees who are married to Simmons students. This Policy prohibiting consensual relationships shall not apply to a Simmons employee whose spouse enrolls at Simmons full or part-time, whether or not a tuition remission benefit is used. However, faculty should not be engaged in the evaluation of the academic work of a family member, including a spouse. When an immediate family member is enrolled in the same department employing the faculty member, the Dean shall be notified and arrangements shall be made for the evaluation of the immediate family member's academic work.

may be for day or night programs, whether full-time or part-time, regardless of the number of hours or days attending the classes.

Simmons agrees with the statement of the American Association of University Professors (AAUP) that: “Sexual relations between students and faculty members with whom they also have an academic or evaluative relationship are fraught with the potential for exploitation,” can create real conflicts, are susceptible to an appearance of exploitation, and can impair the trust and integrity of the teaching, coaching, or other supervisory or evaluative relationship and may cause a perception of favoritism or bias on the part of the staff. In addition, although these relationships may begin and remain consensual, they may easily be later characterized as non-consensual and could potentially lead to sexual harassment charges. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in an academic or evaluative role, make voluntary consent by the student suspect. This is true even if the student initiated the relationship. Relationships that begin on a consensual basis can deteriorate into unwanted situations. All Simmons employees, faculty and staff, have a responsibility to our students and to the Simmons community to conduct themselves with integrity and in a professional manner at all times.

Any Simmons employee who chooses to engage in an intimate, romantic or sexual relationship with a Simmons student is in violation of this Policy and will be subject to disciplinary action, up to and including loss of employment.

Relationships between Employees

Simmons also strongly discourages employees (i.e., faculty and staff), with supervisory or evaluative authority, from engaging in romantic, dating or sexual relationships with employees they supervise or evaluate, instruct, or advise, or with whom they are in a position to exercise authority over in any way. Even when both parties have consented, such a relationship can compromise professional integrity and may generate claims of unfair treatment by others and/or sexual harassment after the relationship ends. If such a relationship exists or develops, the manager or supervisor employee must notify her/his/their Vice President or Dean so that arrangements can be made for the unbiased supervision and evaluation of the employee. It is the Vice President or Dean’s responsibility, at that point, to notify Human Resources to assist in handling these situations promptly and confidentially. Wherever feasible, it may require transfer or reassignment of one or more employees. It is the responsibility of both employees to cooperate in actions taken by the University to eliminate any actual or potential conflicts of interest and to mitigate adverse effects on other employees and/or third parties.

Consensual relationships are prohibited when effective arrangements to remove the conflict and mitigate adverse effects on third parties cannot be made.

Retaliation against persons who report concerns about consensual relationships is prohibited and constitutes a violation of this Policy.

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. Please note: In the event an employee violates this Policy and the violation makes the employee the subject of a legal complaint, Simmons may decline to assist the individual in her/his/their legal defense against the allegation(s), and the individual, not Simmons, may bear any costs, fees or monetary obligations associated with her/his/their legal defense and the outcome of the matter.

VI. INTERIM MEASURES

The Title IX Coordinator and/or Deputy Coordinator will direct the timely provision of interim measures, as appropriate. Interim measures can be used before the final outcome of an investigation. Specific interim measures and their implementation will depend on the circumstances. The Title IX Coordinator and Deputy Coordinator will work with the requesting individual to determine the appropriate interim measures, which may include, but are not limited to the following:

- Providing escort services;
- Issuing a No Contact Order;
- Issuing a No Trespass Order on Simmons's campus (facilitated through Public Safety);
- Changing an on-campus student's housing to a different on-campus location;
- Rescheduling an exam or requesting an extension on a paper, assignment, etc.;
- Taking an incomplete in a class without penalty or identifying alternative course completion options;
- Transferring class sections (where possible);
- Arranging a temporary withdrawal from the University/program;
- Providing increased monitoring, supervision, or security at relevant locations or activities (which may include limiting other individuals' rights to go to certain places or take part in certain activities);
- Providing assistance through the employee assistance program;
- Changing work location, work schedule, or reporting structures in certain circumstances; and
- Arranging for a temporary leave of absence.

Note that some interim measures are appropriate for students and others for faculty and staff. The Title IX Coordinator and/or Deputy Coordinator will work with each individual, as needed, to implement appropriate interim measures.

VII. INVESTIGATION AND RESOLUTION PROCESS

A. Initial Assessment

After receiving a report of conduct that could implicate this Policy, the Title IX Coordinator, Deputy Title IX Coordinator, or his or her designee will take a number of initial steps that are designed to assess the immediate needs of the Complainant and University community. These initial steps are not an investigation, but information obtained at this assessment stage may inform further investigative actions. These initial steps will enable the University to assess the need to take any immediate action to address the safety and health needs of the Complainant and the University community, and to determine the next steps for investigating the reported conduct and the need for any interim measures.

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

- 1) The Title IX Coordinator or Deputy Coordinator will contact the Complainant and encourage the Complainant to meet and discuss the nature and circumstances of the reported conduct, review relevant documentation that is available, and address the Complainant's immediate physical safety and emotional needs, including the need for any interim measures. Interim measures may be temporary or become permanent depending on the circumstances.
- 2) The Title IX Coordinator or Deputy Coordinator will assess the reported conduct to determine whether the circumstances pose an immediate threat to the health or safety of the University community that warrants issuance of a timely warning, a no trespass order for any persons, or any other interim protections. When needed, the Director of Public Safety or his or her designee is responsible for distributing timely warnings.
- 3) The Title IX Coordinator or Deputy Coordinator(s) will notify the Complainant about the following: (a) the availability of this Policy; (b) the right to report (or decline to report) the matter to Public Safety and/or to local law enforcement if the conduct is potentially criminal in nature; and (c) that a report to law enforcement will not change the University's obligation to investigate the matter, but it may briefly delay the timing of the University's investigation. If a law enforcement agency requests that the

University delay its process for a reasonable amount of time to allow it to gather evidence of criminal conduct, in most cases, the University will defer to law enforcement.

- 4) The Title IX Coordinator or Deputy Coordinator will notify the Complainant of the available resources for seeking medical treatment, counseling, spiritual guidance, or other support services. These resources can be found on the Simmons Title IX website: www.simmons.edu/about-simmons/title-ix.
- 5) If the Title IX Coordinator or Deputy Coordinator determines the reported conduct could implicate the Policy, he or she will contact the Complainant to discuss that determination. If, at this time, the Complainant requests that the investigation process not move forward, the University will weigh that request and the reasons for it against the University's obligation to address any risk of harm to the Complainant or other individuals in the community and the nature of the incident or conduct at issue. Except in limited circumstances in which a Complainant's request not to proceed to investigation is honored, the Title IX Coordinator or Deputy Coordinator will proceed to investigation of the complaint.
- 6) There may be circumstances where conduct implicates the Policy but a formal investigation is not possible or not appropriate. For example, instances where conduct was perpetrated by someone who is not a member of the Simmons community or is not known to the Complainant. In these cases, the Title IX Coordinator or Deputy Coordinator will provide the Complainant information about the support and resources available and will take any additional steps to ensure the safety and well-being of the Simmons community. Additional steps may include campus wide alerts, suggested safety measures for the community, interim measures for the impacted individuals, and, of course, contacting Title IX Coordinators at other schools, if a Respondent is a member of another university community.
- 7) If the Title IX Coordinator or Deputy Title IX Coordinator determines that the reported conduct would not implicate the Policy, he or she will advise the Complainant of such in writing and refer the reported conduct to the appropriate administrator for handling, consistent with any other appropriate University policy. (If new and relevant information is subsequently provided, the University may reevaluate the decision whether or not to investigate under the Policy.)

B. Formal Investigation of Complaints

When a formal investigation is deemed appropriate, Simmons will conduct an investigation, applying a preponderance of the evidence standard. Preponderance of evidence means that, after a thorough examination of the available facts, a reasonable person could conclude that it is more likely than not that the gender-based misconduct alleged to have occurred did, in fact, occur. Use of this standard of proof is required by the Department of Education's Office of Civil Rights.

4. Notice of an Investigation

If, during the initial assessment, it is determined that the reported conduct could trigger the Policy and an investigation is required, the Title IX Coordinator will prepare a written notice to the Complainant and Respondent that will include a brief description of the allegations, the portion(s) of the Policy that are alleged to have been violated, and any interim measures that have been put in place about which either Party must be made aware. This written notice does not constitute a finding or a determination of responsibility. Both Parties will also be notified of this Policy, provided details on resources available to them, and given information on their rights.

5. Timing of Investigation

Simmons will strive to investigate and resolve a complaint promptly, but the timeframe of an investigation may vary depending on the complexity and circumstances of the case. If the University anticipates a delay for conducting a thorough investigation, notice will be provided to both the Complainant and the Respondent informing them of the delay and the anticipated timeframe for completion.

6. Designation of Investigator

The Title IX Coordinator will designate an investigator to conduct a prompt, fair, and impartial investigation of the reported conduct and prepare a report of investigative findings (the “Investigative Report”). At the University’s discretion, more than one investigator may be assigned or an external investigator may be engaged to conduct the investigation. All investigators will be selected from a group of qualified individuals. The Title IX Coordinator will provide the Parties with the name of the person assigned to investigate the reported conduct (the “Investigator(s)”). As soon as possible, but no later than three (3) calendar days after receiving notice of the identity of the Investigator, the Parties should inform the Title IX Coordinator (in writing) of any conflicts of interest with regard to the selected Investigator. The Title IX Coordinator will consider the nature of the conflict and determine if a different individual should be assigned as Investigator. The Title IX Coordinator’s decision regarding any conflicts is final.

7. Nature of the Investigation

The investigation will include separate interviews with the Complainant, the Respondent, and any witnesses whom the Investigator believes will provide necessary and relevant information. When witnesses are identified by the parties, the investigator may exercise discretion in determining who to interview. The investigation may include review of documentation or other items relevant to the reported conduct. The Investigator will provide the Parties with written notice of meetings at which their presence is required.

8. The Parties' Identification of Potential Witness and Documentation

The Parties may (and are expected to) provide the Investigator with the identity of potential witnesses who have specific information about the reported conduct and with whom they would like the Investigator to speak. The Parties also may (and are expected to) provide the Investigator any documentation or other items they would like to be considered. All information described in this section should be presented to the Investigator with a brief description as to how the persons, documents, and/or items are relevant to the reported conduct. This information must be provided to the Investigator during the investigation phase and without delay upon becoming aware of it. The Investigator will exercise his or her discretion in determining what information to consider, the weight to give it, and which potential witnesses identified by the Parties can provide relevant information to the investigation.

9. Investigation Prohibitions

Neither party will be permitted to directly question or cross-examine the other party during the investigation. Moreover, the investigator generally will not consider information related to either party's character or prior sexual history outside of the conduct in question. However, where there is evidence that the Respondent has engaged in a pattern of conduct similar in nature to that described by the Complainant, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant and probative to the investigator's report and determination of responsibility or sanction. In those instances, the Title IX Coordinator and/or Investigator will determine whether the previous conduct was substantially similar to the conduct cited in the report and/or indicates a pattern of behavior and substantial conformity with that pattern by the Respondent. Additionally, either party or an identified witness may seek to provide to the investigator: (1) information concerning the prior relationship of the parties; or (2) information indicating that a person other than the Respondent is responsible for the misconduct alleged. The Investigator will review any such information and determine if it is relevant and probative to the investigator's report and determination of responsibility. In no case will the sole fact that the parties have a current or previous consensual dating or sexual relationship imply consent to the reported conduct, or preclude a finding of responsibility for a Policy violation.

10. Advisors

Both the Complainant and Respondent may bring an advisor of their choosing to any meeting with University administrators. An advisor may be a parent, friend, or other support person who is not a witness. An attorney may serve as an advisor, but the role of an advisor is different from the typical role of an attorney. An advisor may only consult and advise their advisee. An attorney/advisor may not speak for the advisee at any meeting or

address administrators present. An advisor may not question others and is not permitted to give an opening or closing statement or their equivalent. The investigator has the right to request an advisor to leave an interview if they are disruptive to the investigative process, and will document the reasons for doing so in the investigative report. Further, because of the University's commitment to a timely process, the University will not postpone, delay, or reschedule meetings, interviews or other proceedings to accommodate the availability of an advisor, including an attorney.

11. Content of the Investigative Report

At the conclusion of the investigation, the Investigator will prepare an Investigative Report, which should include a summary of the factual information presented during the investigation phase, including the identification of inconsistencies (if any) between different sources of information, and may include the Investigator's perception of the demeanor and/or credibility of the individuals interviewed. The Investigative Report may include preliminary conclusions or recommendations, including an assessment of whether this Policy was violated.

12. Review by the Parties.

The Parties will have an opportunity to review the Investigative Report and may submit written comments about the content of the Investigative Report to the Investigator within five (5) calendar days of the date they are notified that the Investigative Report is available for review. This review will take place at a secure location and in a secure manner determined by the University. A Party may submit a written request seeking an extension of time to review the Report, explaining the reason why additional time is necessary. If the Title IX Coordinator concludes, in his/her sole discretion, that the additional time is warranted, then the time to submit written comments can be briefly extended. Likewise, the secure location and manner of reviewing the Investigative Report can be modified if the Title IX Coordinator deems it necessary and appropriate in the individual circumstance.

The Parties may have their advisors review the Investigative Report with them. Neither the parties nor their advisors may photograph or make copies of the Investigative Report. Information about witnesses may be redacted from the report if confidentiality has been requested, in the discretion of the Title IX Coordinator. The comments submitted by the Parties may not exceed ten (10) double spaced pages. After reviewing the submissions, if any, from the Parties, the Investigator in consultation with the Title IX Coordinator may determine that either additional investigation is required or no further investigation is needed. If further investigation is conducted, the Investigator will include any additional relevant information in the Investigative Report. The amended Investigative Report will then be submitted to the Title IX Coordinator. Any submissions made by either Party pursuant to this section, as well as any other documentation deemed relevant by the Investigator, will be referenced in or attached to the Investigative Report.

13. Determination of Violations and Sanctions

The Title IX Coordinator(s) will review the Investigative Report and the respective responses, and will make the final determination regarding whether this Policy has been violated. In determining whether or not a violation of this Policy has occurred, the facts will be evaluated using the preponderance of the evidence standard of proof.

The Title IX Coordinators will determine if sanctions are appropriate, in consultation with the relevant University Officers. That is, for sanctions of students the Dean of Students shall be consulted, for sanctions of faculty the Provost and/or Dean shall be consulted, and for sanctions of staff, the appropriate Vice President shall be consulted.

Any employee or student found responsible for violating this Policy may be sanctioned by the University. Sanctions may range a written warning, to dismissal from the University. Sanctions will depend on the severity of the incident and will take into account any previous warnings, violations of policies or codes of conduct, or other incidents. All sanctions are intended to eliminate any hostile environment, prevent future misconduct, promote safety, and deter other individuals from similar behavior. No individual school, department, Dean, or Vice President may reverse or alter a finding, remedy, sanction or other decision made under this Policy. The standard sanction for a finding of rape or sexual assault is termination or expulsion from the University, with no opportunity for reemployment or readmission.

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

14. Notification to Parties

After the above steps are completed, the University shall notify the Complainant and the Respondent that the Title IX investigation is complete. Simmons will endeavor to notify both the Complainant and the Respondent of the final decision at approximately the same time. If misconduct is found to have occurred, the Complainant will be notified of sanctions/outcomes imposed on the Respondent that are specific to the Complainant (e.g., no contact, barred from a certain facility, suspension, expulsion, termination). Notice of sanctions imposed on the Respondent will include the date upon which the sanctions are effective, if applicable.

At the conclusion of the matter, the Title IX Coordinator or Deputy Title IX Coordinator will write a "Closing Letter" to the Respondent and Complainant. These letters will include similar information but need not be

identical. Typically, the Closing Letter will describe the allegation(s), to whom it was reported, and will include information about the process of the investigation and the findings.

VIII. APPEALS PROCESS

Both the Complainant and the Respondent are entitled to request an appeal from the investigation and any sanction(s) imposed.

A. Grounds for Appeals

There are **two grounds** for an appeal:

1. A **procedural error** that **significantly** impacted the outcome of the investigation. That is, a change or deviation from the process as outlined in the University's Misconduct Policy that impacted or changed the outcome.
2. Consideration of **new evidence**, unavailable during the investigation, which could impact the determination of responsibility and subsequent outcome/sanction of the investigation.

The appeals process is not an opportunity to refute the outcome or findings of the investigation, to gather more facts related to the case, or to seek reconsideration of a sanction, absent new evidence. To ensure the integrity of the process, the process for appeals will be strictly followed.

B. Process for Filing Appeals

Both parties have up to **ten (10) business days**, from the issuance of the University's Closing Letter, to submit an appeal (either hard copy or via e-mail) to the Title IX Coordinator.

The Appellant (i.e., the person filing the Appeal) must provide a written, succinct summary addressing:

- The basis for the Appeal (specific reference to one or both of the two grounds for an appeal);
- A description of the procedural error(s) and/or the new evidence. If new evidence is being presented, it is important that the Appellant indicate why it was not available during the investigation. In either case, procedural error or newly discovered evidence, the Appellant must describe in detail how the outcome/sanction was directly impacted.

The burden of proof to succeed in the appeal rests with the Appellant. The appeal is not a fresh or "de novo" review of the entire matter. The facts, finding and conclusions made by the original fact finder will be considered by the Appeals Officer, or his/her designee, in determining the merits of the appeal.

The Title IX Coordinator will forward the Appeal, as well as all relevant materials to the Appeals Officer for review by her/his or her/his designee. If the grounds for an appeal are to be considered, the Appeals Officer will notify both parties that an Appeal has been filed, and will provide a copy of the Appeal to the responding party (i.e., the Appellee). The Appellee will have up to **five (5) business days** to submit a written response to the Appeals Officer, if she/he/they so chooses. If the grounds for an appeal *are not valid* based on either of the two grounds for an appeal set forth in this Policy, the Appeals Officer will respond to the Appellant in writing indicating such, and no further action will be taken by the University.

C. Determination of Appeals

The Appeals Officer may decide to speak with one or both parties for points of clarification or context of the appeal, if needed. Based on the supporting information, the Appeals Officer may do the following: affirm the original findings; modify the findings; and/or alter the sanction/outcomes, depending on the basis of the requested appeal. If the Appeals Officer deems that procedures were not followed in a material manner, the Appeals Officer can recommend that the case be revisited to assess the weight and effect of the new information and render a determination after considering the new facts.

The Appeals Officer will communicate, in writing, the result of the Appeal to the Complainant and Respondent, within thirty (30) days from filing the Appeal. The Appeal Summary will also be provided to the Title IX Coordinator and Deputy Title IX Coordinator.

Simmons University's Appeals Officer is:

- **Chief of Staff**, Laura Brink Pisinski
laura.brink@simmons.edu
617-521-2127