

SLIPPERY ROCK UNIVERSITY SEXUAL MISCONDUCT POLICY

INTRODUCTION.....4

- 1. Purpose of Policy.....4
- 2. Prohibited Behaviors4
- 3. Title IX, VAWA and Nondiscrimination5
- 4. Statement on Privacy and Confidentiality5
- 5. Disability Accommodations6
- 6. Free Expression and Academic Freedom6
- 7. Alcohol and Drug Use Amnesty for Students7
- 8. Scope of Policy.....7
- 9. Burden of Proof7
- 10. Standard of Proof.....7
- 11. Effective Date8
- 12. Impact on other policies or processes.....8
- 13. Revocation by Operation of Law.....8

SEXUAL MISCONDUCT DEFINITIONS8

Other Definitions.....11

Reporting Sexual misconduct.....14

- 1. Reports the Title IX Coordinator.....14
- 2. Electronic and Anonymous Reporting15
- 3. Filing a Formal Complaint15
- 4. Criminal Reporting Options16
- 5. External Reporting Options16
- 6. Truthfulness.....17
- 7. Multiple Party Complaints17

UNIVERSITY REPORTING OBLIGATIONS17

- 1.

3.	Determining Jurisdiction and Mandatory Dismissal for Certain Allegations.....	21
4.	Discretionary Dismissals for All Allegations	21
5.	Allegations Potentially Falling Under Two Policies	22
6.	Notice of Dismissal	22
7.	L.6.(.2.(2B...))Tj(.).633.543.0.Td(22)TjE1.)Tj.....	

housing, residential removal or reassignment, and related educational conditions. Registration and/or transcript holds may be placed pending the receipt of required documentation.....31

Sexual Contact Without Consent: The range of sanctions for students responsible for this violation include: Final Disciplinary Probation (ranging from 6 weeks to 10 semesters), Disciplinary Suspension (ranging from 1 to 15 semesters) and Expulsion. Conditions may include off campus counseling, campus restriction, loss of housing, residential removal or reassignment, and related educational conditions. Registration and/or transcript holds may be placed pending the receipt of required documentation.....31

Sexual Exploitation: The range of sanctions for students responsible for this violation include: Disciplinary Probation (ranging from 6 weeks to 10 semesters), Final Disciplinary Probation (ranging from 6 weeks to 10 semesters), Disciplinary Suspension (ranging from 1 to 15 semesters) and Expulsion. Conditions may include off campus counseling, campus restriction, loss of housing, residential removal or reassignment, or related educational conditions. Registration and/or transcript holds may be placed pending the receipt of required documentation.32

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INTRODUCTION

1. Purpose of Policy

Title IX of the Education Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity

§ 201 (a) (2) (A) of the Education Amendments of 1972 (20 U.S.C. § 1681a(a)(2)(A)) prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity.

with having confidentiality, the University will respect the reporting party's expectations of privacy to the extent permissible by law while still ensuring compliance with other reporting obligations. For example, reports involving minors are subject to mandatory reporting requirements. Individuals designated as having confidentiality are required to report the nature, date, time and general location of an incident to the Title IX coordinator. Individuals designated as having confidentiality will not share other information with the Title IX Coordinator or any other employee of the University without the express permission of the disclosing party. Individuals designated as having confidentiality can provide information about the University and off-campus resources, support services and other options. As noted above, because of the confidential nature of these resources, disclosing information to or seeking advice from a confidential resource does not constitute a report or Formal Complaint to the University and will not result in a response or intervention by the University. A person consulting with a confidential resource may decide to make a report to the University and/or law enforcement. speak with an individual designated as having confidentiality. Please see those resources denoted ousou-

proper exercise of academic freedom. The University will consider principles of free expression and academic freedom in the investigation of reports of sexual misconduct or retaliation that involve an individual's statements or speech.

7. Alcohol and Drug Use Amnesty for Students

The health and safety of every student at the University is of utmost importance. The University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time sexual misconduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report incidents of sexual misconduct. A witness to or individual who experience sexual misconduct, acting in good faith, who discloses any incident of sexual misconduct to University officials or law enforcement will not be sanctioned under the University's Code of Conduct for violations of alcohol and/or drug use policies occurring at or near the time of the incident(s) of sexual misconduct. The University

situated to a spouse of the Complainant under Pennsylvania's domestic or family violence laws or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.

Domestic Violence is categorized as Regulatory when it occurs in the United States, within an Education Program or Activity and when the Complainant is participating or seeking to participate in an Education Program or Activity at the time of the filing of the complaint. Otherwise, Domestic Violence will be categorized as Non-Regulatory.

3. **Retaliation** – Any action, directly or through others, which is aimed to deter a reasonable person from reporting sexual misconduct or participating in an investigation or hearing or action that is done in response to such activities. This includes but is not limited to intimidation, threats, coercion, or discrimination against any individual (A) for the purpose of interfering with any right or privilege

actions, including when they are done via electronic means, methods or devices:

A. Sexual voyeurism or permitting others to witness or observe the sexual or intimate activity of another person without that person's Consent;

B.

method, device, or means, follows, monitors, observes, surveys, threatens, or communicates to or about a person in a prohibited way, or interferes with a person's property.

Stalking includes the concept of cyberstalking, in which electronic media such as the Internet, social networks, blogs, cell phones, texts, email or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Stalking is categorized as Regulatory when it occurs in the United States, within an Education Program or Activity and when the Complainant is participating or seeking to participate in an Education Program or Activity at the time of the filing of the complaint. Otherwise, Stalking will

with a signature or other indication that the Complainant is the person filing the Formal Complaint, or signed by the Title IX Coordinator, alleging sexual misconduct against a Respondent and requesting initiation of the process set forth in this Policy to investigate the allegation of sexual misconduct.

- 11. Hearing Officer** – A University employee or graduate student who is trained and authorized to weigh the information presented in a conduct meeting or University hearing to determine an appropriate outcome.
- 12. Investigator** - The Title IX Coordinator or the individual designated by the Title IX Coordinator to perform an investigation under this Policy. The Investigator may not have a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general. The Investigator may not serve as a Hearing Board Member, Appeals Officer or Advisor to any Party in the same matter.
- 13. Notice of Allegations** – The written notice the Title IX Coordinator or designee is required to provide to the Parties following receipt of a Formal Complaint. See Notice of Allegations section below.
- 14. Notice of Hearing** – The written notice the Director of Student Conduct or their designee is required to provide the Parties prior to the hearing. See Notice of Hearing section below.
- 15. Official** - A member of a Council of Trustees or of the Board of Governors or their respective designees.
- 16. Parties or Party** - A term that refers to the Complainant and the Respondent collectively or the Complainant or Respondent individually.
- 17. Respondent** - Any individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct as defined under this Policy.
- 18. Title IX Coordinator** - The individual designated by the Board of Trustees to coordinate the University's response to sexual misconduct.

for or against an individual party, or for or against complainants or respondents in general. The Title IX Coordinator may serve as the Investigator of a Formal Complaint for Formal Complaints against Respondents who are Employees. The Title IX Coordinator may not serve as a Decision Maker or Appeals Officer.

- 21. Volunteer** - A recognized volunteer or any individual who represents or acts on behalf of the university or whose actions may bind the university, regardless of whether the individual receives monetary or other compensation. For purposes of this Policy, e

Supportive Measures.

If a report of misconduct discloses a serious or immediate threat to the campus community, the University will issue a timely warning to the community to protect the health or safety of the community. The timely warning will not include any identifying information about the Complainant.

PLEASE NOTE: Title IX Coordinators are not a confidential source of support. While they will address matters reported with sensitivity and will keep your information as private as possible, confidentiality cannot be guaranteed. To speak with an individual designated as having confidentiality, please see those resources denoted as “confidential” under both university and community resources [here](#).

PLEASE ALSO NOTE: Making a report is different from filing a Formal Complaint (see the section titled Filing a Formal Complaint). A report is defined as notification of an incident of sexual misconduct to the Title IX Coordinator or designee by any person. A report may be accompanied by a request for (1)

The University may not be informed of reports made with external agencies.

6. Truthfulness

All participants in the reporting and resolution processes have the responsibility to be truthful with the information they share at all stages of the process. A report of a violation under this Policy is not considered a bad faith report merely because the evidence does not ultimately support the allegation. Individuals are prohibited from knowingly making a false report, filing a false Formal Complaint or making misrepresentations. If an investigation results in a finding that a person has willfully filed a bad faith report, filed a false Formal Complaint or made misrepresentations as part of the reporting or resolution process, the person may be subject to appropriate Disciplinary Sanctions under the Code of Conduct in the case of Students or other relevant University policy and collective bargaining agreements in the case of Officials, Employees or Volunteers.

7. Multiple Party Complaints

The Title IX Coordinator may consolidate Formal Complaints involving multiple parties where the allegations of sexual misconduct arise from the same facts or circumstances; in such consolidated matters, the Sexual Misconduct Resolution Process applies to more than one Complainant and/or more than one Respondent, but each party is still an “individual” and not a group or organization. The decision of the Title IX Coordinator to consolidate Formal Complaints is not subject to appeal.

UNIVERSITY REPORTING OBLIGATIONS

1. Mandated Reporting Obligations of University Officials, Volunteers and Employees

All University Officials, Volunteers and Employees (including student employees) are obligated to report incidents of sexual misconduct of which they become aware to the Title IX Coordinator/designee, unless: 1) they serve in a role that makes such reports privileged or are recognized as providing a confidential resource (see Statement on Privacy and Confidentiality); or 2) they are a faculty member and learn of the report from a student during a classroom discussion, in a writing assignment for a class, or as part of a University-approved research project.

PLEASE NOTE: These reporting exceptions do not apply to reports of sexual misconduct involving an individual who was, or is, a child (a person under 18 years of age) when the abuse allegedly occurred. When a report involves suspected abuse of a child (an individual under the age of 18 at the time of the incident(s) as reported), all the University Employees, Officials and Volunteers are required to notify the University police and the ChildLine run by the Pennsylvania Department of Human Services (1-800-932-0313). All other members of the University community are strongly encouraged to report suspected child abuse to law enforcement or the ChildLine.

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serious or continuing threat of bodily harm or danger to members of the campus community. If a report of sexual misconduct discloses a serious or immediate threat to the campus community, the University will issue a timely notification to the community to protect the health or safety of the community. The timely notification will not include any identifying information about the Complainant.

JURISDICTION AND DISMISSALS

In certain circumstances where violations defined under the Final Rule as Regulatory Prohibited Conduct (Regulatory Quid Pro Quo, Regulatory Hostile Environment Sexual Harassment, Regulatory Dating Violence, Regulatory Domestic Violence, Regulatory Sexual Assault and Regulatory Stalking

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reached and documented and signed by all parties, the resolution cannot be appealed.

Informal resolution may not be utilized when a Student files a Formal Complaint against a University Employee, Volunteer or Official under this Policy.

SEXUAL MISCONDUCT RESOLUTION PROCESS

1. Formal Complaint

The Sexual Misconduct Resolution Process is initiated by a Complainant providing the Title IX Coordinator a written, signed Formal Complaint describing the facts alleged. See the section titled Filing a Formal Complaint above.

2. Notice of Allegations

The Title IX Coordinator or designee will draft and provide a written Notice of Allegations to any Party alleged to have violated this Policy. Such notice will occur as soon as practicable, but no more than 10 days, after the University receives a Formal Complaint of the allegations, if there are no extenuating circumstances.

The Notice of Allegations will include the following:

- A. Notice of the University's Sexual Misconduct Resolution Process including any Informal Resolution process and a hyperlink to a copy of the process.
- B. Notice of the allegations potentially constituting violation(s) of any University policy, and sufficient details known at the time the Notice of Allegations is issued, such as the identities of the parties involved in the incident, if known, including the Complainant; the conduct allegedly constituting a policy violation; and the date and location of the alleged incident, if known.
- C. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the hearing.
- D. A statement that the Parties may have an Advisor of their choice.
- E. A statement that before the conclusion of the investigation, the Parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a Party or other source.
- F. Individuals are prohibited from knowingly filing a false report or making misrepresentations. If, following an investigation and hearing as appropriate under applicable policy, a person is found to have

5. Allegations Potentially Falling Under Two Policies

If a Formal Complaint against a Respondent who is a Student contains allegations of a violation of any of the listed Sexual Misconduct Violations in this Policy, as well as any other violation in the Code of Conduct, the Sexual Misconduct Resolution Process set forth in this Policy will be applied in the investigation and adjudication of all of the allegations. If all of the alleged Sexual Misconduct Violations of this Policy are dismissed, and the remaining underlying allegations, if true, would violate another University policy or the University's Code of Conduct, the matter may be referred for further action by the University's Office of Student Conduct, as appropriate.

If a Formal Complaint against a Respondent who is an Employee contains allegations of violations of Regulatory Prohibited Conduct (Regulatory Quid Pro Quo, Regulatory Hostile Environment Sexual Harassment, Regulatory Dating Violence, Regulatory Domestic Violence, Regulatory Sexual Assault and Regulatory Stalking), the Sexual Misconduct Resolution Process set forth in this Policy will be applied in the investigation and adjudication of those allegations. For all other allegations, the University will follow applicable requirements in University policies and relevant collective bargaining agreements for resolution of the other allegations contained in the Formal Complaint.

If a Formal Complaint against a Respondent who is an Official or Volunteer contains any allegations under this Policy, the University or System will follow applicable requirements in University or System policies or procedures and standards for resolution of the allegations contained in the Formal Complaint.

6.

The University cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. The University will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e., evidence that tends to prove and disprove the allegations). See Inspection and Review of Evidence section below.

B. Inspection and Review of Evidence

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to issuance of the investigation report.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

- 1) Evidence that is relevant, even if that evidence does not end up being relied upon by the Hearing Board in making a determination regarding responsibility;
- 2) inculpatory or exculpatory evidence (i.e., evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a Party or other source.

The University will send the evidence to each Party and each Party's Advisor, if any, to inspect and review through an electronic format or a hard copy. The University is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

The Parties will have 10 days to inspect and review the evidence and submit a written response by email to the Investigator. This response should include any new or additional evidence the Party would like the Investigator to consider. The University will provide copies of the Parties' written responses, and any new or additional evidence provided, to the other Party and their Advisor. The other Party will have 5 days to inspect, review, and respond to the new or additional evidence through a written response to the Investigator. The University will provide copies of the Party's supplemental written response to the other Party and their Advisor.

The Investigator will consider the parties' written responses before completing the Investigative Report. Parties may request a reasonable extension of the time to submit a written response, which may be denied in the sole discretion of the Investigator, in consultation with the Title IX Coordinator.

The Investigator has 10 days to generate a report or after the responses to additional evidence are due or, alternatively, may provide the Parties and their Advisors with written notice extending the investigation and explaining the reason for the extension.

The parties and their Advisors must sign an agreement not to disseminate the Investigative Report or

photograph or otherwise copy any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Sexual Misconduct Resolution Process. Violation of the agreement may result in disciplinary action under the [Code of Conduct] or other University Policy, as appropriate.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

C. Investigative Report

The Investigator will create an Investigative Report that fairly summarizes relevant evidence.

The Investigative Report is not intended to catalog all evidence obtained by the Investigator, but only to provide a fair summary of that evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e., tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

Evidence obtained in the investigation that is determined in the reasoned judgment of the Investigator not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report. The investigator may redact irrelevant information from the Investigative Report when that information is contained in otherwise relevant documents or evidence.

The Investigative Report will be shared with the Parties and their Advisors at least 10 days prior to any hearing for their review and written response. Any written response received will be shared with the Decision-Makers(s) and the other Party and their Advisor prior to the hearing.

D. Ongoing Notice

If, in the course of an investigation, the University decides to investigate allegations about either Party that are not included in the Notice of Allegations and are otherwise covered Sexual Misconduct Violations falling within this Policy or other violations of the University's Code of

The Notice of Hearing will contain:

- 1) A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential Disciplinary Sanctions actions that could result.
- 2) The time, date, and location of the hearing.
- 3) Information about the option for the hearing to occur with the parties located in separate rooms using technology that enables the Hearing Board and Parties to see and hear a Party or Witness answering questions. Parties should inform the Director of Student Conduct of any desire to have the hearing occur in separate rooms at least 3 days prior to the hearing to ensure appropriate technology is in place.
- 4) Information on how the hearing will be recorded and on access to the recording for the Parties after the hearing.
- 5) A copy of the rules of decorum for all hearing participants.
- 6) A list of the Hearing Board who will attend the hearing, along with an invitation to object to any actual or perceived conflicts of interest or bias of the Hearing Board prior to the hearing.
- 7) 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 testimony or any statements provided by the Party or Witness prior to the hearing will not be considered by the Hearing Board.
- 8) Notification that the parties may have the assistance of an Advisor of their choice at the hearing and will be required to have one present for any questions they may desire to ask of the other Party or Witnesses. The Party should notify the Director of Student Conduct in advance of the hearing if they do not have an Advisor, and the University will appoint one. Each party must have an Advisor present.
- 9) A copy of all the materials provided to the Hearing Board about the matter and the opportunity to provide a written response in advance of the hearing.
- 10) Information regarding who to contact to arrange any disability accommodations, language assistance, and/or

- 3) Any party's medical, psychological, and similar records unless the party has given voluntary, written consent.

G. Cross-Examination

- 1) Each Party's Advisor may conduct cross-examination of the other Party or Parties and Witnesses and ask follow-up questions, including those challenging credibility directly, orally, and in real time.
- 2) Parties will not be permitted to personally cross-examine each other.
- 3) If a Party does not participate in a hearing, the Party's Advisor may attend and conduct cross-examination on behalf of the Party.
- 4) If neither a Party nor their Advisor appear at the hearing, the University will provide an Advisor to appear on behalf of the non-appearing Party and ask cross-examination questions.
- 5) Before any cross-examination question is answered, the Chair of the Hearing Board) will determine if the question is relevant. CTd[(e)4 (x)-10 (ao25 (.6Lmr)3 (t1)Tj0.33 (cr)i/5)-2 (t)-2 (he)4 v(t)

of corroborating or conflicting testimony or evidence.

- 5) Credibility judgments should not rest on whether a Party or Witness' testimony is non-linear or incomplete, or if the Party or Witness is displaying stress or anxiety.
- 6) Where a Party or Witness' conduct or statements demonstrate that the Party or Witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Hearing Board may draw an adverse inference as to that Party or Witness' credibility.
- 7) The Hearing Board will afford the highest weight relative to other testimony to first-hand testimony by Parties and Witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e., tending to prove and disprove the allegations) evidence will be weighed in equal fashion.
- 8) The Final Rule requires the University to admit and allow testimony regarding polygraph tests ("lie detector tests") and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about them will be allowed to testify and be crossed as required by the Final Rule, the Hearing Board will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.
- 9) The Final Rule requires the University allow parties to call character witnesses to testify. The University does not provide for character witnesses in other proceedings. While the character witnesses will be allowed to testify and be crossed as required by the Final Rule, the Hearing Board will be instructed to afford very low weight to any non-factual character testimony of any Witness.\

B. Timeline for Decision

If there are no extenuating circumstances, the determination regarding responsibility will be issued by the University within rt

Previous Disciplinary Sanctions 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.

C. Timing

The Disciplinary Sanctions will be implemented as soon as is feasible, either upon the outcome of

- C. The submission of an appeal stays any Disciplinary Sanctions for the pendency of an appeal. Supportive Measures and remote learning opportunities remain available during the pendency of the appeal.
- D. If a party appeals, the University will notify the other party in writing of the appeal as soon as practicable, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal. If the basis of the appeal is the Disciplinary Sanction imposed was inappropriate, the other Party will be given 5 days to respond to the Disciplinary Sanctions basis of appeal after being notified of the appeal.
- E. Appeals will be decided by the Chief Student Affairs Officer, who will be free of conflict of interest and bias, and will not serve as an Investigator, Title IX Coordinator, Advisor, Hearing Board Member or Decision Maker in the same matter.
- F. The appealing party must meet its burden to demonstrate the outcome was affected by a preponderance of the evidence. The role of the Chief Student Affairs Officer is not to reweigh the evidence. The Chief Student Affairs Officer will confine their review to the basis of appeal alleged and may modify the sanction. The outcome of appeal will be provided in writing simultaneously to both Parties and include rationale for the decision.

13. Appeals Where the Respondent is an Employee

- A. Each Party may appeal the dismissal of a Formal Complaint or any included allegations or a determination of responsibility on the following grounds:
 - 1) A procedural irregularity under the University policy or procedures that affected the hearing outcome.
 - 2) New evidence that was not reasonably available through the exercise of reasonable diligence at the time of the hearing or dismissal of the Formal Complaint that could affect the outcome of the matter.
 - 3) The Title IX Coordinator, Investigator(s), or Decision Maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.
- B. Appeals must be filed in writing within 5 days of being notified of the decision and must indicate the grounds for the appeal.
- C. The submission of an appeal stays any Disciplinary Sanctions for the pendency of an appeal. Supportive Measures remain available during the pendency of the appeal.
- D. If a Party appeals, the University will notify the other Party in writing of the appeal as soon as practicable, however the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.
- E. Appeals will be decided by the Chief Human Resources Officer, who will be free of conflict of

K. To file a Formal Complaint, please contact the Title IX Coordinator/designee

REVISION HISTORY

Revisions made 10/2022 to:

Introduction Section - Paragraph 1: Purpose of the Policy; Paragraph 4: Statement on Privacy and Confidentiality; Paragraph 5: Disability Accommodations; Paragraph 13: Revocation by Operation of Law;

Other Definitions Section

Sexual Misconduct Resolution Process - Paragraph 2: Notice of Allegations; Paragraph 6: Notice of Dismissal; Paragraph 7: Investigations; Paragraph 8: General Rules of Hearings; Paragraph 9: Decisions; Paragraph 13: Appeals