

DEBORAH HEART AND LUNG CENTER (DHLC)

SEXUAL HARASSMENT POLICY AND PROCEDURES

TABLE OF CONTENTS

1. Rationale for Policy 3

2. Glossary 3

3. Applicable Scope..... 5

4. Title IX Coordinator..... 5

5. Independence and Conflict of Interest..... 5

6. Administrative Contact Information..... 6

7. Notice/Complaints of Sexual Harassment and/or Retaliation 8

8. Supportive Measures..... 8

9. Emergency Removal 8

10. Jurisdiction..... 9

11. Time Limits on Reporting..... 11

12. Online Sexual Harassment and/or Retaliation 11

13. Policy on Nondiscrimination..... 11

14. Sexual Harassment 12

 A. Force, Coercion, Consent, and Incapacitation 15

15. Retaliation..... 17

16. Mandated Reporting 17

17. When a Complainant Does Not Wish to Proceed 18

18. False Allegations and Evidence..... 18

19. Amnesty..... 18

RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE SEXUAL HARASSMENT POLICY 19

1. Overview 19

2. Notice/Complaint 19

3. Dismissal (Mandatory and Discretionary) 19

4. Right to an Advisor 20

5. Advisor’s Role in Meetings and Interviews 20

6. Advisors in Hearings/Center-Appointed Advisor	21
7. Pre-Interview Meetings	21
8. Advisor Violations of DHLC Policy.....	21
9. Resolution Processes	21
10. Formal Grievance Process: Notice of Investigation and Allegations.....	22
11. Resolution Timeline	22
12. Ensuring Impartiality	22
13. Investigation Process Delays and Interactions with Law Enforcement	23
14. Investigation Process Steps	23
15. Evidentiary Considerations.....	24
16. Referral for Hearing.....	24
17. Hearing Decision-maker Composition.....	24
18. Hearing Notice	24
19. Hearing Procedures	25
20. Refusal to Submit to Questioning; Inferences.....	25
21. Hearing Recordings.....	25
22. Deliberation, Decision-making, and Standard of Proof.....	26
23. Notice of Outcome	26
24. Sanctions.....	27
A. Student Sanctions	27
25. Employee Sanctions/Responsive/Corrective Actions.....	28
26. Withdrawal or Resignation Before Complaint Resolution	28
A. Students	28
B. Employees:.....	29
27. Appeals	29
A. Grounds for Appeal.....	29
28. Sanctions Status During the Appeal	30
29. Failure to Comply with Sanctions and/or Responsive Actions.....	30
30. Recordkeeping.....	31
31. Disability Accommodations in the Resolution Process	31
32. Revision of this Policy and Procedures.....	32

POLICY: SEXUAL HARASSMENT, INCLUDING SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, STALKING, AND RETALIATION

1. Rationale for Policy

Deborah Heart and Lung Center (DHLC) is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from sexual harassment and retaliation for engaging in a protected activity.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, DHLC has developed policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation sexual harassment or retaliation.

2. Glossary

- **Advisor** means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the Resolution Process, to advise the party on that process, and to conduct questioning for the party at the hearing, if any.
- **Appeal Decision-maker** means the person or panel who accepts or rejects a submitted appeal request, determines whether an error occurred that substantially affected the investigation or original determination, and directs corrective action, accordingly.
- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity.
- **Day** means a business day when DHLC is in normal operation.
- **Decision-maker** means the person or panel who hears evidence, determines relevance, and makes the Final Determination of whether this Policy has been violated and/or assigns sanctions.
- **Directly Related Evidence** is evidence connected to the complaint, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation).
- **Education Program or Activity** means locations, events, or circumstances where DHLC exercises substantial control over both the Respondent and the context in which the sexual harassment and/or retaliation.
- **Final Determination** is a conclusion by the standard of proof that the alleged conduct did or did not violate policy.

- **Finding** is a conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Formal Complaint** means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging a Respondent engaged in sexual harassment or retaliation for engaging in a protected activity and requesting that DHLC investigate the allegation(s).
- **Formal Grievance Process** means the method of formal resolution designated by DHLC to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 C.F.R. § 106.45) and the Violence Against Women Act § 304.
- **Informal Resolution** means a complaint resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a formal Final Determination being reached.
- **Investigator** means the person(s) authorized by DHLC to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an investigation report of Relevant Evidence and a file of Directly Related Evidence.
- **Mandated Reporter** means a DHLC employee who is obligated by policy to share knowledge, notice, and/or reports of sexual harassment and/or retaliation with the Title IX Coordinator.
- **Notice** means that an employee, student, or third-party informs the Title IX Coordinator or other Mandated Reporter of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- **Parties** means the Complainant(s) and Respondent(s), collectively.
- **Relevant Evidence** is evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint.
- **Remedies** are post-Final Determination actions directed to the Complainant and/or the team as mechanisms to address safety, prevent recurrence, and restore access to DHLC’s education program.
- **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity under this Policy.
- **Resolution** means the result of an Informal Resolution or Formal Grievance Process.
- **Sanction** means a consequence imposed on a Respondent who is found to have violated this Policy.

- **Sexual Harassment** is an umbrella category including the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence. See [Section 16](#) for greater detail.
- **Student** means any individual who has accepted an offer for training and who maintains an ongoing educational relationship with DHLC.
- **Title IX Coordinator** is at least one employee designated by DHLC to ensure compliance with Title IX and DHLC's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

3. Applicable Scope

The core purpose of this policy is the prohibition of sexual harassment and retaliation. When an alleged policy violation is reported, the allegations are subject to Resolution by DHLC as determined by the Title IX Coordinator, and as detailed below.

When the Respondent is a member of DHLC team, a Formal Complaint may be filed and a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of DHLC team. This team includes, but is not limited to, students, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, vendors, contractors, and invitees. The procedures below may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed and investigated in accordance with this Policy.

DHLC recognizes that reports and/or Formal Complaints under this Policy may include violations of other DHLC policies; may involve various combinations of students, employees, and other members of DHLC team; and may require the simultaneous attention of multiple DHLC departments. Accordingly, all DHLC departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable DHLC policies, to provide uniform, consistent, efficient, and effective responses to alleged sexual harassment or retaliation.

4. Title IX Coordinator

The Director of Medical Staff Services in the Medical Affairs Department serves as the Title IX Coordinator and oversees implementation of this Policy. The Title IX Coordinator has the primary responsibility for coordinating DHLC's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remedy, and prevent sexual harassment and retaliation prohibited under this Policy.

5. Independence and Conflict of Interest

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, sexual harassment, or retaliation by the Title IX Coordinator, contact DHLC President or the Director of Compliance, Privacy and Auditing/Civil Rights Coordinator at 609-893-1200 x. 5820 or through the DHLC hotline. Concerns of bias, sexual harassment, retaliation, or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

6. Administrative Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this Policy and procedures, may be made internally to:

Director of Compliance, Privacy and Auditing
Joyce Matheson
609-893-5820
MathesonJ@deborah.org

DHLC has also classified all employees as Mandated Reporters of any knowledge they have that a member of the team is experiencing sexual harassment and/or retaliation. The section below on [Mandated Reporting](#) details which employees have this responsibility and their duties, accordingly.

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Office for Civil Rights
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201
Customer Response Center: (800) 368-1019
Fax: (202) 619-3818
TDD: (800) 537-7697
Email: ocrmail@hhs.gov
Web: <http://www.hhs.gov/ocr>

USDA – Reference Assurance Agreement

For complaints involving employee-on-employee conduct: [Equal Employment Opportunity Commission](#) (EEOC):

Newark Area Office
Two Gateway Center
283-299 Market Street
Suite 1703
Newark, NJ 07102
Phone: 1-800-669-4000
Fax: 973-339-7380
TTY: 1-800-669-6820
ASL Video Phone: 844-234-5122
EEOC's Public Portal: <https://publicportal.eeoc.gov/Portal/Login.aspx>

For complaints involving New Jersey’s civil rights laws, including the New Jersey Law Against Discrimination (LAD) (NJ Division of Civil Rights)
(833)-653-2748
<https://www.nj.gov/oag/dcr/downloads/how-to-file-a-complaint.pdf>

7. Notice/Complaints of Sexual Harassment and/or Retaliation

DHLC team members may file a report or Formal Complaint with, or give verbal notice to, the Title IX Coordinator. Such a report or Formal Complaint may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office listed for the Title IX Coordinator or any other official listed.

As used in this Policy, the term “Formal Complaint” means a document or electronic submission (such as by electronic mail) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that DHLC investigate the allegations. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

8. Supportive Measures

DHLC will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered, without fee or charge to the parties, to restore or preserve access to DHLC’s education program or activity, including measures designed to protect the safety of all parties and/or DHLC’s educational environment and/or to deter sexual harassment and/or retaliation.

DHLC will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair DHLC’s ability to provide those supportive measures. DHLC will act to ensure as minimal an academic/occupational impact on the parties as possible. DHLC will implement measures in a way that does not unreasonably burden the other party, or impact patient safety.

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under this Policy.

9. Emergency Removal

DHLC can act to remove a student Respondent from its education program or activities—partially or entirely—on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator.

When an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator following such action/removal being imposed, or as soon as reasonably possible thereafter, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in writing within 5 calendar days, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it equitable to do so.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this Policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

DHLC will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. At the discretion of the Title IX Coordinator, alternative options may be pursued to ensure as minimal an academic impact on the parties as possible.

When the Respondent is an employee, or a student employee, accused of misconduct in the course of their employment, existing provisions for temporary leave are applicable instead of the above emergency removal process.

10. Jurisdiction

This Policy applies to DHLC's education program and activities,¹ to conduct that takes place on property owned or controlled by DHLC and at DHLC-sponsored events. The Respondent must be a member of DHLC's team in order for this Policy to apply.

This Policy can also be applicable to the effects of misconduct that effectively deprive a person of access to DHLC's education program or activities. DHLC may also extend jurisdiction when the Title IX Coordinator determines that the conduct affects a substantial DHLC interest.

Regardless of where the conduct occurred, DHLC will address notice/complaints to determine whether the conduct occurred in the context of its employment or education program or activity and/or has continuing programmatic effects. A substantial DHLC interest includes:

- 1) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- 2) Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee, or other individual.
- 3) Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
- 4) Any situation that substantially interferes with the educational interests or mission of DHLC.

If the Respondent is unknown or is not a member of DHLC team, the Title IX Coordinator will assist the Complainant in identifying appropriate institutional and local resources and support options. If criminal conduct is alleged, DHLC can assist in contacting local or institutional law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of DHLC's team, supportive measures, remedies, and resources may be provided to the Complainant by contacting the Title IX Coordinator.

In addition, DHLC may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from DHLC property and/or events.

¹ Which includes DHLC's employees' work environment.

All vendors serving DHLC through third-party contracts are subject to the policies and procedures of their employers and/or to these Policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences sexual harassment or retaliation in an environment external to DHLC where sexual harassment policies and procedures of the facilitating or host organization may give the Complainant recourse.

11. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to DHLC's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

12. Online Sexual Harassment and/or Retaliation

DHLC policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on DHLC's education program and activities or when they involve the use of DHLC networks, technology, or equipment. See also HR-G-4 Use of Communications Equipment, HR F4 Harassment Safeguards, HR F3 Employee Conduct.

Members of the team are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites; sharing inappropriate content via social media; unwelcome sexual or sex-based messaging; distributing, or threatening to distribute, nude or semi-nude photos or recordings; breaches of privacy; or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of DHLC team.

13. Policy on Nondiscrimination

Deborah Heart and Lung Center supports the New Jersey Law Against Discrimination (N.J.S.A. 10:5-12) (LAD) as well as Section 1557 of the Affordable Care Act (ACA) of 2010 (42.U.S.C. 18116) and implementing regulations at 45 CFR, part 92. See Code of Ethics.

14. Sexual Harassment

Title IX Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This definition applies to all formal complaints that fall within Title IX jurisdiction as determined by the Title IX Coordinator. Sexual harassment includes:

Conduct on the basis of sex² that satisfies one or more of the following:

1) **Quid Pro Quo:**

- a. an employee of DHLC,
- b. conditions³ the provision of an aid, benefit, or service of DHLC,
- c. on an individual's participation in unwelcome sexual conduct.

2) **Sexual Harassment (Hostile Environment):**

- a. unwelcome conduct,
- b. determined by a reasonable person,
- c. to be so severe, and
- d. pervasive, and,
- e. objectively offensive,
- f. that it effectively denies a Complainant equal access to DHLC's education program or activity.⁴

3) **Sexual Assault**, defined as:

- Any sexual act directed against a Complainant, without their consent, or instances in which the Complainant is incapable of giving consent.
 - A 'sexual act' is specifically defined by federal regulations to include one or more of the following:
 - Rape:
 - Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person,

² Including gender identity, gender expression, sexual orientation, and sex stereotypes.

³ Implicitly or explicitly.

⁴ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced. This definition is broad enough to potentially encompass forms of sex-based disparate treatment, even if not harassing in nature.

- without their consent,
- including instances where they are incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.”
- Fondling:
 - The touching of the private body parts of the Complainant (buttocks, groin, breasts),
 - for the purpose of sexual gratification,
 - forcibly, and/or
 - against their will (non-consensually), or
 - not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- Incest:
 - Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by New Jersey law.
- Statutory Rape:
 - Non-forcible sexual intercourse, with a person who is under the statutory age of consent of 16.⁵

4) **Dating Violence**, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - i. The existence of such a relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

⁵ A person cannot give consent to sexual activity with someone who has “the duty to care” for them unless they are over the age of 18. Individuals that fall into “the duty to care” category would include parents or guardians, and those in any type of formal supervisory role.

- b) Dating violence does not include acts covered under the definition of domestic violence.

5) **Domestic Violence**, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of New Jersey, or
- g. 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 New Jersey.

6) **Stalking**, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at the Complainant, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

DHLC reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this Policy. The most serious offenses are likely to result in suspension/expulsion/termination.

A. Force, Coercion, Consent, and Incapacitation⁶

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me, I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can

be implied consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonably immediate time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

Proof of consent or non-consent is not a burden placed on either party involved in a complaint. Instead, the burden remains on DHLC to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Incapacitation: A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including due to alcohol or other drug consumption. As stated above, a Respondent violates this Policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

15. Retaliation

Protected activity under this Policy includes reporting alleged misconduct that may implicate this Policy, participating in the resolution process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy. See also APM-49 Non-Retaliation/Non-Retribution for Reporting.

Acts of alleged retaliation should be reported immediately to the Compliance and Privacy Hotline: 800-660-5195 or deborahmobile.ethicspoint.com. The Title IX Coordinator or designee will promptly investigate. DHLC will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

DHLC and any member of DHLC's team are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure.

16. Mandated Reporting

All DHLC employees (faculty, staff, administrators) are expected to report actual or suspected sexual harassment or retaliation to appropriate officials immediately. Employees must also promptly share all details of behaviors under this Policy that they observe or have knowledge of, even if not reported to them by a Complainant or third party.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

A Mandated Reporter who is themselves a target of sexual harassment and/or retaliation under this Policy is not required to report their own experience, though they are encouraged to do so.

17. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, and/or does not want a Formal Complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the institution and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether DHLC proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a Formal Complaint to initiate a grievance process. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. DHLC may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes. If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date.

18. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation, hearing, or informal resolution can be subject to discipline under appropriate DHLC policies.

19. Amnesty

To encourage reporting and participation in the process, DHLC maintains a policy of offering parties and witnesses amnesty from minor policy violations—such as underage consumption of alcohol or the use of illicit drugs—related to the incident. Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution.

RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE SEXUAL HARASSMENT POLICY

1. Overview

DHLC will act on any formal notice/complaint of violation of the Sexual Harassment Policy (“the Policy”) that is received by the Title IX Coordinator⁷ by applying these procedures.

The procedures below may be used to address alleged collateral misconduct by the Respondent arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another), when alleged violations of the Policy are being addressed at the same time.

2. Notice/Complaint

Upon receipt of a Formal Complaint or notice of an alleged policy violation by the Title IX Coordinator, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps DHLC needs to take. The Title IX Coordinator will contact the Complainant to offer supportive measures and determine whether the Complainant wishes to file a Formal Complaint.

The Title IX Coordinator will then initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a Formal Complaint
- 2) An Informal Resolution (upon submission of a Formal Complaint)
- 3) A Formal Grievance Process including an investigation and a hearing (upon submission of a Formal Complaint)

DHLC uses a Formal Grievance Process as described below to determine whether the Policy has been violated. If so, DHLC will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual harassment or retaliation, their potential recurrence, and/or their effects.

3. Dismissal (Mandatory and Discretionary)⁸

DHLC must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment as defined above, even if proved

⁷ Anywhere this procedure indicates “Title IX Coordinator,” the DHLC may substitute a trained designee.

⁸ These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45.

2. The conduct did not occur in an education program or activity controlled by DHLC and/or DHLC does not have control of the Respondent
3. The conduct did not occur against a person in the United States
4. At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in DHLC's education program or activity, and based on the available information, the Title IX Coordinator has determined that they do not need to sign a Formal Complaint on behalf of DHLC⁹

DHLC may dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

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

A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it. Upon any dismissal, DHLC will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal.

4. Right to an Advisor

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the Resolution Process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.¹⁰

5. Advisor's Role in Meetings and Interviews

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

⁹ Such a Complainant is still entitled to supportive measures, but the formal grievance process is not applicable unless the Title IX Coordinator signs the complaint in the event the Complainant cannot/will not do so.

¹⁰ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

6. Advisors in Hearings/Center-Appointed Advisor

Under the Title IX Regulations, a form of indirect questioning is required during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, DHLC will appoint a trained Advisor for the limited purpose of conducting any questioning of the parties and witnesses.

7. Pre-Interview Meetings

Advisors and their advisees may request to meet with the Investigator(s) conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and DHLC's policies and procedures.

8. Advisor Violations of DHLC Policy

All Advisors are subject to the same DHLC policies and procedures, whether they are attorneys or not, and whether they are selected by a party or assigned by DHLC. Advisors are expected to advise their advisees without disrupting proceedings. Advisors are expected to maintain the privacy of the records shared with them.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this Policy, or who refuses to comply with DHLC's established rules of decorum for the hearing, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including DHLC requiring the party to use a different Advisor or providing a different DHLC-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

9. Resolution Processes

Resolution proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings. Although there is an

expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, except for information the parties agree not to disclose as part of an Informal Resolution. DHLC encourages parties to discuss any sharing of information with their Advisors before doing so.

The Formal Grievance Process is DHLC's primary resolution approach unless Informal Resolution is elected by all parties and DHLC.

10. Formal Grievance Process: Notice of Investigation and Allegations

The Title IX Coordinator in collaboration with applicable consulting services, will provide written Notice of the Investigation and Allegations (the "NOIA") to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who will be given advance notice of when the NOIA will be delivered to the Respondent.

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

11. Resolution Timeline

DHLC will make a good faith effort to complete the Resolution Process promptly. The timeline for resolution may be extended as necessary for appropriate cause by the Title IX Coordinator.

12. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process [including the Title IX Coordinator, Investigator(s), and Decision-maker] may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

At any time during the Resolution Process, the parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility

determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

DHLC operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

13. Investigation Process Delays and Interactions with Law Enforcement

DHLC may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or health conditions. DHLC will promptly resume its investigation and Resolution Process as soon as feasible. During such a delay, DHLC will implement supportive measures as deemed appropriate.

DHLC action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

14. Investigation Process Steps

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all available relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

Prior to the conclusion of the investigation, the investigator will provide the parties and their respective Advisors (if so desired by the parties) a copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which DHLC does not intend to rely in reaching a determination, for a ten (10) business-day review and comment period so that each party may meaningfully respond to the evidence.

The investigator will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The investigator will share the final report with all parties and

their Advisors at least ten (10) business days prior to a hearing. The parties and Advisors are also provided with a file of any directly related evidence that was not included in the report.

15. Evidentiary Considerations

Neither the investigation nor the hearing will consider: (1) incidents not relevant or not directly related to the possible violation(s), unless they evidence a pattern; or (2) questions and evidence about the Complainant's sexual predisposition; or (3) questions and evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

16. Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be held less than ten (10) business days from the conclusion of the investigation—when the final investigation report is transmitted to the parties and the Decision-maker—unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate Decision-maker and provide a copy of the investigation report and the file of directly related evidence.

17. Hearing Decision-maker Composition

The Title IX Coordinator will designate a single Decision-maker who will not have had any previous involvement with the complaint. Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill the facilitator role. The hearing will convene at a time and venue determined by the Title IX Coordinator or designee.

18. Hearing Notice

No less than ten (10) business days prior to the hearing,¹¹ the Title IX Coordinator or the Decision-maker will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

19. Hearing Procedures

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

The Decision-maker will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf. The Decision-maker will allow witnesses who have relevant information to appear at a portion of the hearing to respond to specific questions from the Decision-maker and the parties.

20. Refusal to Submit to Questioning; Inferences

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-maker may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

21. Hearing Recordings

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

The Decision-maker, the parties, their Advisors, and appropriate administrators of DHLC will be permitted to review the recording or review a transcript of the recording, upon request to the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

¹¹ Unless an expedited hearing is agreed to by all parties.

22. Deliberation, Decision-making, and Standard of Proof

The Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the policy violation(s) in question. When there is a finding of responsibility on one or more of the allegations, the Decision-maker may then consider impact and/or mitigation statement(s) in determining appropriate sanction(s). The Decision-maker will also review any pertinent conduct history and will recommend the appropriate sanction(s) to the Vice President of Human Resources.

The Decision-maker will then prepare a written statement detailing all findings and final determinations, the rationale(s) explaining the decision(s), the evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any recommended sanction(s) and rationales explaining the sanction(s) and will deliver the statement to the Title IX Coordinator.

23. Notice of Outcome

The Title IX Coordinator will share the Notice of Outcome letter with the parties simultaneously. The Notice of Outcome includes the final determination, rationale, and any applicable sanction(s), with the parties and their Advisors within 5 business days of receiving the deliberation statement from the Decision-maker.

The Notice of Outcome will articulate the specific alleged policy violation(s), including the relevant policy section(s), and will contain a description of the procedural steps taken by DHLC from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding for each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent DHLC is permitted to share such information under state or federal law; any sanction(s) issued which DHLC is permitted to share according to state or federal law; and whether remedies will be provided to the Complainant to ensure access to DHLC's educational or employment program or activity.

The Notice of Outcome will also include information on when the results are considered final by DHLC, will note any changes to the outcome and/or sanction(s) that occur prior to finalization,

and the relevant procedures and bases for appeal.

24. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the sexual harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment and/or retaliation
- The need to remedy the effects of the sexual harassment and/or retaliation on the Complainant and the team
- The impact on the parties
- Any other information deemed relevant by the Decision-maker

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a grievance process at any time, and/or referring that information to another process for resolution.

A. Student Sanctions

The following are the common sanctions that may be imposed upon students singly or in combination:¹²

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any DHLC policy, procedure, or directive will result in more severe sanctions/responsive actions.

¹² DHLC policies on transcript notation will apply to these proceedings.

- *Required Counseling*: A mandate to meet with and engage in either DHLC-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student status for a definite period of time and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at DHLC.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend DHLC-sponsored events.
- *Withholding Completion certificate (if applicable)*: DHLC may withhold a student's documentation of program completion for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for violating policy.
- *Revocation of Completion Certificate (if applicable)*: DHLC reserves the right to revoke student status previously awarded from DHLC for fraud, misrepresentation, and/or other violation of DHLC policies, procedures, or directives associated with the student's work, or for other serious violations committed by a student during the program.
- *Other Actions*: In addition to or in place of the above sanctions, DHLC may assign any other sanctions as deemed appropriate.

25. Employee Sanctions/Responsive/Corrective Actions

- Responsive actions for an employee who has engaged in sexual harassment and/or retaliation will be guided by HR-F-8 DISCIPLINARY PROCESS policy. DHLC may assign any other responsive actions as deemed appropriate.

26. Withdrawal or Resignation Before Complaint Resolution

A. Students

Should a Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from DHLC, the Resolution Process typically ends with dismissal, as DHLC has lost primary disciplinary jurisdiction over the withdrawn

student. However, DHLC may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged sexual harassment and/or retaliation.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely and, if found in violation, that student is not permitted to return to DHLC unless and until all sanctions, if any, have been satisfied.

B. Employees:

Should an employee Respondent resign with unresolved allegations pending, the Resolution Process typically ends with dismissal, as DHLC has lost primary disciplinary jurisdiction over the resigned employee. However, DHLC may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged sexual harassment and/or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for rehire with DHLC, and the records retained by Human Resources will reflect that status.

27. Appeals

Any party may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator within 5 business days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

A. Grounds for Appeal

Appeals are limited to the following grounds:

- 1) A procedural irregularity affected the outcome of the matter
- 2) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter

- 3) The Title IX Coordinator, Investigator(s), or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Decision-maker and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-maker will notify all parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker will be given 3 business days to submit a response to the portion of the appeal that was approved and involves them. All responses, if any, will be forwarded by the Appeal Decision-maker to all parties for review and comment.

A Notice of Appeal Outcome will be sent in writing to all parties simultaneously. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which DHLC is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent DHLC is permitted to share under state or federal law.

28. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed (i.e.: not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

29. Failure to Comply with Sanctions and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from DHLC. Supervisors are expected to enforce completion of sanctions/responsive actions for their employees.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

30. Recordkeeping

DHLC will maintain for a period of seven years following the conclusion of the Resolution Process, records of:

- 1) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation
- 2) Any disciplinary sanctions imposed on the Respondent
- 3) Any remedies provided to the Complainant designed to restore or preserve equal access to DHLC's education program or activity
- 4) Any appeal and the result therefrom
- 5) Any Informal Resolution and the result therefrom
- 6) All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. DHLC will make these training materials publicly available for inspection upon request.
- 7) Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent
 - b. Any measures designed to restore or preserve equal access to DHLC's education program or activity
 - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances

DHLC will also maintain any and all records in accordance with state and federal laws.¹³

31. Disability Accommodations in the Resolution Process

DHLC is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to DHLC's Resolution Process.

Anyone needing such accommodations or support should contact the Director of Compliance, Privacy and Auditing/Civil Rights Coordinator or Vice President of Human Resources who will

¹³ A model record maintenance and access policy can be found in [Appendix G](#).

review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator or designee, determine which accommodations are appropriate and necessary for full participation in the process.

32. Revision of this Policy and Procedure

This Policy and Procedure supersede any previous policies addressing sexual harassment, sexual misconduct, and/or retaliation for incidents occurring on or after August 14, 2020, under Title IX and will be reviewed and updated annually by the Title IX Coordinator. DHLC reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the Resolution Process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require Policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change—or court decisions alter—the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedure is effective January 1, 2024.