

## **SEXUAL HARASSMENT TITLE IX POLICY** (Effective August 14, 2020)

### **I. PURPOSE, PROHIBITED CONDUCT, SCOPE AND JURISDICTION**

#### **Purpose**

Stevenson University believes that members of the Stevenson University community have the right to be free from acts of sexual harassment, sexual assault, domestic and/or dating violence, and stalking. The University is committed to providing a safe and non-discriminatory learning and working environment. Accordingly, by this Policy, all members of the Stevenson community and all visitors, regardless of sex, gender, sexual orientation, gender identity, or gender expression are advised that any sexual harassment by any student, employee, or third party is prohibited. Any attempt to commit sexual harassment as defined by this policy, or to assist or willfully encourage any such act, is a violation of this Policy. Sexual harassment is contrary to the basic values of Stevenson, which include promoting a sense of community, fostering learning, instilling integrity, and achieving excellence. Stevenson is committed to providing prompt and equitable resolution of all complaints of sexual harassment.

#### **Prohibited Conduct**

This policy prohibits sexual harassment which is defined as: conduct on the basis of sex that satisfies one or more of the following –

- an employee of Stevenson University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; this is commonly referred to as *quid pro quo* sexual harassment
- unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- sexual assault, dating violence, domestic violence, or stalking on the basis of sex as defined in the Clery Act and the Violence Against Women's Act (VAWA)

Violations of this policy may result in disciplinary action up to and including removal from the University for students and termination of employment for faculty and staff.

#### **Scope and Jurisdiction**

This Policy applies to all complaints of sexual harassment in Stevenson's education programs and activities. In order for action to be taken under this policy, Stevenson University must have actual knowledge of the sexual harassment; the sexual harassment must have occurred within an educational program or activity of the University; and it must have been against a person in the United States.

#### **Prohibition of Sexual Misconduct Occurring Beyond the Scope of this Policy**

Stevenson University recognizes that sexual misconduct is unacceptable regardless of the circumstances in which it occurs. Therefore, the University reserves the right to utilize its other student and/or employee conduct processes and procedures to adjudicate alleged sexual misconduct violations that occur beyond the limits noted above, including misconduct that

occurs off campus by or against members of our community or sexual misconduct that does not meet the definition of sexual harassment to be covered by this Policy.

Although consensual relationships will normally be outside the scope of this policy, Stevenson has other policies prohibiting consensual relationships between employees and students. When two parties have consented at the outset to a romantic or sexual involvement, such consent does not preclude a charge of sexual harassment for subsequent unwelcome conduct of a sexual nature. Moreover, especially when the relationship is between persons in unequal positions, the relationship may be perceived in different ways by each of the parties to it, as well as coworkers and fellow students, especially in retrospect.

## **II. TITLE IX AND THE ROLE OF THE TITLE IX COORDINATOR**

### **Title IX Statement**

It is the policy of Stevenson University to comply with Title IX of the Education Amendments of 1972, which prohibit discrimination (including sexual harassment and sexual violence) based on sex in the University's educational programs and activities. Title IX also prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. Stevenson University does not discriminate, and is required by Title IX not to discriminate, in such a manner. The requirement not to discriminate in Stevenson University's education program or activity extends to admission and employment.

### **Title IX Coordinator**

To implement this Policy, Stevenson has identified a Title IX Coordinator, whose duties include oversight of Stevenson's compliance on campus with Title IX of the Education Amendments of 1972. The Title IX Coordinator is responsible for receiving reports and carrying out Stevenson's Title IX responsibilities, addressing patterns or systemic problems revealed by complaints, and ensuring the following: the Policy is well publicized; employees are trained on the Policy; students are notified of the Policy; formal complaints of violations of the Policy are investigated; and any appeals of Policy violations are handled in a fair, equitable, and appropriate manner.

### **Publication of Policy and Procedures**

The Title IX Coordinator is responsible for the publication of the Policy to all students, faculty, staff, and administration and is responsible for its review by all employees and students. The Policy will be maintained on Stevenson's external web site, Stevenson's SUNow Portal, and distributed via campus email. It is the responsibility of all students and employees to review, understand, and comply with the Policy.

## **III. DEFINITIONS**

**A. Actual Knowledge:** notice of sexual harassment or allegations of sexual harassment to Stevenson University's Title IX Coordinator.

**B. Complainant:** an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

**C. Consent:** is an affirmative decision to engage in mutually acceptable sexual activity given by clearly and mutually understandable words or actions that create a knowing, willing, voluntary, and active agreement by all parties regarding the conditions of sexual activity. The consent must be present and ongoing. Consent is active, not passive. Silence or an absence of resistance cannot be interpreted as consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent to sexual activity may be withdrawn at any time provided that the withdrawal of consent is communicated in clearly understandable words or actions. If consent is withdrawn, all sexual activity must immediately cease.

In the absence of mutually understandable words or actions (an agreement on what is to be done, where, with whom, when, and how), it is the responsibility of the initiator (the person who wants to engage in the specific sexual activity) to make sure that he or she has consent from the potential partner(s). Coercion, force, or threat of either invalidates consent.

Someone is not giving consent if they are: saying “no” or “stop”, crying, moving away, pushing the other(s) away, unengaged, intoxicated, drugged/high, asleep, unconscious, physically or psychologically pressured or forced, intimidated, coerced, manipulated, has a mental or physical impairment that would raise doubt about the capacity to give consent, beaten, threatened, or confined.

Furthermore, a current or previous dating or sexual relationship is not sufficient to constitute consent. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Being intoxicated or drugged/high does not diminish one’s responsibility to obtain consent. Silence, previous sexual relationships, and/or a current relationship with the initiator (or anyone else) may not be taken to imply consent.

In the State of Maryland, an individual cannot legally give consent if the person is incapacitated due to alcohol or drugs, or under the age of 16.

**D. Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be based on the reporting party’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 -

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

**E. Domestic Violence:** A felony or misdemeanor crime of violence committed –

- By a current or former spouse or intimate partner of the victim
- By a person with whom the victim shares a child in common
- By a person who is cohabitating with or has cohabitated with the victim as a spouse or

intimate partner

- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of Maryland, or
- By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**F. Education Program or Activity:** Locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Stevenson University.

**G. Incapacitated:** Incapacitated means that a person lacks the capacity to give consent to sexual activity due to: physical condition, including but not limited to sleep, lack of consciousness, alcohol, or drugs; or mental or physical disability that impairs the individual's ability to provide consent; or age. Incapacitation due to physical condition includes the inability, temporarily or permanently, to give consent, because the individual is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. Other signs of incapacitation include when an individual demonstrates that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Stevenson considers sexual contact while under the influence of alcohol to be risky behavior. Alcohol impairs a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. Being intoxicated or impaired by alcohol or drugs is never an excuse for sexual misconduct and does not excuse one from the obligation to obtain consent.

**H. Preponderance of the Evidence:** the standard of proof that Stevenson University will use when determining if a violation of this policy occurred. This standard is also referred to as the "more likely than not" standard.

**I. Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

**J. Sexual Assault:** An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sexual Assault means any actual, attempted, or threatened sexual act or sexual contact with another person without that person's Consent, and includes the following:

**Sex Offense:** A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

1. Fondling—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

2. Incest—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
3. Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent.

**Rape:** The 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, without the consent of the victim.

**K. Sexual Harassment:** conduct on the basis of sex that satisfies one or more of the following –

- an employee of Stevenson University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct; this is commonly referred to as *quid pro quo* sexual harassment
- unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity; or
- sexual assault, dating violence, domestic violence, or stalking on the basis of sex as defined in the Clery Act and the Violence Against Women’s Act (VAWA)

**L. Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- fear for the person’s safety or the safety of others; or
- 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 stalker 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 victim.

*Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**M. Third Party:** Third parties include but are not limited to visitors, guests, volunteers, vendors and contractors while on University property, participating in a University event, or providing services to the University, applicants for admission to or employment with the University, and former employees and students of the University.

**N. Title IX:** Title IX refers to Title IX of the Education Amendments of 1972, which is a federal law that prohibits discrimination on the basis of sex in any federally funded education program

or activity. Sexual harassment, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX and other laws.

**N. Title IX Coordinator:** The Vice President of Human Resources is Stevenson's Title IX Coordinator for students, faculty, staff, and administration. The contact information for the Title IX Coordinator is as follows:

David C. Jordan  
 Stevenson University  
 1525 Greenspring Valley Road  
 Stevenson, MD 21153  
 443-334-2176  
[dcjordan@stevenson.edu](mailto:dcjordan@stevenson.edu)

#### **IV. WHAT TO DO AFTER A SEXUAL ASSAULT**

Immediately after an assault, the victim is strongly encouraged to do the following:

**A. Get out of physical danger.** The victim should go to a safe place, call a friend, family member, the room of the Resident Assistant, or the Wellness Center (if during weekday business hours). The victim also may choose to call 911 or refer to other sources of support described in this policy.

**B. Report the assault to Campus Security.** Campus Security contact information is as follows:

1. Owings Mills Campus: Ratcliffe Community Center, Front Entrance, (100 Campus Circle, Owings Mills, MD 21117); phone number: 443-352-4500.
2. Greenspring Campus: phone numbers: 410-486-7000 (during standard business hours; ask for Security); 443-352-4500 (available 24 hours).

The victim also will be advised of their right to file a complaint with the police and to seek a Protective/Peace Order from the local court. The Director of Security or the Security Shift Supervisor can assist in contacting the police or pursuing a Peace Order. Filing a report with Stevenson does not prevent filing a police report or seeking a Peace Order.

**C. Preserve physical evidence.** If there has been a sexual assault, removal of clothes or bathing or cleaning up in any way may destroy essential evidence. Therefore, to preserve evidence, the victim should not shower, bathe, go to the bathroom, douche, smoke, eat, drink or brush teeth or hair, or change clothes or bedding before going to the hospital or medical facility. Save all clothing worn at the time of the assault; if the victim has changed clothes, do not wash them and bring them to the hospital or medical facility. Do not disturb anything in the area where the assault occurred.

**D. Preserve important information.** Write down as much as can be remembered about the circumstances of the assault, including a physical description of the assailant. If the alleged perpetrator was unknown to the victim, try to remember any helpful details that may lead to their

identification, such as scars or other marks, jewelry, dress, language, approximate height and weight in comparison to that of the victim, vehicle description, and tag number. Write these down as soon as possible, and include the date and time of writing.

**E. Obtain medical attention and forensic examinations.** Victims may receive care at a local hospital, urgent care facility, or through their personal physician, and can obtain a free exam to preserve forensic evidence.

1. **Medical Care.** Students may also seek medical care—and make confidential reports—at the Stevenson University Wellness Center during open business hours (443-352-4200). A nurse practitioner or physician will conduct an examination for physical injuries, discuss emergency contraception, and test for STIs. No fees will be charged by the Wellness Center. The Wellness Center will not perform a forensic examination or evidence collection. When a complainant makes a report of a sexual misconduct to a doctor, nurse or counselor in the Wellness Center, the report is kept confidential and will not be disclosed unless directed otherwise.

2. **Sexual Assault Forensic Exam.** If there has been a sexual assault, the victim is strongly encouraged to immediately get a free Sexual Assault Forensic Exam (S.A.F.E.) at the Greater Baltimore Medical Center in Towson (6701 North Charles Street, Towson, Maryland 21204, 443-849-3323 or after business hours 443-849-2226) or another similar facility such as Mercy Hospital in Baltimore, no later than five (5) days after the assault. Campus Security will coordinate transportation to the hospital for the S.A.F.E. examination, if requested. For more information about the S.A.F.E. examination, contact a Residence Life Staff Member or call Turnaround's 24-hour hotline at 443-279-0379. Even if the victim is undecided whether to make a police report, evidence may still be collected in a S.A.F.E. examination, and it will be held under an anonymous name for at least 20 years, giving the victim an opportunity to decide.

**F. Obtain Counseling and/or Other Advocacy Services.** Mental Health Counselors and Health Care Professionals located in the Stevenson University Wellness Center (443-352-4200) are available to provide confidential counseling and support to student victims and can assist them in evaluating the options available. After normal business hours, students wishing to speak to a professional in the Wellness Center may do so by simply contacting Campus Security and requesting that a counselor from the Wellness Center contact them. Students and employees may contact BHS, the University's Student/Employee Assistance Program, by calling 800-327-2251.

Crisis counseling is also available from TurnAround, Inc., which provides counseling and support services to victims of domestic violence and sexual assault. Legal assistance and victim advocacy services may also be accessed by contacting the Sexual Assault Legal Institute (SALI) which is a program of the Maryland Coalition Against Sexual Assault (MCASA).

Contact information for each organization is provided below:

Wellness Center  
Stevenson University  
Caves Building

TurnAround  
24-hour Crisis Hotline  
443-279-0379

MCASA  
Sexual Assault Legal Institute  
877-496-7254 or

443-352-4200

www.turnaroundinc.org

301-565-2277

www.mcasa.org

**G. Criminal Complaint:** A person who believes they are a victim of sexual violence may also contact law enforcement authorities and decide whether to file a criminal complaint. Law enforcement may be contacted by dialing 911 and an officer from the appropriate jurisdiction will respond and take a report detailing the circumstances of the allegation. Campus Security will provide help to a victim in making this contact with law enforcement authorities if requested by the victim. The victim also has the right not to report the incident to criminal authorities. A law enforcement inquiry does not alter Stevenson's obligation or commitment to conducting a prompt investigation. While Stevenson may temporarily delay its investigation while law enforcement authorities investigate, that investigation is a separate process. However, Stevenson will not wait until the outcome of a criminal proceeding to undertake an investigation and make a decision on the complaint. Stevenson will take appropriate interim steps during the law enforcement agency's investigation to provide for the safety of the victim(s) and the school community.

## **V. REPORTING VIOLATIONS OF THIS POLICY**

**A. Report of Sexual Misconduct.** In order for action to be initiated under this policy, notice of sexual harassment or allegations of sexual harassment must be made to the Title IX Coordinator. While there is no time limit for making such a report, the earlier the better, as important information or evidence may become unavailable due to delayed reporting. It is also recommended that a report be made by the complainant in writing. However, reports may also be made orally. The contact information for the Title IX Coordinator is as follows:

David C. Jordan  
VP Human Resources  
Title IX Coordinator  
Manuszak Center, SU 130  
Greenspring Campus  
[dcjordan@stevenson.edu](mailto:dcjordan@stevenson.edu)

It is the policy of Stevenson University that all employees (e.g. faculty, staff, and resident assistants) who learn of instances of sexual harassment are expected to report the incident to the Title IX Coordinator, including identifying information.

**B. Confidential Report of Sexual Misconduct.** As noted above, if a sexual assault or other form of sexual misconduct occurs, the student victim has the important option to make a confidential report to Stevenson's Mental Health Counselors and Health Care Professionals located in the Wellness Center, during open business hours (443-352-4200). **These reports will not be disclosed to the Title IX Coordinator without the victim's permission.**

Students or employees wishing to make a confidential report may also contact BHS, the Student/Employee Assistance Program, at 800-327-2251, or may submit a report to Lighthouse, Inc. A report made through the reporting link on the Title IX web page will go to Lighthouse and

then to the Title IX Coordinator; the reporter may remain anonymous and communicate with the Title IX Coordinator with Lighthouse as the intermediary.

Crisis counseling for students and employees is also available from TurnAround, Inc., which provides counseling and support services to victims of domestic violence and sexual assault. Legal assistance and victim advocacy services may also be accessed by contacting the Sexual Assault Legal Institute (SALI) which is a program of the Maryland Coalition Against Sexual Assault (MCASA).

**C. Student Amnesty Policy and Bystander Intervention.** Stevenson is committed to the safety and well-being of all of its students. As such, Stevenson has a variety of policies in place to help enhance the safety of the campus community. Stevenson encourages the reporting of sexual misconduct to the Title IX Coordinator. Sometimes, students may be reluctant to come forward and report an incident of sexual misconduct, or serve as a witness, because they are concerned that they may be charged with violating other campus policies, such as Stevenson's alcohol or drug policy. Therefore, for students who report an incident of sexual misconduct or who serve as witnesses to an incident of sexual misconduct, the University will not institute disciplinary sanctions for their own personal consumption of drugs or alcohol related to the incident as long as any such violations did not place the health or safety of any other person at risk. Stevenson may pursue other educational remedies regarding the use of alcohol and illegal drugs in order to protect the health and well-being of the student.

**D. Notice.** Once a report of alleged sexual misconduct is made to the Title IX Coordinator, the Title IX Coordinator (or designee) will promptly and confidentially contact the complainant to discuss the availability of various resources and measures. The Title IX Coordinator will also inform the complainant that these measures are available with or without the filing of a formal complaint. The Title Coordinator will also explain to the complainant the Title IX process.

If the University is required to notify the campus community of the assault, including recording the assault in the campus crime log and the Annual Security Report, no identifying information about the complainant will be included, to the extent permissible by law.

**E. Supportive Measures:** Supportive measures will be offered to the complainant whether or not the complainant elects to file a formal complaint. Supportive measures may not be punitive in nature. Supportive measures include, but are not limited to, the following: restriction on contact between the parties, arranging for an escort while moving between classes, changes to class schedules, alteration in campus employment or work-study arrangements, leaves of absence from the University, special transportation measures, change in position or supervisor, providing counseling services, academic support services such as tutoring. For employees, some of these measures may also be appropriate. Good faith efforts will be made to grant such requests if supportive measures are reasonably available and appropriate. However, Stevenson is obligated to comply with a student's reasonable request for a residential and/or academic situation change following an alleged sex offense. Stevenson will maintain as confidential any accommodations or supportive measures provided to the complainant to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or supportive measures.

**E. Emergency Removals:** The University may elect to remove a respondent from an education program or activity if the University conducts an individualized safety and risk analysis and determines the respondent poses an imminent threat to the physical health or safety of anyone justifying removal so long as the threat arises from the allegations of sexual harassment. Respondents who are removed under this provision may immediately challenge this removal by appealing to the Vice President of Student Affairs. Stevenson may also place a non-student employee respondent on administrative leave during the pendency of the grievance process.

## **VI. GRIEVANCE PROCEDURES FOR FORMAL COMPLAINTS OF TITLE IX SEXUAL HARASSMENT**

Stevenson is committed to providing a prompt, fair, equitable, and impartial investigation and resolution to all formal complaints of sexual harassment that fall under this policy. Stevenson will ensure that the Title IX Coordinator, investigators, decision-makers and any person facilitating an informal resolution do not have a conflict of interest or bias for or against complaints or respondents generally or an individual complainant or respondent. Those wishing to initiate a formal complaint under this policy must submit a document to the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the University investigate the allegation of sexual harassment. This document must contain the complainant's physical or digital signature or otherwise indicate that the complainant is the person filing the formal complaint. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of Stevenson University.

Stevenson will strive to respect the wishes of a complainant who requests that the University not conduct an investigation. In determining whether to honor the request to not conduct an investigation, Stevenson will weigh the request against Stevenson's obligation to provide a safe, non-discriminatory environment for all students and employees, including the complainant. In limited instances, Stevenson may determine that it will undertake an investigation when the Title IX Coordinator, in their professional judgement, deems this is necessary to protect the welfare of the University community. If the Title IX Coordinator decides an investigation will be conducted against the wishes of the victim, the Title IX Coordinator will sign the formal complaint.

**A. Initial Review of Formal Complaint:** The Title IX Coordinator will review the formal complaint to determine if it may be investigated under this policy. The Title IX Coordinator must terminate the grievance process outlined within this policy if they determine that the conduct alleged by the complainant:

- would not constitute sexual harassment even if proved,
- did not occur against a person in the United States, or
- did not occur within the recipient's program or activity, or
- the complainant was not participating, or attempting to participate in the University's programs and activities at the time of the complaint.

If it is determined by the Title IX Coordinator that the allegation may not be investigated under this policy, the Title IX Coordinator will refer the report to the Dean of Students (or designee)

for possible action under the University's other conduct policies or disciplinary proceedings.

After the filing of a formal complaint, the University *shall* dismiss complaints that meet one or more of the above criteria, and the University *may* dismiss a complaint on the following grounds: Complainant requests to withdrawal their complaint; the respondent is no longer enrolled or employed; or when specific circumstances prevent gathering evidence sufficient to reach a determination. If a formal complaint is dismissed, the Title IX Coordinator will promptly send written notice of the dismissal and the reason(s) for the dismissal to each party simultaneously.

Either party may appeal the University's dismissal of a formal complaint or any allegations contained in a formal complaint. See appeal section for further information on the appeal process.

**B. Investigation of Formal Complaint.** The investigation of a report of sexual harassment will begin promptly after the Title IX Coordinator (or designee) has reviewed the formal complaint and determined that it meets the criteria established for an investigation under this policy.

Both the complainant and respondent will receive written notice of the allegations, including details known at the time such as the identities of the parties, the conduct allegedly constituting sexual harassment, and the date and location of the incident. Included in this notice will be the following:

- information regarding who will be investigating the complaint, which will typically be one or more trained investigators;
- what to expect during the investigation process;
- a copy of their respective rights and options. (These rights and options documents may also be found at [www.stevenson.edu/sexualmisconduct](http://www.stevenson.edu/sexualmisconduct))

The complainant and the respondent are afforded equal procedural rights during the investigation. The investigation may include interviewing the complainant(s), respondent(s), witness(es), and other relevant individuals. The burden of gathering evidence and burden of proof rests on the University. Written notice will be sent to the respective party in advance of any investigative interviews or meetings that they are expected to attend. All investigatory interviews with the complainant, respondent, and witnesses shall be conducted in private with the pertinent investigators and/or other Stevenson administrators, if any, as determined by the investigators. The respondent will not be present for the complainant's interviews; the complainant will not be present for the respondent's interviews. During the investigation, the interviews, meetings, and other proceedings are not electronically recorded by Stevenson and may not be recorded by others. All parties will be treated with dignity, respect, and sensitivity by officials of the University throughout the investigation.

***Presumption of Not Responsible***

The respondent will be presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

***Advisors/Legal Counsel***

Complainants and respondents may be accompanied throughout the disciplinary proceedings,

including the investigation, hearing and appeal process, by an advisor of their choice. Advisors may include, but are not limited to, a licensed attorney, an advocate supervised by an attorney, or a trained advocate. The purpose of the advisor is to provide advice to the student or employee in a quiet manner that is not disruptive to the proceedings. The advisor may not provide verbal, written, or other input during meetings or interviews in the investigation or appeal process other than to the student or employee being advised. During the live hearings, the advisor is the only person who may conduct cross-examination and ask other relevant and follow-up questions on behalf of the party. An advisor cannot serve as a witness on the same complaint. Each party is limited to no more than two people at any hearing, meeting or interview during the grievance proceedings, including a personal supporter of the student's choice and/or an advisor as described above.

In accordance with Maryland Law, legal counsel paid for by the Maryland Higher Education Commission (MHEC) is available for a current or former student who makes a complaint on which a formal Title IX investigation is initiated, or a current or former student who responds to a complaint in which a Title IX investigation is initiated. In order to qualify, the party must have been enrolled as a student at Stevenson at the time of the incident that is the basis of the complaint.

MHEC has developed a list of attorneys and legal services programs willing to represent students on a pro bono basis or at fees equivalent to those paid to attorneys under civil legal services programs administered by the Maryland Legal Services Corporation (MLSC). A student may select an attorney from the list. A student may select and retain an attorney prior to the conclusion of the formal Title IX proceedings. If a student selects and retains an attorney who is not on the list, MHEC must pay fees to the attorney selected by the student that are equivalent to those paid to attorneys under civil legal services programs administered by MLSC. Further information is available on the MHEC website (<https://mhec.maryland.gov/Pages/Title-IX-Campus-Sexual-Assault-Proceedings---Attorney-List.aspx>).

### ***Preservation of Evidence.***

The Title IX Coordinator and/or investigators will request that the complainant, the respondent, any witnesses and the University preserve all relevant evidence, including paper documents, email and other electronically stored information, text messages, voicemail messages, photos, and postings on social media.

### ***Assertions and Evidence***

The investigators will request the complainant describe in detail the assertions and provide pertinent witnesses, records, exhibits, and witness statements as evidence for consideration at the discretion of the investigators. The investigators will describe the allegations to the respondent and will request that the respondent respond in detail to the assertions and provide pertinent witnesses, records, exhibits, and witness statements as evidence for consideration at the discretion of the investigators. The investigators will exercise their discretion in deciding which other individuals identified as witnesses during the investigation should be interviewed. Each party will have the same opportunity to present fact and expert witnesses along with other inculpatory and exculpatory evidence.

At the conclusion of the investigation, the University will send to both parties, and their advisors, a preliminary investigative report that fairly summarizes relevant evidence. This report will be sent either in electronic format or hard copy. Each party will be given access to any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint. (The personal notes of investigators are not evidence and will not be released). Such evidence will be sent either in electronic format or hard copy to the parties and their advisors. Each party will be provided at least 10 days to respond to this preliminary report after which the University will prepare a final investigative report. This final investigative report will be sent to both parties, and their advisors, and will fairly summarize relevant evidence. The final investigative report will be provided at least 10 days prior to a hearing. The Complainant and Respondent (and their advisors) may only share the investigative report for the purpose of receiving counsel or advice related to the Title IX process.

### ***Prior or Current Sexual Conduct***

The complainant's prior sexual behavior or conduct are neither relevant nor admissible during the investigation or hearing proceedings and will not be considered unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent. The fact that a complainant may currently have or had in the past a dating or sexual relationship with the respondent that was consensual is not sufficient by itself to constitute consent and does not preclude a determination that sexual misconduct occurred.

### **C. Live Hearings**

At the conclusion of the investigation, a live hearing will be scheduled. The hearing will be scheduled at least 10 days after the parties have received the final investigative report to ensure that each party, and their advisors, have sufficient time to prepare. The University will appoint either one or three decision-makers who will be responsible for conducting the hearing. In cases where the University appoints multiple decision-makers, one of the appointees will be identified as the chair. The decision-makers appointed to conduct the hearing will be different from those appointed to conduct the investigation.

Live hearings may be conducted with all parties physically present in the same geographic location or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. However, at the request of either party, the University will provide for the live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.

Each party has the right to be accompanied to the hearing (and any related meetings) by the advisor of their choice, who maybe, but is not required to be, an attorney. In the event that a party does not have an advisor of their choosing present during the hearing, the University will provide an advisor of its choosing. The advisor will be the only person permitted to ask the other party and any witnesses questions and follow-up questions.

The University will make available all evidence gathered during the course of the investigation so that the parties may refer to this evidence during the hearing. At the live hearing, the

decision-maker(s) will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor. Cross-examination will not be permitted by the party themselves. If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) will not rely on any statement of that party or witness in reaching a determination regarding responsibility.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision maker (or in the case of multiple decision makers, the chair) must first determine whether the question is relevant and will explain any decision to exclude a question as not relevant. Questions pertaining to a complainant's prior sexual behavior or conduct will not be considered unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent. In addition, a party will not be compelled to waive a legally recognized privilege such as attorney-client or doctor-patient privilege. Credibility determinations may not be based on a person's status as a complainant, respondent, or witness. Lastly, hearsay evidence that is not subjected to cross examination will also not be considered relevant.

The live hearing will be either recorded or transcribed and the decision as to which method will be used will rest with the University. The recording or transcription will be available to the parties for inspection and review.

#### **D. Resolution and Discipline**

##### ***Standard of Evidence***

The University will use the preponderance of evidence standard when determining if a violation of this policy occurred. This standard is also referred to as the "more likely than not" standard.

##### ***Written Decision***

Upon completion of the hearing, the decision-maker(s) will issue a written determination regarding responsibility. The written decision will include the following:

- Identification of conduct code sections alleged to have been violated;
- A description of the procedural steps taken from the receipt of the complaint through the determination;
- Findings of fact supporting the determination;
- Conclusions about whether the alleged conduct occurred;
- Rationale for the result as to each allegation;
- Disciplinary sanctions (if any) imposed on the respondent;
- Remedies provided to the complainant; and
- The University's procedures and permissible bases for the parties to appeal

The written determination will be sent simultaneously to the parties.

***Range of sanctions that may be imposed on a student following a determination of responsibility.***

The discipline or remedial action will be based upon the nature and severity of the offense, disciplinary history of the respondent, the impact of the conduct on the complainant and the community, whether the respondent is likely to engage in the conduct in the future, providing a remedy for any effects on a complainant or any other members of the community, and other mitigating or aggravating factors. Drug use or alcohol use are not mitigating factors. Discipline for students may include, but is not limited to, verbal or written warnings; loss of rights or privileges; requirement to attend coaching or training sessions or to receive counseling or other support; changes to the respondent's living arrangements; and academic, social or other probation, suspension, or expulsion from activities, residence halls, academic classes, programs, schools, or the University.

***Range of sanctions that may be imposed on a faculty or staff member following a determination of responsibility***

Discipline for faculty and staff may include but is not limited to: written warnings, probation, demotion, suspension, or termination of employment.

**E. Appeals**

***Written Appeal***

Written appeals are permitted only as set forth in this section. The appeal may be submitted by the complainant or the respondent or both. Students may appeal the decision to the Vice President, Student Affairs. Faculty members may appeal the decision to the Executive Vice President, Academic Affairs. Staff members may appeal the decision to the Vice President with whom the staff member ultimately reports. If the staff member ultimately reports to the Vice President, Human Resources, an appeal may be made to the Executive Vice President, Academic Affairs. The administrator authorized in this section to decide the appeal is referred to herein as the "appeals official." The appeal request must be in writing and made within ten calendar (10) days of notification of the decision. For the purposes of this section, the date of notification shall be the date of the letter of notification.

***Grounds for Appeal***

The complainant and the respondent have equal appeal rights. Either party may appeal the University's determination regarding responsibility or the University's dismissal of a formal complaint or any allegations contained in a formal complaint. There is a presumption that the decision and any sanctions were properly made, and the only grounds for appeal that will be considered are: (1) A procedural irregularity that affected the outcome; (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, investigators, or decision-maker(s) had a conflict of interest or bias that affected the outcome of the matter; or (4) The sanction or discipline imposed is substantially disproportionate for the facts of the case or the violation that was found to have occurred. The burden of proof during the appeal is on the party appealing.

***Notice***

Upon receipt of the appeal, the appeals official shall notify the other party, in writing, informing that party of their right to respond in writing within ten (10) calendar days, and shall provide a copy of the appeal to the other party.

***Decision***

The appeals official will review the written decision and any responses made by the parties, and may exercise the discretion to request further information or documents from the parties and/or the decision-makers (s) who issued the original decision and/or to meet with the parties. If the appeals official elects to meet with the complainant or respondent, a meeting will be held with each separately. A complainant or respondent who is invited to meet with the appeals official in connection with the appeal may bring an advisor as described above.

***Final Determination***

The decision of the appeals official shall be Stevenson University's final determination regarding the decision and the sanction. There are no further appeals. The appeals official will provide the complainant and the respondent with written notification of the outcome of the appeal which will be given at the same time and shall be delivered in the same manner. This notification will include (1) whether or not the original decision was changed or upheld, and (2) if the original decision was changed, a description of the changes, including any sanctions or discipline that the respondent has received or will receive to the extent that they pertain to the complainant.

**F. Records:** All records pertaining to the University's response to formal complaints, including supportive measures and resolution materials, will be retained for seven years.

**G. Timeframes.** Stevenson strives to complete its grievance process in a timely manner. Stevenson will make reasonable efforts to complete an investigation and decision within 60 to 90 days. The time period will be affected by unusual or unexpected circumstances, witness availability issues, and the extent of the investigation. In addition, if the investigation involves multiple incidents or multiple complainants or respondents, the investigation may take longer. If the Title IX Coordinator (or designee) determines that cause exists for an extension of time, Stevenson will issue an extension and will provide notice in writing to the complainant and the respondent.

**VII. INFORMAL RESOLUTION**

In many instances, mediation or other informal resolution options may be useful in resolving concerns about allegations of discrimination prohibited by Title IX. Complainants who wish to resolve their concerns informally should bring them to the attention of the Title IX Coordinator.

**Note: Informal resolution and/or mediation may not be deemed an appropriate means to resolve an allegation of sexual assault and will never be used if an employee sexually harassed a student.**

A formal complaint must be filed with the Title IX Coordinator before an informal resolution process may be offered.

The Title IX Coordinator, or designee, will notify the parties of the option to voluntarily participate in an informal process in an effort to reach a voluntary resolution. The University will not require the parties to participate in an informal process.

If the complainant and respondent both voluntarily agree in writing to participate in an informal process that does not involve a full investigation and findings and if the Title IX Coordinator determines that the particular Title IX complaint is appropriate for such a process, the University may facilitate an informal resolution, including mediation, to assist the parties in reaching a voluntary resolution. The consent form that the parties will both be required to sign will include the following:

- full-disclosure of the allegations and their options for resolution;
- the requirements of the informal resolution process
- notification that both parties will be bound by the terms of any final informal resolution agreement and what the consequences will be for failing to comply with agreement terms;
- how, and for how long, records associated with the information resolution will be kept.

At any point, including while the informal process is ongoing the complainant or respondent may elect to end the informal process in favor of pursuing a formal investigation and hearing process outlined elsewhere in this policy.

**Once a voluntary resolution is agreed upon by both parties the matter will be considered resolved with no further appeal.**

## **VIII. PROTECTION AGAINST RETALIATION**

Stevenson University considers retaliation against the complainant or others involved in the process to be as serious as an act of sexual misconduct. Retaliation of any kind against any person, who in good faith reports sexual misconduct, assists another in making a complaint, participates in an investigation, or provides information in connection with a complaint or investigation, is prohibited. Good faith initiation of a complaint of sexual misconduct will not adversely affect a complainant's grades, class selection, or any other matter pertaining to student status, or in the case of employees, the individual's employment, compensation, or work assignment. Any person who believes that he/she has been the victim of retaliation, or is aware of someone else who is the victim of retaliation, is encouraged to report this immediately to one of the following: Title IX Coordinator (443-334-2176), Stevenson's Security Office (443-352-4500), or the Vice President, Student Affairs (443-352-4307).

## **IX. EDUCATION**

Stevenson University is committed to educating the campus community on the topics addressed in this policy. The goal of Stevenson's educational programs is to promote awareness and to educate students and employees about preventing dating violence, domestic violence, sexual assault and stalking. Stevenson offers primary prevention and awareness programs for all incoming students and new employees as well as ongoing prevention and awareness programs for students and employees.

All new students and employees are required to successfully complete an online educational program covering sexual harassment and related topics. These trainings are required as part of

Stevenson University's commitment to promoting a safe learning and working environment and one that is free from discrimination on the basis of gender. Stevenson University also offers educational programs throughout the academic year for students, faculty and staff.

Resources pertaining to sexual assault prevention, sexual assault response, and other related topics may be found on the Title IX page of the university's website.

## **X. AMENDMENTS TO POLICY AND PROCEDURES**

This policy is subject to change at any time. Such amendments shall be placed on Stevenson's website and the University's SUNow Portal.

## **XI. QUESTIONS PERTAINING TO TITLE IX**

The designated official at Stevenson University to ensure compliance with Title IX is David C. Jordan, Vice President, Human Resources, who serves as the University's Title IX Coordinator (1525 Greenspring Valley Road, Stevenson, MD 21153, Phone: 443-334-2176, dcjordan@stevenson.edu). Questions concerning Title IX or the application of Title IX to Stevenson University may also be referred to the Office for Civil Rights (OCR) of the U.S. Department of Education, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202.

*(Updated Jan. 25, 2021)*