

I. Statement of Non-discrimination and Purpose

Schreiner University (“Schreiner” or the “University”) is committed to maintaining a learning environment that is free from sex discrimination. As required by Title IX of the Educational Amendments of 1972, the University does not engage in or tolerate discrimination on the basis of sex in its education programs and activities, including retaliation for asserting or otherwise participating in claims of sex discrimination. Schreiner encourages any student or employee who thinks that he or she has been subjected to sex discrimination, including sexual harassment, sexual assault, domestic and dating violence, or stalking (collectively, “Sexual Misconduct”), by another student, employee, campus visitor or contractor to immediately report the incident to any of the individuals or offices listed below.

The purpose of the Title IX Policy (the “Policy”) is to define the conduct prohibited, describe the process for reporting violations of the Policy, outline the process used to investigate and adjudicate alleged violations of Policy, and identify some of the resources available to University students who are involved in an incident that may violate this Policy.

II. Jurisdiction and Scope

A. Jurisdiction

1. The standards of conduct defined by this Policy apply to all students, employees, contractors and visitors.¹
2. The procedures for reporting, investigating, and adjudicating Policy violations apply to:
 - a. allegations of Sexual Misconduct that occur on campus² or at any location involving a University-sponsored activity or event (including, but not limited to, University-sponsored study abroad, research, online, or internship programs); and
 - b. allegations of Sexual Misconduct by students or employees regardless of whether the alleged violation occurred on campus or off campus, if the off-campus conduct has the potential for continuing adverse effects on or creating a hostile environment for students, employees or third-parties while on campus.
3. If an individual accused of Sexual Misconduct is no longer affiliated with the University when the report of Sexual Misconduct is received, the University may not conduct an investigation into the allegations, but reserves the right to document the report and address the allegations with the accused individual prior to that individual returning to Schreiner as a student, employee, or visitor. A decision to not conduct a formal investigation into the allegations against an accused individual no longer affiliated with the University does not preclude the use of informal resolution or the provision of supportive measures to the Complainant or other affected individuals.³

¹ For purposes of this Policy, an individual’s status as a University graduate, alumni, or donor does not afford the University jurisdiction over that individual solely based on that status.

² “Campus” includes any University-owned or leased property and streets or pathways contiguous to University property.

³ The jurisdiction of this Policy may limit the scope of or prevent an investigation into alleged conduct of a community member, third party, or campus visitor that occurs off-campus. Likewise, the full spectrum of possible sanctions, resources, and accommodations may be limited in situations involving a community member, third party, or campus visitor that fall outside of the Policy’s jurisdiction.

B. Responsible Employees

The Institutional Title IX Coordinator and the Deputy Title IX Coordinators will be responsible for the oversight and implementation of this Policy. The contact information for these individuals is listed below.

Institutional Title IX Coordinator

Dr. Travis Frampton
Tom Murray Building
Provost & Vice President for Academic Affairs
(830) 792-7371
tframpton@schreiner.edu

Deputy Title IX Coordinator/Investigator

Dr. Charles Hueber
Dean of Students
(830) 792-7278
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Deputy Title IX Coordinator/Investigator

Wendy L. Blaettner, PHR
Director of Human Resource Services
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For the sake of clarity, the Title IX Coordinators above are the only people at the University with the authority to institute corrective measures on the University's behalf pursuant to this Policy.

In addition, all individuals are encouraged to report conduct that may also violate criminal law to both the University and to local law enforcement. These processes are not mutually exclusive.

III. Definitions, Prohibited Conduct, and Sanctions

A. Definitions

1. **“Coercion”** means unreasonable pressure for sexual activity, including the use of express or implied threats, intimidation, or physical force which places an individual in reasonable fear of immediate harm or physical injury.
2. **“Complainant”** means an individual who is reported to be or alleges that they were the victim of an offense that violates this Policy.
3. **“Consent”** means assent in fact, whether express or apparent, by all of the involved parties to engage in the same sexual activity at the same time. It is the responsibility of the initiator of any sexual activity to obtain their partner's consent. Assent does not constitute consent if obtained through “coercion” or from an individual whom the initiator knows or reasonably should know is “incapacitated.”
 - a. Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Silence alone, without actions evidencing permission,

does not demonstrate consent. Consent is voluntary and can be revoked at any time and for any reason.

- b. An individual's manner of dress or the existence of a current or past dating relationship between two or more individuals does not, in and of itself, constitute consent to engage in a particular sexual activity.
- c. There are certain instances where an individual cannot give consent to participate in a sexual act. The following illustrate some of those instances:
 - The Respondent compels another to submit to or participate in a sexual act by the use of physical force or violence against the other person.
 - The Respondent compels another to submit to or participate in a sexual act by threatening to use force or violence against the other person.
 - The Respondent knows or reasonably should know that the other person is unconscious or physically unable to resist.
 - The Respondent knows or reasonably should know that the other person is, at the time of the sexual act, incapable of either appraising the nature of the act or of resisting it.
 - The other person has not consented to the sexual act and the Respondent knows or reasonably should know the other person is unaware that the sexual act is occurring.
 - The Respondent or another has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge.
 - The Respondent compels the other person to submit to or participate in a sexual act by threatening to use force or violence against any other person.
 - The individual is under the age of seventeen (17) and is not the spouse of the Respondent.

d. Use of Drugs and Alcohol

The fact that a Respondent was under the influence of drugs or alcohol at the time of the Sexual Misconduct will not diminish the Respondent's responsibility to obtain consent if that individual is the one who initiates sexual activity, nor shall being under the influence of alcohol or drugs be construed as an invitation to or as implied consent for sexual advances.

4. **"Employee"** means an individual who receives compensation for work or services for which the University has the right (whether or not it exercises the right) to supervise and control the manner of performance as well as the result of the work or service. For purposes of this Policy, University faculty, staff, and student employees are considered "employees." Volunteers and independent contractors are not considered "employees."
5. **"Force"** means the use of physical violence and/or imposing on someone physically to gain sexual access.
6. **"Incapacitation"** means a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent. Someone who is drunk or intoxicated is not necessarily incapacitated. Individuals who are asleep, unresponsive or unconscious are incapacitated. Among the factors the University will use to assess whether someone is incapacitated for purposes of this policy are: inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform

other physical or cognitive tasks without assistance. The existence of any one of these factors may support a finding of incapacitation for purposes of this Policy.

7. **“Minor”** means a person younger than seventeen (17) years of age.
8. **“Preponderance of the Evidence”** means that the greater weight of the evidence favors either the finding of a violation or the finding of a non-violation. This standard is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence presented.
9. **“Respondent”** means an individual who has been accused of an offense under this Policy or is reported to have violated this Policy.
10. **“Sexual Harassment”** means unwelcome, sex-based verbal or physical conduct that:
 - a. in the employment context, unreasonably interferes with a person’s work performance or creates an intimidating, hostile, or offensive work environment; or
 - b. in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student’s ability to participate in or benefit from the University’s educational programs or activities.
11. **“Sexual Misconduct”** means any sex or gender-based conduct prohibited under this Policy or any state or federal law.

B. Prohibited Conduct

For purposes of this Policy, conduct⁴ that is deemed, by a preponderance of the evidence, to be sex or gender-based and meets the definitions of any of the types of Sexual Misconduct defined below constitutes a violation of this Policy.⁵

1. Sex Discrimination

Sex discrimination is conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects the individual's or group's employment or education on account of sex.

2. Sexual Harassment

Sexual harassment is a form of sex discrimination that may occur when:

- a. Unwelcome conduct of a sexual nature includes but is not limited to:
 - unwelcome physical conduct of a sexual nature, or unwelcome requests for sexual favors or other verbal conduct of a sexual nature, that is made an implicit or explicit term or condition of employment or education;
 - unwelcome physical conduct of a sexual nature, or unwelcome requests for sexual favors or other verbal conduct of a sexual nature, that is used as a basis for academic or employment decisions or evaluations;

⁴ In most circumstances, the University will treat attempts to commit any of the violations listed in the Student Code of Conduct/Title IX Policy as if those attempts had been completed.

⁵ Individuals may also be disciplined for violations of state or federal law if the Sexual Misconduct is established by a preponderance of the evidence. A person whose sex or gender-based conduct violates federal or state criminal statutes need not be criminally charged or convicted for their conduct to be deemed a violation of this Policy.

- unwelcome physical acts of a sexual nature, or unwelcome requests for sexual favors or other verbal conduct of a sexual nature, that have the effect of creating an objectively hostile environment that unreasonably interferes with employment or education on account of sex; or
 - such conduct is intentionally directed towards a specific individual and has the purpose or effect of unreasonably interfering with that individual's education, employment, or participation in University activities, or creating an intimidating, hostile, or offensive atmosphere.
- b. Physical conduct that, depending on the totality of the circumstances present, including frequency and severity, may constitute sexual harassment includes but is not limited to:
- unwelcome intentional touching such as patting, hugging, or brushing against a person's body; or
 - deliberate physical interference with or restriction of movement.
- c. Verbal conduct,⁶ including oral, written, or symbolic expression, that depending on the totality of the circumstances present, including frequency and severity, may constitute sexual harassment includes but is not limited to:
- explicit or implicit propositions to engage in sexual activity;
 - gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
 - gratuitous remarks about sexual activities or speculation about sexual experiences;
 - persistent, unwanted sexual or romantic attention;
 - subtle or overt pressure for sexual favors;
 - exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or
 - deliberate, repeated humiliation or intimidation based upon sex or sex stereotypes.

3. Sexual Violence

Sexual violence is a form of sexual harassment. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. Sexual violence, as defined under the Texas Penal Code includes rape, sexual assault, sexual battery, and sexual coercion.

4. Sexual Assault

Sexual assault is defined as any form of nonconsensual sexual penetration that:

- a. Causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; or
- b. Causes the penetration of the mouth of another person by the sexual organ of the Respondent, without that person's consent; or
- c. Causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the Respondent.

⁶ This Policy only applies to verbal conduct that is not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea.

5. Sexual Exploitation

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one or another sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- a. invasion of sexual privacy;
- b. prostituting another person;
- c. non-consensual video or audio-taping of sexual activity;
- d. going beyond the boundaries of consent (such as others hiding in the closet to watch consensual sex);
- e. engaging in voyeurism;
- f. knowingly transmitting an STD or HIV to another person;
- g. exposing one's genitals in non-consensual circumstances, including transmitting the images electronically; inducing another to expose their genitals, including transmitting the images electronically; and
- h. sex-based stalking and/or bullying.

6. Domestic Violence

Domestic violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law. It is defined as abuse committed against an adult or a minor who is a spouse or former spouse, cohabitant or former cohabitant, a person similarly situated under domestic or family violence law, anyone else protected under domestic or family violence law, or someone with whom the abuser has a child, has an existing dating or engagement relationship, or has had a former dating or engagement relationship.

7. Dating Violence

Dating Violence occurs when a person who has been in a social, romantic or intimate relationship with the victim commits a violent act. Whether there was such relationship will be determined based on the reporting party's statement with consideration for the length, type, and frequency of interaction between the parties.

8. Stalking

Stalking is repeated or obsessive unwanted attention directed toward an individual or group that is likely to cause a reasonable person⁷ alarm, fear, or substantial emotional distress. Stalking may take many forms, including following: lying in wait, monitoring, pursuing contact, and threats to the individual or threats to the individual's family, friends, or property. Stalking may occur in person or through a medium of communication, such as letters, e-mail, text messages, or telephone calls. Stalking also includes "cyber-stalking," a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, phones, texts, or other similar devices or forms of contact. In some circumstances, two instances of such behavior may be sufficient to constitute stalking.

9. Inappropriate Consensual Relationships

⁷ "Reasonable person" means a person under similar circumstances and with similar identities to the Complainant.

Consensual romantic or sexual relationships between employees and students or superiors and subordinates are inappropriate and are therefore prohibited. Such relationships create conflicts of interest and appearances of impropriety that impair the integrity of academic or employment decisions. Should such a relationship develop, the employee or individual with the responsibility for the subordinate party is required to disclose its existence to an immediate supervisor and cooperate in making alternative arrangements for the supervision, evaluation, instruction, grading or advising of that person. In cases where an employee's spouse is a student or becomes a student at Schreiner, it is the responsibility of the employee to disclose this relationship to an immediate supervisor so that the student/spouse is not enrolled in any courses taught by the employee and/or is not supervised by the employee. When inappropriate relationships are discovered, the appropriate Vice President and/or Human Resource Services may investigate and determine on a case-by-case basis whether action should be taken. If taken, action may include counseling, warning, a letter of reprimand, and/or termination.

10. Retaliation

Students, faculty and staff members are prohibited from retaliating in any way against an individual who has brought a complaint of sex discrimination, including Sexual Misconduct; or against any individual who has participated in an investigation of such complaints. Any person who knowingly and intentionally retaliates against an individual is subject to disciplinary action, up to and including dismissal or termination from the University.

11. Filing of False Complaints

Any person who knowingly files a false complaint of sex discrimination including Sexual Misconduct, is subject to disciplinary action, up to and including dismissal from the University. A person who files a complaint in good faith will not be subject to discipline.

C. Sanctions

The University reserves the right to take whatever interim measures it deems necessary in response to an allegation of sexual misconduct in order to protect students' rights and personal safety. Such measures include, but are not limited to, modification of living arrangements, interim suspension from campus pending a hearing, and reporting the matter to the local police. Not all forms of sexual misconduct will be deemed to be equally serious offenses, and the University reserves the right to impose different sanctions, ranging from verbal warning to expulsion or termination, depending on the severity of the offense. The University will consider the concerns and rights of both the Complainant and the Respondent.

1. Immunity for Victims and Witnesses

The University community encourages the reporting of Conduct Code violations, especially sexual misconduct. Sometimes, victims or witnesses are hesitant to report to University officials or participate in complaint processes because they fear that they themselves may be charged with policy violations, such as underage drinking at the time of the incident. It is in the best interest of this community that as many victims as possible choose to report to University officials, and that witnesses come forward to share what they know. To encourage reporting, the University pursues a policy of offering victims and witnesses of sexual misconduct limited immunity from being charged for certain policy violations, for example, violation of the University's drug and alcohol policy, connected to the sexual misconduct incident. While these violations cannot be completely overlooked, the University will provide educational rather than punitive responses in such cases.

2. Immunity for Bystander Engagement

The welfare of students in our community is of paramount importance. At times, students on and off-campus may need assistance. The University encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to the University Campus Security office). The University pursues a policy of limited or full immunity regarding certain violations for students who offer help to others in need. While policy violations cannot be overlooked, the University will provide educational options, rather than punishment, to those who offer their assistance to others in need.

IV. Reporting Policy Violations

The University recognizes the right of a victim of Sexual Misconduct to report the incident to appropriate authorities and to receive a prompt and equitable resolution of the report. The University strongly encourages any member of the University community to report alleged incidents of Sexual Misconduct following the reporting protocol below.

A. Where to Report

1. Title IX Coordinators

Students, employees, faculty, campus visitors and contractors may directly report incidents of Sexual Misconduct (including sexual violence) to any of the Title IX coordinators listed below.

Institutional Title IX Coordinator

Dr. Travis Frampton
Tom Murray Building
Provost & Vice President for Academic Affairs
(830) 792-7371
tframpton@schreiner.edu

Deputy Title IX Coordinator/Investigator

Dr. Charles Hueber
Dean of Students
(830) 792-7278
cmhueber@schreiner.edu

Deputy Title IX Coordinator/Investigator

Wendy L. Blaettner, PHR
Director of Human Resource Services
(830) 792-7375
wblaettner@schreiner.edu

Complaints or allegations of student-on-student Sexual Misconduct will be referred to the Dean of Students. Complaints of Sexual Misconduct by non-students will be referred to the Director of Human Resource Services. Once reported and referred, these complaints will be processed in accordance with the University's Complaint Process, which is outlined in this Policy below.

2. Confidential Employees

Individuals employed in the University's Counseling Center and the Campus Minister are considered confidential reporting sources ("Confidential Employees"). A Confidential Employee may not disclose any communication made by a student to the Confidential Employee unless:

- a. the student consents to the disclosure; or
- b. the Confidential Employee is making a Mandatory Report as required by this Policy or Texas law, in which case the Confidential Employee must only state the type of incident reported and may not include any information that would violate a student's expectation of privacy.

This provision does not affect the employee's duty to report an incident under any other law, including any mandatory reporting requirements for incidents involving minors.

3. Law Enforcement

The University recognizes and supports the right of a victim of a crime to choose whether to report the crime to law enforcement, to be assisted by the institution in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

For immediate law enforcement assistance, students may contact the University Campus Security office at (830) 739-1111 (non-emergency) or 911 (emergency).

B. Mandatory Reporting Requirement for Employees

1. A University employee who:
 - a. in the course and scope of their employment
 - b. witnesses or receives information regarding an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking, which
 - c. is alleged to have been committed by or against a person who was a student enrolled at or an employee of the University at the time of the incident

must promptly report the incident to the University's Title IX coordinator or deputy Title IX coordinator.

2. The employee's report must include all information concerning the incident known to the employee which is relevant to an investigation under this Policy, including whether the subject of the report has expressed a desire for an institutional response to the incident or made a request for confidentiality in reporting the incident.

3. Exceptions

The mandatory reporting requirement does not apply to:

- a. Employees who are victims of sexual harassment, sexual assault, dating violence, or stalking themselves;⁸
- b. Students enrolled at the institution;⁹ or
- c. Instances when an employee receives information about sexual harassment, sexual assault, dating violence, or stalking at a public awareness event sponsored by the University.

4. Consequences of Non-compliance

An employee who fails to make a required report of Sexual Misconduct under this Policy will be terminated and may also be subject to criminal prosecution.¹⁰

5. Confidentiality

Unless waived in writing by the alleged victim, the identity of an alleged victim of an incident reported under this mandatory reporting requirement may be disclosed only to:

- a. persons employed by or under contract with the University who are necessary to conduct an investigation of the report or any related hearings;
- b. a law enforcement officer as necessary to conduct a criminal investigation of the report;
- c. the person or persons alleged to have perpetrated the incident, to the extent required by other law; or
- d. potential witnesses to the incident as necessary to conduct an investigation of the report.

V. Complaint Process

A. Informal Resolution

As an alternative to pursuing an investigation and formal process, the University may, in its discretion, facilitate an informal resolution.

1. Availability of Informal Resolution

⁸ In other words, employees are encouraged but not required to report instances of sexual harassment, sexual assault, dating violence, or stalking when they are the alleged victims of such offenses.

⁹ This exception applies to traditional “students-workers” working part-time at the University, and not full-time employees taking courses at the institution. The exception does not apply to students employed as Resident Assistants.

¹⁰ Texas Education Code section 51.255(a) makes it a Class B misdemeanor (punishable by a maximum of 180 days in jail and/or a maximum fine of \$2,000) for a person who “is required to make a report under Section 51.252 and knowingly fails to make the report” or “with the intent to harm or deceive, knowingly makes a report under Section 51.252 that is false.” The offense is escalated to a Class A misdemeanor (punishable by up to one year in jail and/or a maximum fine of \$4,000) “if it is shown on the trial of the offense that the actor intended to conceal the incident that the actor was required to report under Section 51.252.”

Informal resolution is available in matters in which the Title IX Coordinator, in the Title IX Coordinator's discretion, determines it is appropriate.

- a. Informal resolution will not be used in cases of sexual violence, sexual assault, dating violence, domestic violence or stalking.
- b. Factors the University will consider when determining whether a report of Prohibited Conduct is suitable for alternative resolution include, but are not limited to, the following:
 - The nature of the alleged offense;
 - The dynamics of power or control commonly associated with the alleged offense;
 - The Respondent's prior known conduct;
 - Whether there would be a continuing safety threat to the campus community after resolution of the specific report of Prohibited Conduct;
 - The dynamic of power or control associated with the parties involved;
 - Whether multiple parties are involved;
 - Whether the resolution proposed is designed to eliminate, prevent, and address the reported Prohibited Conduct;
 - Any other factor deemed relevant by the Title IX Coordinator in the interest of overall campus safety or safety of the parties involved.

2. Requesting Informal Resolution and Timing

- a. Either party may request an informal resolution through the Title IX Coordinator. Both parties must voluntarily choose to participate in informal resolution.
- b. Although informal resolution may be requested immediately, informal resolution processes will begin only after the parties have received full information about the allegations and their options for formal resolution.
- c. While it is preferable to begin informal resolution early in an investigation (such as after initial meetings with the parties), the Title IX Coordinator, in the Title IX Coordinator's discretion, may determine that the parties may enter informal resolution at any time.
- d. At any time during an informal resolution process, either party may end the informal process and use the investigation and formal resolution process.

3. Effect of finalizing informal resolution

Once an informal resolution agreement is finalized and agreed to by all parties, the University will consider the complaint resolved. The complaint may not be reopened absent a showing by the party seeking to reopen it that, at the time of finalizing informal resolution, the party did not have material information about the facts underlying the complaint which would have impacted that party's decision to proceed with informal resolution. For example, the complaint may be reopened if (a) one party learns that the second party knowingly provided false information during the investigation and (b) absent that false information, the first party would have declined informal resolution.

4. Records of Informal Resolution

Informal resolution will be documented in a brief acknowledgement signed by each party and maintained by the Title IX office. Records of the agreed informal resolution and evidence related to the underlying complaint will be maintained as provided in College University's retention schedules.

5. Use of Evidence Related to Underlying Complaint

As to alleged misconduct of either party, evidence related to an informally resolved complaint:

- a. May be considered, in the University's discretion, in deciding whether to investigate future complaints against the Respondent;
- b. Will not be considered in determining whether a Policy violation occurred in cases of complaints brought by another complainant against the Respondent that arise out of different facts from those of the underlying complaint;
- c. May be considered in determining whether a Policy violation occurred in cases of complaints brought by:
 - another complainant against the Respondent that arise out of the same facts as the underlying complaint;¹¹ and
 - the underlying complainant that arise out of different facts from those of the underlying complaint.¹²
- d. May be considered in determining appropriate discipline or remedial action where the respondent is found responsible for a Policy violation through the investigation and formal resolution process.
- e. The fact that the parties entered an informal resolution will not be considered as evidence against a party in future determinations of alleged policy violations.

B. Formal Complaint Process

1. Initiating the Complaint Process

Formal complaints can be made in person or orally to the Title IX Coordinators, but the University strongly encourages submission of complaints in writing, by email attachment as a MS Word or pdf document to the appropriate Title IX Coordinator.

- a. The complaint should clearly and concisely describe the alleged incident(s), when and where it occurred, and the desired remedy sought (if applicable).
- b. The complaint should be signed by the initiator or, in the case of an email submission, sent as an email attachment, in letter format and should contain the name and contact information for the Complainant.

¹¹ For example, if two complainants allege they were injured by similar conduct by Respondent on the same night, information gathered in the investigation of the underlying complaint that is relevant to both complaints may be used in the investigation of the other complaint.

¹² For example, if the underlying complainant alleges retaliation following informal resolution, evidence gathered in the underlying investigation may be used.

- c. Any supporting documentation and evidence should be referenced within the body of the formal complaint. Additionally, the initiator of a formal complaint should submit any supporting materials in writing as quickly as is practicable.

2. Processing the Complaint

Upon receipt of a complaint, the appropriate office will open a formal case file and assign a "Lead Investigator" who will direct the investigation. The Dean of Students Office is designated to formally investigate student complaints, address inquiries and coordinate the University's compliance efforts regarding student complaints. Human Resource Services is designated to formally investigate employee complaints, address inquiries and coordinate the University's compliance efforts regarding employee complaints.

3. University as Complainant

As necessary, the University reserves the right to initiate a complaint, to serve as Complainant, and to initiate conduct proceedings without a formal complaint or active participation by the victim of misconduct. Factors the University may consider in evaluating whether to move forward with a complaint in these circumstances include:

- a. the seriousness of the alleged incident;
- b. whether the institution has received other reports of sexual harassment, sexual assault, dating violence, or stalking committed by the alleged perpetrator;
- c. whether the alleged incident poses a risk of harm to others; and
- d. any other factors the institution determines relevant.

If the University elects to proceed as a Complainant, the University will inform the victim of the incident of that decision.

4. Crisis Support and Interim Measures

After being assigned a matter, the Lead Investigator or his or her designee will confer with the Title IX Coordinator on interim action, accommodations for the alleged victim, or other necessary remedial short-term actions.

- a. The Dean of Students will coordinate all services for students involved while working with other campus departments. These services include but are not limited to counseling, academic and residence hall accommodations for the Complainant when possible, as well as referrals within the University and in the local community.
- b. The University recognizes the importance of a victim of sexual harassment, sexual assault, dating violence, or stalking going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable. In furtherance of this, the University has compiled a list of "Resources and Referrals for Individuals Involved in Incidents of Sexual Misconduct," which is included at the end of this Policy.

5. Confidentiality

The confidentiality of a complaint of sex discrimination, sexual harassment (including sexual violence) or sexual misconduct, and all documents, correspondence, and notes of interviews and discussion related to the investigation of a complaint will be maintained on a need-to-know basis to the extent practicable and permitted by law. Documentation related to the resolution of complaints or incidents of Sexual Misconduct will be maintained by the Title IX Coordinator, Office of the Dean of Students, the Director of Human Resource Services and the Director of Campus Security, as appropriate.

6. Past Sexual History/Character

The past sexual history or sexual character of a party outside of their sexual history with the Respondent will not be admissible by the other party in the investigation or hearing (unless such information is determined to be highly relevant by the Chair of the Title IX Hearing Committee). All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be included in the complaint, response, or a subsequent written request, and must be reviewed in advance of the hearing by the Dean of Students or the Director of Human Resource Services. While previous conduct violations by the Respondent are not generally admissible as information about the present alleged violation, the Dean of Students or Director of Human Resource Services may supply previous complaint information to the investigators, the Title IX Hearing Committee, or may consider it him/herself if he/she is hearing the complaint, if:

- a. The Respondent was previously found to be responsible;
- b. The previous incident was substantially similar to the present allegation; or
- c. Information indicates a pattern of behavior and substantial conformity with that pattern by the Respondent.

7. Investigation

- a. After being assigned a matter, the Lead Investigator or his or her designee (the "Investigator") will:
 - Determine the identity and contact information of the Complainant (whether that be the initiator, the alleged victim, or a University proxy or representative);
 - Meet with the Complainant to finalize the complaint (if applicable);
 - Conduct an initial assessment to determine whether (1) the alleged conduct falls within the jurisdiction of this Policy and (2) if it is plausible that a violation of this Policy may have taken place;
 - Identify the correct policies allegedly violated;
- b. If the Investigator determines that the alleged conduct does not meet the definition of prohibited conduct or does not fall within the jurisdiction of this Policy, the Investigator, in consultation with the Title IX Coordinator, will dismiss the formal complaint. A determination that the alleged conduct falls outside the scope of this Policy does not prohibit the University from addressing the misconduct under the Student Code of Conduct, Faculty Manual, or other University policy.
- c. If the Investigator determines there is sufficient evidence to support continuing with an investigation, the Investigator will:

- Prepare and provide the notice of charges to the Respondent on the basis of the initial assessment;
- Commence an investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the Respondent, who will be given notice prior to the interview;
- Advise both the Complainant and Respondent of their right to have an advisor of their choice present at meetings and hearings related to the investigation and notify both parties that an advisor may not participate in meetings or hearings;
- Give both the Respondent and the Complainant the right to present evidence and witnesses; and
- Complete the investigation as promptly as practicable under the circumstances.

8. Review of the Evidence

- a. Both the Complainant and the Respondent will have a reasonable and equitable opportunity to access all evidence relevant to the alleged Policy violation in the University's possession, redacted as necessary to comply with any applicable federal or state law regarding confidentiality.
- b. At the conclusion of the investigation, the Investigator will:
 - Make findings of fact and of responsibility, based on a preponderance of the evidence; and
 - Present the findings to both the Complainant and the Respondent within the same timeframe.
- c. The parties may choose to accept the findings, accept the findings in part and reject them in part, or may reject all findings.

9. Finding of Not Responsible or Respondent Acceptance of Responsibility

- a. Where the Respondent is found not responsible for the alleged violation(s), the investigation will be closed. Both parties will be notified of the finding in accordance with the notice procedure outlined in this Policy.
- b. Where the Respondent accepts the finding that s/he violated the Policy, the Dean of Students or Director of Human Resource Services will impose appropriate sanctions for the violation, after consultation with the Title IX Coordinator. In the event that the Respondent accepts the findings of the investigation, those findings cannot be appealed.

10. Student Withdrawal or Graduation Pending Disciplinary Charges

If a student withdraws or graduates from the University pending an investigation of a complaint of Sexual Misconduct under this Policy¹³, the University will:

- a. expedite the disciplinary process as necessary to accommodate both the Complainant and the Respondent's interest in a speedy resolution; and

¹³ The University considers an investigation to be "pending" when it is assigned to the Investigator.

- b. continue the investigation with or without the participation of the Respondent.

11. Hearing Process

In the event that the Respondent or Complainant rejects the findings in part or entirely, the Dean of Students or Director of Human Resource Services will convene a Title IX Hearing Committee composed of three Title IX trained investigators to assess all contested matters. At the hearing, the findings of the investigation will be admitted, but are not binding on the decider(s) of fact. The hearing will follow the below procedure:

- a. The Investigator may give evidence and present witnesses in the presence of the Complainant and Respondent.
- b. Both parties will have an opportunity to present evidence and witnesses.
- c. Both parties will be advised of their right to have an advisor of their choice present at meetings and hearings related to the investigation; however, the advisor may not participate in meetings or hearings.
- d. At the request of one or both of the parties, the Respondent and the Complainant may be kept separate and, alternative testimony options may be given, such as placing a privacy screen in the hearing room, or allowing the alleged victim to testify outside the physical presence of the Respondent, such as by Skype.
- e. The hearing will determine whether the Respondent violated the provisions of this Policy forming the basis of the charge by a preponderance of the evidence

12. Notification of Outcomes

- a. Once the Hearing Committee has reached a decision, both parties will be notified of the outcome in writing within the same 24-hour period.
- b. The outcome of a campus hearing is part of the educational record of the Respondent, and is protected from release under a federal law, FERPA. However, the University observes the legal exceptions as follows:
 - Complainants in non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, and relationship violence incidents have an absolute right to be informed of the outcome, essential findings, and sanctions of the hearing, in writing, without condition or limitation.
 - The University may release the name, nature of the violation and the sanction for any student who is found in violation of a University policy that is a "crime of violence," including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property and kidnapping/abduction. The University will release this information to the Complainant in any of these offenses regardless of the outcome.
- c. If a student is found Responsible for Sexual Misconduct and the sanction imposed makes the student ineligible to reenroll in the University (i.e., suspension or expulsion), the University will include a notation on the student's transcript. The student may request the removal of a transcript notation imposed under this Policy if:
 - the student becomes eligible to reenroll at the University; or

- the University determines that good cause exists to remove the notation.
- d. If the University receives an appropriate request by another postsecondary educational institution, the University will provide to the requesting institution information relating to the University's determination that the student violated this Policy.

13. Appeals

The decision made by the Hearing Committee may be appealed by both the Respondent and the Complainant by petitioning the Title IX Coordinator. Appeals are not intended to be full re-hearings of the complaint. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. Appeals officers may not substitute their judgment for that of the original hearing body merely because they disagree with its finding and/or sanctions. Appeals decisions are to be deferential to the original hearing body, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so. The party requesting appeal must show error as the original finding and sanction are presumed to have been decided reasonably and appropriately.

a. Grounds for Appeal

- A procedural or substantive error occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included. If the appeals officer or committee determines that new evidence should be considered, it will return the complaint to the original Title IX Hearing Committee to reconsider in light of the new evidence, only.
- The sanctions imposed are substantially disproportionate to the severity of the violation.

b. Procedure for Appeal

- A petition for an appeal must be made in writing to the Title IX Coordinator within five business days of receiving the written decision of the hearing body.
- The Title IX Coordinator will forward the Appeal to the Investigator and the other party or parties and provide an opportunity for a written response. Such written responses must be provided within five business days of receipt of the request for a response.
- All parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
- Sanctions imposed are implemented immediately unless the Title IX Coordinator stays their implementation in extraordinary circumstances, pending the outcome of the appeal;
- The Title IX Coordinator will render a written decision on the appeal to all parties within 10 business days from receipt of the appeal. The Title IX Coordinator's decision to deny appeal requests is final.
- The original finding and sanction will stand if the appeal is not timely or substantively eligible, and the decision is final.

c. Sanctions During Appeal

All sanctions imposed by the original hearing body will be in effect during the appeal. A request may be made to the Title IX Coordinator for special consideration in exigent circumstances, but the presumptive stance of the institution is that the sanctions will stand. Graduation, study abroad, internships/externships, etc. do not in and of themselves constitute exigent circumstances, and the Respondent may not be able to participate in those activities during their appeal. In cases where the appeal results in reinstatement to the institution or of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irretrievable in the short term.

d. Decision on Appeal

If the Title IX Coordinator determines that a material procedural or substantive error occurred, he/she may return the complaint to the original Title IX Hearing Committee with instructions to reconvene to cure the error. Every opportunity to return the appeal to the original hearing body for reconsideration should be pursued. In rare cases, where the procedural or substantive error cannot be cured by the original hearing officers (as in cases of bias), the Title IX Coordinator may order a new hearing on the complaint with a new Title IX Hearing Committee. The results of a reconvened hearing cannot be appealed. The results of a new hearing can be appealed, once, on the three grounds for appeals.

If the Title IX Coordinator determines that the sanctions imposed are disproportionate to the severity of the violation, Title IX Coordinator will return the complaint to the applicable office, which may then increase, decrease or otherwise modify the sanctions. This decision is final.

Resources and Referrals for Individuals Involved in Incidents of Sexual Misconduct

Schreiner Health and Wellness (counseling and medical services)

Phone: (830) 792-7279

Website: <http://students.schreiner.edu/health/>

Campus Conduct Hotline

Phone: (866) 943-5787

A confidential, independent, call-in service that provides a simple, anonymous way for you to help preserve the values and reputation of our institution. The Campus Conduct Hotline offers an easy, comfortable way to report activity or behavior you may observe or experience on campus that is harmful, unethical, questionable, or causes you or someone else personal injury.

Employee Assistance Program (EAP)

Phone: (800) 588-8412

Website: <http://www.schreiner.edu/about/hr/employee-assistance.aspx>

A confidential, telephone-based consultation and referral service that can help employees and their immediate family cope with life's everyday challenges. Telephonic EAP can help with things like stress, anxiety, depression, relationship problems, job or work stress, parenting, alcohol and drugs, legal issues, and financial concerns.

Hill Country Cares (Shelter, Crisis Intervention, Legal Advocacy, and Referral Sources)

Phone: (830) 257-7088

Website: <http://www.hccares.com/>

Promotes healthy relationships and seek to prevent domestic and sexual crimes by working with people at high risk of victimization and the perpetrators themselves.

TAASA (Texas Association Against Sexual Assault)

Website: www.taasa.org

Phone: (512) 474-7190

TAASA is designed to assist sexual assault survivors and to create a Texas free from sexual violence. TAASA advocates for individual sexual assault survivors as well as sexual assault programs collectively.

RAINN (Rape, Abuse and Incest National Network)

Website: www.rainn.org

Phone: (800) 656-4673

At any given moment, more than 1,100 trained volunteers are on duty and available to help victims at RAINN-affiliated crisis centers across the country.

Office for Civil Rights (OCR)

Website: <http://www.ed.gov/ocr>

Phone: (800) 421-3481