

Sexual Misconduct Grievance Procedures
For
Bellarmino University
(“University”)

The University has adopted a Sexual Misconduct Policy (“Policy”), all of the provisions of which are incorporated herein by reference. A copy of the policy can be viewed at: <http://www.bellarmino.edu/hr/title-ix/>. In accordance with Section 8 of that policy, the University adopts and publishes the following grievance procedures for the prompt, fair, impartial and equitable inquiry and resolution of sexual misconduct complaints, including discrimination and sexual harassment complaints, filed against University employees, other students, and third parties. Generally, these procedures provide (a) a method by which students, faculty or staff members can file complaints under Title IX, (b) a description of how those complaints will be investigated, (c) an informal resolution process, (d) procedures for the hearing to adjudicate factual disputes, (e) the method for appealing the outcome of the hearing, and (f) the method by which remedies and sanctions will be imposed.

All hearing panel members and all officials involved in the appeal process described below shall receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and on how to conduct a hearing that protects the safety of victims and promotes accountability.

Pursuant to Title IX and the requirements established by the United States Department of Education, please be aware that:

- Persons who file complaints (“Complainants”) have the right to end the informal process described in Section 3 at any time and to begin the formal stage of the complaint process as outlined in Section 4.
- The University will take steps to prevent the recurrence of any sexual violence and remedy discriminatory effects on the Complainant and others, if appropriate.
- The employee responsible for evaluating requests for confidentiality is the Title IX Coordinator and/or his/her designee as identified in the Policy.
- Reporting policies and protocols are set forth in Section 6 of the Policy, and members of the campus community are encouraged to review those policies and protocols, including the provisions for confidential reporting.
- Title IX prohibits retaliation against any person involved in the inquiry or hearing.
- Complainants have the right to file simultaneously a criminal complaint with appropriate law enforcement agencies and a Title IX complaint with the University.
- Various interim measures may be taken to protect Complainants in the educational setting, including those set forth in Section 3 of the Policy.
- The evidentiary standard that must be used in resolving the complaint is a preponderance of the evidence.
- The potential remedies for Complainants are set forth in Section 3 of the Policy.
- It is the intent of this procedure to provide the parties with equal rights.

- Both parties shall have the same opportunity to have an advisor of their choice present during any interview and/or institutional disciplinary proceeding involving alleged sexual misconduct.
- The potential sanctions or protective measures which may be imposed against the Respondents include the possible reprimand, suspension or expulsion of a student Respondent, the possible reprimand, suspension or termination of an employee Respondent, and complainant's options to avoid contact with the Respondent and allow the Complainant to change academic and extracurricular activities or complainant's living, transportation, dining, and working situation as appropriate.
- The process may result in additional remedies for the University community, including greater emphasis on student awareness, educational and professional development courses for faculty and staff, and other steps designed to address the specific issues raised by the complaint.
- Sources of counseling, advocacy and support are listed in Sections 3 and 6 of the Policy.
- Information about how the University will protect the confidentiality of victims is listed in Section 6 of the Policy.
- As used in this procedure, “sexual harassment” and “hostile environment” shall have the meanings set forth in Section 5 of the Policy.
- The University will not require a party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the redisclosure of information relating to the outcome of the proceeding.
- The University shall offer the Complainant all services needed to remedy the hostile environment on an interim basis, all as outlined in Section 3 of the Policy.
- The University shall offer the Complainant all services needed as a final remedy to the hostile environment, even if the Complainant declined the service as a part of an interim measure.
- The mere fact of a current or previous consensual dating or sexual relationship between the two parties does not itself imply consent or preclude a finding of sexual violence.
- In the event the University is unable to conduct a full inquiry, such as when the Respondent is a visitor to the University’s campus, the University shall still consider remedies for both the Complainant and the broader campus population.

1. **Initiation of Complaint** – Any person who believes that he or she has been the victim of sexual misconduct as defined in the University’s Policy shall file either a written complaint or incident report (either of which is hereafter referred to as a “complaint”) with the University’s Title IX Coordinator as identified in the Policy. The complaint shall specify the alleged sexual misconduct, the name of the individual who engaged in the alleged misconduct and such other information as may assist the University in promptly investigating the alleged sexual misconduct.

2. **Inquiry** – The Title IX Coordinator or the Coordinator’s designee shall promptly investigate the alleged sexual misconduct in accordance with the provisions of Section 7 of the Policy. Any designee shall have received training in conducting inquiries of Title IX complaints. It is the goal of the University to provide for an adequate, reliable, and impartial inquiry for each complaint, including the opportunity for both the Complainant and the Respondent to present

witnesses and evidence. As soon after the initiation of the inquiry as possible, the Title IX Coordinator or the designated investigator shall notify all University employees or students who are believed to have documentary, electronic, or tangible evidence to preserve such evidence for the inquiry. Upon the conclusion of the inquiry, the University shall determine whether probable cause exists to believe that the alleged sexual misconduct occurred. If the University determines that there is no probable cause to believe the alleged sexual misconduct occurred, the complaint shall be dismissed, and both the Complainant and the Respondent shall be notified in writing such determination by the University. If the University determines that there is probable cause to believe that the alleged sexual misconduct occurred, both the Complainant and the Respondent shall be notified in writing of such determination by the University, and an adjudicative hearing shall be scheduled within seven(7) days to resolve all disputed facts, if any. The University shall provide both the Complainant and the Respondent the time and place of the hearing, and the name of the hearing panel members. The hearing shall be conducted in accordance with Section 4. In the event there are no disputed facts, no hearing will be held, and the University shall proceed to implement remedies and sanctions pursuant to Section 6 via informal resolution.

3. **Informal Resolution Process** - Mediation is never appropriate in sexual misconduct cases and shall not be utilized by the University. However, after a finding of probable cause and prior to the hearing to resolve factual disputes, the University shall informally discuss possible remedies and sanctions with the Complainant and the Respondent to ascertain if a satisfactory resolution of the matter can be reached without the necessity of an adjudicative hearing. If so, the remedies and sanctions to which the parties agree shall be imposed. If not, the hearing pursuant to Section 4 will proceed as scheduled.

4. **Formal Resolution Process** – The purpose of the hearing is to resolve any facts disputed by the parties.

- a. **The Hearing Panel** - The hearing shall be conducted by a three-person hearing panel designated by the University (“Hearing Panel”). The Hearing Panel members shall consist of a faculty member, a staff member, and a chief hearing officer who shall be either a faculty or staff member. The Title IX Coordinator or his/her designee shall notify the parties of the date, time, and place for the hearing and the names of the Hearing Panel members at least seven (7) days prior to the hearing. If either party wishes to object to one or more members of the Hearing Panel on the basis of a potential conflict of interest by the Hearing Panel member(s), the party must notify the Title IX Coordinator, or his or her designee, of the objection within three (3) days after receipt of the notice specifying the names of the hearing panel members. The Title IX Coordinator, or his or her designee, shall evaluate the objection and determine if a different Hearing Panel member should be designated.
- b. **The Hearing Process** - The Hearing Panel shall endeavor to conduct the hearing in a manner that does not inflict additional emotional trauma on the parties. The hearing shall permit both the Complainant and the Respondent an equal opportunity to present relevant witnesses and evidence, including expert testimony. The Hearing Panel shall determine the probative value of the evidence presented and the rules of evidence shall not be strictly enforced. Three (3) days prior to the

hearing, both the Complainant and the Respondent shall notify the hearing officer of the witnesses and documentary evidence that the party intends to present. Both the Complainant and the Respondent may be accompanied by legal counsel or other advisor of their choice, but if either of the parties chooses not to be accompanied by legal counsel or an advisor, the other party may still be accompanied by legal counsel or an advisor. Neither party's legal counsel nor advisor may speak at the hearing. Only the Title IX Coordinator, the investigators, representatives from the Dean of Students office, the University's counsel, the Complainant and the Respondent, the parties' legal counsel or advisor and the parties' parents (if invited by the parties), and witnesses may attend the hearing. Parents may not participate in the hearing unless they are called as witnesses to address factual disputes. The hearing may proceed if either of the parties fails to attend. The investigators shall present the results of the inquiry. The Complainant may then present evidence, and the Respondent may present evidence following the Complainant. Each witness may be cross-examined by the parties, but the parties may not cross-examine each other. In the event a party wishes to question the opposing party, the party may submit written questions for the opposing party to the chief hearing officer who may ask the questions to the opposing party, if the chief hearing officer deems such questions relevant. Questions pertaining to the Complainant's sexual history with anyone other than the Respondent shall be prohibited. The University may elect to make an audio recording of the hearing and in that event, the recording shall be retained by the University in accordance with FERPA.

- c. **Proposed Findings and Recommended Remedies and Sanctions** – Within five (5) days following the completion of the hearing, the Hearing Panel shall prepare proposed findings and recommended remedies and sanctions (“Findings”). The Hearing Panel shall make a finding as to whether a hostile environment exists at the University in light of the Findings, and if so, the Hearing Panel shall make recommendations as to how the hostile environment can be eliminated. The Findings shall be submitted in writing for a ruling on behalf of the University (“Ruling”) to: the Dean of Students, if the parties are students; the Vice President to whom the employees report, if the parties are employees; or the Vice Provost, if the parties are faculty members. If the parties include a combination of faculty, staff, and students, the Findings shall be submitted to the Dean, Vice President, or Vice Provost responsible for the group of which the Respondent is a member. In the Ruling, the Dean, Vice President or Vice Provost may adopt the Findings in whole or in part and shall make a determination as to what, if any, remedies and sanctions should be imposed. The Dean, Vice President or Vice Provost may also remand the matter to the hearing officer for further findings and conclusions, if necessary. The Dean, Vice President, or Vice Provost shall make the Ruling within five (5) days following the receipt of the Findings. In determining sanctions against the Respondent, both the Hearing Panel and the Dean, Vice President or Vice Provost shall assess whether imposing sanctions against the Respondent, without additional remedies, will be sufficient to eliminate the hostile environment, prevent recurrence, and remedy effects as required by Title IX.

- d. **Notice to the Parties** – When the Ruling is issued, the Title IX Coordinator, or his or her designee, shall simultaneously send written notice via email to the parties of the University’s Ruling and of their right of appeal under Paragraph 5 below. Specifically, the Title IX Coordinator, or his or her designee, shall notify both parties as to: (a) whether or not the University found that the alleged conduct occurred, (b) any sanction imposed on the Respondent that directly relate to the Complainant, and (c) other steps the University has taken to eliminate the hostile environment, if the University finds one to exist, and prevent recurrence of the misconduct. The Title IX Coordinator shall also notify the Complainant of any individual remedies offered or provided to the Complainant, but, the Title IX Coordinator, or his or her designee, shall not notify the Respondent of the individual remedies offered or provided to the Complainant.

5. Appeals - Either party may appeal the University’s determination of no probable cause or the Ruling by submitting a written statement of appeal to the Title IX Coordinator, or his or her designee. The appeal must be received by the Title IX Coordinator, or his or her designee, within seven (7) days following the date on which the parties received notice of the probable cause determination or the Ruling from the Title IX Coordinator, or his or her designee. Appeals must be based on one or more of the following reasons:

- a. **Sanction Proportionality** - to determine whether the sanction was disproportionate to the offense committed, for which the party was found to be responsible.
- b. **New information** - to consider new information that was not known at the time of the original hearing that, if introduced, would substantially impact the finding or sanction.
- c. **Procedural conformity** - a claim that the hearing did not conform to the procedures outlined, and that substantially affected the outcome of the original hearing.

The written appeal must include the specific grounds for the appeal, supporting arguments and documentation, and any other relevant information the respondent wishes to include. Upon receipt of the written appeal, the parties involved in the original hearing are notified and provided reasonable opportunity to respond in writing to the appeal.

Appeals will be heard by the Committee on Sexual Misconduct Appeals (“CSMA”). This committee is composed of one faculty member and two administrators appointed by the Title IX Coordinator, or his or her designee. The CSMA will evaluate the record of the hearing and render a recommendation to the Vice President of Student Affairs, if the parties are students, the Vice President for Administration and Finance, if the parties are staff members, or the Provost, if the parties are faculty members, (“Appropriate Officials”, or any one of them individually, “Appropriate Official”) who will review the recommendation and issue a written decision in the matter. If the parties include a combination of faculty, staff, and students, the CSMA shall submit the recommendation to the Appropriate Official responsible for the group of which the Respondent is a member. In the event the Vice President for Administration and Finance is involved in making

the Ruling, the Vice President for Administration and Finance shall not participate in the appeal, and the CSMA shall make its recommendation to the Vice President for Student Affairs who shall make a written decision in the matter on behalf of the Vice President for Administration and Finance. The Title IX Coordinator, or his or her designee, will notify the parties of the decision within three working days of receipt of the decision by the Appropriate Official.

Regardless of which party files the appeal, the Appropriate Official may reverse the probable cause determination or Ruling only if the Appropriate Official finds that the probable cause determination or Ruling did not result in a proportionate sanction, did not consider new information, or was not in conformity with University procedures as outlined above. If the appeal is granted, the Appropriate Official shall make such instructions to the Title IX Coordinator or the Hearing Panel as may be appropriate. The Appropriate Official's decision on the appeal shall constitute the final action by the University, and the Title IX Coordinator or his or her designee shall simultaneously send written notice of the decision via email to the parties. If neither party appeals the probable cause determination or the Panel's Ruling, the Title IX Coordinator or his or her designee shall simultaneously send written notice of the expiration of the time for an appeal via email to the parties. Upon the expiration of the time for an appeal of the probable cause determination or the Panel's Ruling or upon the decision on a timely appeal, the University's decision shall be deemed final.

6. Imposition of Remedies and Sanctions – After the time for an appeal of the Ruling has expired or after the decision on the appeal is made, the Title IX Coordinator shall take the steps necessary to implement the remedies and sanctions. In the event interim measures should be taken to protect the Complainant at any point prior to the University's final determination, the Title IX Coordinator or his or her designee may implement such measures in accordance with Section 3 of the Policy.