



EQUAL OPPORTUNITY, HARASSMENT, AND  
NONDISCRIMINATION POLICY  
2025-2026

BASED ON THE ATIXA 2020 ONE POLICY, TWO PROCEDURES (1P2P) MODEL.  
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**ILIFF SCHOOL OF THEOLOGY EQUAL OPPORTUNITY, HARASSMENT, AND  
NONDISCRIMINATION POLICY FOR ALL FACULTY, STUDENTS, STAFF, AND THIRD PARTIES  
(Hereinafter, “the Policy”)**

**1. Purpose**

Iliff School of Theology (“Iliff” or “School”) is committed to providing an educational and employment environment that is free from Discrimination based on Protected Characteristics, Harassment, and Retaliation for engaging in protected activity.

Iliff values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the resolution process during what is often a difficult time for all involved.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goal of fairness in all aspects of the Education Program or Activity, Iliff has developed policies and procedures that provide a prompt, equitable, and impartial resolution of allegations of Protected Characteristic Discrimination, Harassment, or Retaliation.

**2. Scope**

The Policy applies to all Employees, Students, and other individuals participating in or attempting to participate in the School’s Education Program or Activities, including education and employment.

The Policy prohibits all forms of Discrimination on the basis of the Protected Characteristic(s), and may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with the Policy.

**3. Notice of Nondiscrimination**

Iliff seeks to comply with all federal, state, and local laws, regulations, and ordinances prohibiting Discrimination in post-secondary education institutions.

Iliff does not discriminate against any Employee, applicant for employment, Student, or applicant for admission on the basis of:

- Age (40 years and over in the employment context)
- Citizenship status
- Color
- Creed
- Disability (physical or mental)



- Domestic violence victim status
- Ethnicity and ethnic characteristics
- Family responsibilities
- Gender identity/expression<sup>1</sup>
- Genetic information (including family medical history)
- Height
- Marital status
- National origin (including shared ancestry)
- Place of business
- Political belief or affiliation
- Pregnancy or related conditions
- Race
- Religion
- Residence
- Sex (including sex characteristics and sex stereotypes)
- Sexual orientation<sup>2</sup>
- Source of income/social class status
- Veteran or military status (including disabled veteran, recently separated veteran, active-duty, wartime, or campaign badge veteran, and Armed Forces Service Medal veteran)
- Weight, hair style, or other similar aspect of appearance
- or any other Protected Characteristic under applicable federal, state, or local law, including protections for those opposing Discrimination or participating in any resolution process within the institution, with the Equal Employment Opportunity Commission, and/or other human/civil rights agency<sup>3</sup>

The Policy covers nondiscrimination in both access to educational opportunities and employment. Therefore, any member of the Iliff community whose acts deny, deprive, or limit the educational or employment, or social access, benefits, and/or opportunities of any member of the Iliff community, guest, or visitor on the basis of that person's actual or perceived Protected Characteristic(s) listed above, is in violation of the Policy.

Iliff will promptly and effectively address any such Discrimination of which it has Notice using the applicable resolution process in the Procedures outlined in this Policy.

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<sup>1</sup> Complaints of Harassment or Discrimination on the basis of this Protected Characteristic may be addressed as collateral misconduct under Process A or under Process B.

<sup>2</sup> Complaints of Harassment or Discrimination on the basis of this Protected Characteristic may be addressed as collateral misconduct under Process A or under Process B.

<sup>3</sup> See [Appendix B](#) for definitions of these terms.

#### **4. Nondiscrimination Team Contacts**

The School has appointed the Nondiscrimination Team, comprised of the following individual(s), to coordinate the School's compliance with federal, state, and local civil rights laws and ordinances:

***For Discrimination and Harassment allegations (not based on Sex or disability):***

Caran Ware Joseph  
COO and Title VI/Title IX Coordinator  
Office of the President  
2323 East Iliff Ave.  
Denver, CO 80210  
(303) 765-3111  
Email: cwarejoseph@iliff.edu  
Web: [www.iliff.edu](http://www.iliff.edu)

***For Sex Discrimination and Sexual Harassment allegations:***

Caran Ware Joseph  
COO and Title VI/Title IX Coordinator  
Office of the President  
2323 East Iliff Ave.  
Denver, CO 80210  
(303) 765-3111  
Email: cwarejoseph@iliff.edu  
Web: [www.iliff.edu](http://www.iliff.edu)

***For disability-based allegations:***

Samantha Joo (she/her)  
ADA/504 Student Coordinator  
Academic Advising Center Coordinator  
Interim Director of the MASJE Program  
Dean's Office  
2323 E. Iliff Ave.  
Denver, CO 80210  
Phone: 303-765-1147  
Email: sjoo@iliff.edu

***For safety and security needs:***

Jason Warr (he/him)  
Vice President for Business, Controller/Coordinator of Campus Safety  
2323 E. Iliff Ave.  
Denver, CO 80210  
Phone: 303-765-3185  
Email: jwarr@iliff.edu

Collectively, these individuals are responsible for providing comprehensive nondiscrimination education and training; coordinating the School's timely, thorough, and fair response; investigation and resolution of all alleged prohibited conduct under the Policy; and monitoring the effectiveness of, and any barriers to, accessing the Policy and related procedures to ensure an education and employment environment free from Discrimination, Harassment, and Retaliation.

Iliff has determined that the following administrators are Officials with Authority (OWAs) to address and correct Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct. In addition to the Nondiscrimination Team members listed above, these OWAs may also accept Notice or Formal Complaints on behalf of the School.

Dr. Lee H. Butler, Jr. (he/him)  
President and CEO  
Iliff School of Theology  
2323 E. Iliff Avenue  
Denver, Colorado 80210  
Phone: 303-765-3102

(The Rev.) Cathie Kelsey, Ph.D. (she/her)  
Senior Vice President for Academic Affairs and Dean of the Faculty  
Co-Dean, Iliff-University of Denver Joint Doctoral Program in the Study of Religion  
Iliff School of Theology  
2323 E. Iliff Ave.  
Denver, CO 80210  
Phone: 303-765-3103  
Email: [ckelsey@iliff.edu](mailto:ckelsey@iliff.edu)

(The Rev.) Diane Bogues, D.Min. (she/her)  
Associate Dean of Students  
Iliff School of Theology  
2323 E. Iliff Ave.  
Denver, CO 80210  
Phone: 303-765-3106  
Email: [dbogues@iliff.edu](mailto:dbogues@iliff.edu)

Marilyn Harris  
Human Resources Director  
Email: [MHarris@iliff.edu](mailto:MHarris@iliff.edu)

Iliff recognizes that allegations under the Policy may include multiple forms of Discrimination, Harassment, and Retaliation as well as violations of other Iliff policies; may involve various

combinations of Students, Employees, and other members of the Iliff community; and may require the simultaneous attention of multiple Iliff departments. Accordingly, all Iliff departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable Iliff policies, to provide uniform, consistent, efficient, and effective responses to alleged Discrimination, Harassment, or Retaliation.

## **5. External Contact Information**

Concerns about the School's application of the Policy and compliance with certain federal civil rights laws may be addressed to:

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

Office for Civil Rights (OCR)  
U.S. Department of Education  
Denver Office  
Office for Civil Rights  
U.S. Department of Education  
Cesar E. Chavez Memorial Building  
1244 Speer Boulevard, Suite 310  
Denver, CO 80204-3582  
Telephone: 303-844-5695  
FAX: 303-844-4303; TDD: 800-877-8339  
Email: [OCR.Denver@ed.gov](mailto:OCR.Denver@ed.gov)

For allegations of Employee-on-Employee misconduct:

### **EEOC Headquarters**

131 M Street, NE  
Washington, DC 20507  
202-663-4900 / (TTY) 202-663-4494

### **EEOC Denver Field Office**

950 17th Street  
Suite 300

Denver, CO 80202  
United States  
Phone: 1-800-669-4000  
Fax: 303-866-1085  
TTY: 1-800-669-6820  
ASL Video Phone: 844-234-5122

Director  
Sheryl Hayashi

Regional Attorney  
Mary Jo O'Neill

## **6. Mandated Reporting and Confidential Resources**

All Iliff Faculty and Employees (including Student-Employees) are Mandated Reporters and are expected to promptly report all known details of actual or suspected Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct to appropriate officials immediately, although there are some limited exceptions.<sup>4</sup> Supportive measures may be offered as the result of such disclosures without formal Iliff action, if appropriate.

Complainants, especially those who wish to remain anonymous, may want to carefully consider whether they share personally identifiable details with Mandated Reporters, as those details must be shared with the Title VI & Title IX Coordinator.

If a Complainant expects formal action in response to their allegations, making a disclosure to any Mandated Reporter can connect them with resources to report alleged crimes and/or Policy violations, and these Employees will immediately pass all known information to the Title VI/Title IX Administrator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

The following sections describe the available reporting options for a Complainant or third party:

### **A. Confidential Resources**

To enable Complainants to access support and resources without filing a Formal Complaint, the School has identified EAP Counselors as Confidential Resources. Those designated by the School as Confidential Resources are not required to report actual or suspected Discrimination, Harassment, Retaliation, or Other Prohibited Conduct in a way that identifies the Parties. They will, however, offer options and resources without

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<sup>4</sup> Public awareness events such as "Take Back the Night" or other forums at which individuals disclose experiences with Sexual Harassment are not considered notice to the Recipient for the purpose of triggering an individual investigation unless the individual initiates a complaint.

any obligation to inform an outside agency or School official unless a Complainant has requested the information be shared.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the following off-campus (non-employees):

- o Licensed professional counselors and other medical providers
- o Local rape crisis counselors
- o Domestic violence resources
- o Local or state assistance agencies
- o Clergy/Chaplains
- o Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

The Employee Assistance Program is available to help and may be consulted on an emergency basis during normal business hours.

Failure of a Mandated Reporter, as described above, to report an incident of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct of which they become aware is a violation of School policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations in which a Respondent is a Mandated Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under the Policy.

A Mandated Reporter who is themselves a target of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct under the Policy is not required to report their own experience, though they are encouraged to do so.

In addition, Complainants may speak with individuals unaffiliated with the School without concern that Policy will require them to disclose information to the institution without the Complainant's permission. Such individuals include:

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic Violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

## **B. Anonymous Notice to Mandated Reporters**

At the request of a Complainant, a Mandated Reporter may give the Administrator Notice without identifying the Complainant. The Mandated Reporter cannot remain anonymous themselves.

[If a Complainant has requested that a Mandated Reporter maintain the Complainant's anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Administrator on that assessment without revealing personally identifiable information.

Anonymous Notice will be investigated by the Recipient to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided. However, anonymous Notice typically limits the Recipient's ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Administrator. Mandated reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled, depending on state reporting of abuse requirements. Consult with the Administrator in such situations.

## **7. Disability-Based Complaints**

Complaints related to disability status and/or provision of accommodations are addressed using the procedures in the Student Handbook, Faculty Handbook, or Employee Handbook. However, allegations of Discrimination or Harassment on the basis of an actual or perceived disability, including instances in which the provision of reasonable accommodations has a discriminatory effect, will be resolved under the Equal Opportunity, Harassment, and Nondiscrimination Policy and Procedures.

## **8. Jurisdiction**

The Policy applies to the School's Education Program and Activities, to conduct that takes place on property owned or controlled by the School, at School-sponsored events, and in any building owned or controlled by a School-recognized student organization.<sup>5</sup>

The Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to the School's Education Program or Activities. The School may also extend jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial Iliff interest.

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<sup>5</sup> Education Program and Activity includes the School's Employees' work environment.

A substantial Iliff interest includes:

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

For disciplinary action to be issued for Title IX Sexual Harassment under the Policy, the Respondent must be an Iliff Student or Employee at the time of the Formal Complaint. For allegations other than Title IX Sexual Harassment, the School may issue disciplinary action under the Policy if the Respondent was an Iliff Student, or Employee at the time of the alleged misconduct. If the Respondent is unknown or is not a member of the Iliff community, the Title IX Administrator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). The School can also assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

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

When a party is participating in a dual enrollment program, the School will coordinate with the party's home institution to determine jurisdiction and coordinate providing supportive measures and responding to the Notice under the appropriate policy and procedures based on the allegations and identities of the Parties.

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

Similarly, the Title VI & Title IX Coordinator may be able to assist and support a Student or Employee Complainant who experiences Discrimination in an externship, study abroad program, or other environment external to the School where Sexual Harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a Complainant's education or employment environment, those effects can often be addressed remedially by the Title VI & Title IX Coordinator if brought to their attention.



## **9. Supportive Measures**

Iliff will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to the School's Education Program or Activity, including measures designed to protect the safety of all Parties and/or the School's educational environment and/or to deter Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

The Title VI & Title IX Coordinator promptly makes supportive measures available to the Parties upon receiving Notice or a Formal Complaint. At the time that supportive measures are offered, if a Formal Complaint has not been filed, the School will inform the Complainant, in writing, that they may file a Formal Complaint with the School either at that time or in the future. The Title VI & Title IX Coordinator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

Supportive measures may be available upon Notice even if the reported behavior may be protected free expression, occurred outside of the Recipient's jurisdiction, or for any other reason is not subject to the Recipient's grievance procedures. Supportive measures may be available to other Students or Employees who are not the Complainant, depending on the nature of the allegations and their impact.

The School will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the School's ability to provide those supportive measures. Iliff will act to ensure as minimal an academic/occupational impact on the Parties as possible. The School will implement measures in a way that does not unreasonably burden another party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering work arrangements for Employees or Student-employees
- Safety planning
- Providing campus safety escorts
- Implementing contact limitations (e.g., no contact orders) between the Parties
- Academic support, extensions of deadlines, or other course/program-related adjustments

- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title VI/Title IX Coordinator

Violations of no contact orders or other restrictions may be referred to appropriate Student or Employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing resolution process under the Policy.

## **10. Online Harassment and Misconduct**

Iliff policies are written and interpreted broadly to include online and/or electronic manifestations of any of the prohibited behaviors below, when those behaviors occur in or have an effect on the School's Education Program or Activities or when they involve the use of Iliff networks, technology, or equipment.

Although Iliff may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to the School, it will engage in appropriate means to address and mitigate the effects.

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

Public and Free Expression-Respecting Institutions: Nothing in the Policy is intended to infringe upon or limit a person's free speech rights. Any Student's online postings or other electronic communications, including technology-facilitated Bullying, Stalking, Harassment, etc., occurring completely outside of the Recipient's control (e.g., not on Recipient networks or websites, or between Recipient email accounts) will only be subject to the Policy when such online conduct can be shown to cause (or will likely cause) a substantial in-program disruption of/infringement on/harm to the rights of others. Otherwise, such communications are considered expression protected by the First Amendment. Supportive measures for Complainants will be provided.

Employees' off-campus harassing speech, whether online or in person, may be regulated by the Recipient only when such speech is made in an Employee's official or work-related capacity.

## **11. Inclusion Related to Gender Identity/Expression**

Recipient strives to ensure that all individuals are safe, included, and respected in their education and employment environments, regardless of their gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse Students and Employees.

Recipient does not tolerate Discrimination and Harassment on the basis of gender identity or expression. If a member of the Recipient community believes they have been subjected to Discrimination or Harassment under the Policy, they should follow the appropriate reporting process described herein.

In upholding the principles of equity and inclusion, Recipient supports the full integration and healthy development of those who are gender diverse and seeks to eliminate any stigma related to gender identity and expression.

The Recipient is committed to fostering a climate where all identities are valued, contributing to a more vibrant and diverse community. Recipient will administratively address issues some Students and Employees, including those identifying as intersex, nonbinary, transgender, agender, two-spirit, and gender diverse, may confront as they navigate systems originally designed around the assumption that gender is binary. As our society's understanding of gender evolves, so do the Recipient's processes and policies.

Concepts like misgendering and deadnaming may not be familiar to all but understanding them is essential to Recipient's goal of being as welcoming and inclusive a community as possible.

Misgendering or mispronouncing is the intentional or unintentional use of pronouns or identifiers that are different from those used by an individual. Unintentional misgendering is usually resolved with an apology if someone clarifies their pronouns for you. Intentional misgendering is inconsistent with the type of community we hold ourselves out to be. We each have a right to determine our own gender identity and expression, but we don't get to choose or negate someone else's.

Deadnaming, along with misgendering, can be very traumatic to a person who is transgender, transitioning, nonbinary, or gender diverse. Deadnaming means using someone's birth-assigned (cisgender) name, rather than the name they have chosen.

To a person who is transgender, transitioning, nonbinary, or gender diverse, their cisgender identity may be something that is in their past — dead, buried, and behind them. To then revive their deadname could trigger stressors, traumas, and experiences of the past that the individual has moved past, or is moving past, and can interfere with their health and well-being.

Unintentional deadnaming can be addressed by an apology and an effort to use the person's name. Intentional deadnaming could be a form of bullying, outing, or otherwise harassing an individual, and thus should be avoided.

The Policy should be interpreted consistent with the goals of maximizing the inclusion of intersex, nonbinary, transgender, transitioning, agender, two spirit, and gender-diverse Students and Employees, including:

- Maintaining the privacy of all individuals consistent with law
- Ensuring all Students equal access to educational programming, activities, and facilities, including restrooms
- Ensuring all Employees equal access to employment opportunities and work, service, or health-related facilities
- Providing professional development for Employees and education for Students on topics related to gender inclusion
- Encouraging all Students and Employees to respect the pronoun usage and identities of all Recipient community members

The Recipient uses a number of interventions to address concerns that are raised related to gender-based Discrimination or Harassment, including problem-solving, intervention, confrontation, investigation, and Policy enforcement. When conflicts arise between the rights of members of the community to be free from gender-identity Discrimination and those exercising their right to religious freedom, the Recipient will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, the Recipient will offer remedial solutions or enforce its Policies while also respecting the rights of all members of its community.

## **12. Prohibited Conduct**

Students and Employees are entitled to an education and employment environment that is free of Discrimination, Harassment, and Retaliation. The Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited Discrimination, Harassment, and Retaliation that are also prohibited under Iliff policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of School policy, though supportive measures will be offered to those impacted, and will implement remedies addressing the larger community, as appropriate.

All offense definitions encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that both individual

incidents and a pattern of conduct are being investigated. A pattern may be alleged when there is a potential substantial similarity between incidents in which the proof of one could make it more likely that the other(s) occurred, and vice versa. Patterns may exist based on target selection, behavior similarity, or other factors. Pattern-based evidence can offer corroboration of an allegation, and where a pattern is charged and found, it can be the basis to enhance sanctions accordingly.

Violation of any other Iliff policies may constitute Discrimination or Harassment when motivated by actual or perceived Protected Characteristic(s), and the result is a limitation or denial of education or employment access, benefits, or opportunities.

## **A. Discrimination**

Discrimination is different treatment with respect to a person's employment or participation in an Education Program or Activity based, in whole or in part, upon the person's actual or perceived Protected Characteristic(s). Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy, such as for disability, religion, or creed.

Discrimination can take two primary forms:

### **1) Disparate Treatment Discrimination:**

- Any intentional differential treatment of a person or persons that is based on a person's actual or perceived Protected Characteristic(s) and that:
  - Excludes a person from participation in;
  - Denies the person benefits of; or
  - Otherwise adversely affects a term or condition of a person's participation in a School program or activity.

### **2) Disparate Impact Discrimination:**

- Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:
  - Excludes a person from participation in;
  - Denies the person benefits of; or
  - Otherwise adversely affects a term or condition of a person's participation in a Recipient program or activity.

## **B. Discriminatory Harassment**

- Unwelcome conduct on the basis of actual or perceived Protected Characteristic(s),
- which, based on the totality of the circumstances,
- is subjectively and objectively offensive, and

- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from the Recipient's program or activity.

### C. Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Colorado regard Sexual Harassment, a specific form of Discriminatory Harassment, as an unlawful discriminatory practice.

Acts of Sexual Harassment may be committed by any person upon any other person, regardless of the Sex, sexual orientation, and/or gender identity of those involved.

Iliff has adopted the following definitions of Sexual Harassment in order to address the unique environment of an academic community. Two definitions are required by federal law. While they overlap, they are not identical, and they each apply as noted.

- 1) **Title VII Sexual Harassment** applies to situations where an Employee is subjected to workplace Sexual Harassment.
  - Unwelcome verbal, written, graphic, and/or physical conduct;
  - that is severe or pervasive and objectively offensive;
  - on the basis of Sex, that
  - unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.
- 2) **Title IX Sexual Harassment**, as an umbrella category, includes the offenses of Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking. This definition applies to all Formal Complaints that fall within Title IX jurisdiction as determined by the Title VI & Title IX Coordinator. Sexual Harassment includes:

Conduct on the basis of Sex, or that is sexual in nature, that satisfies one or more of the following:

- 1) **Quid Pro Quo:**
  - An Employee of the School,
  - conditions<sup>6</sup> the provision of an aid, benefit, or service of the School,
  - on an individual's participation in unwelcome sexual conduct.
- 2) **Sexual Harassment (Hostile Environment):**
  - Unwelcome conduct,

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<sup>6</sup> Implicitly or explicitly.

- determined by a Reasonable Person,
- to be so severe, and
- pervasive, and,
- objectively offensive,
- that it effectively denies a Complainant equal access to the School's program or activity.<sup>7</sup>

### 3) **Sexual Assault:**

#### a. **Rape:**

- Penetration, no matter how slight,
- of the vagina or anus of a person,
- with any body part or object, or
- oral penetration
  - of a sex organ of the Complainant, or
  - by the Respondent's sex organ,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity.

#### b. **Fondling:**

- The touching of the private body parts (genitals, buttocks, groin, breasts) of the Complainant by the Respondent, or
- the Respondent's private body parts touching the Complainant, or
- the Respondent causing the Complainant to touch the Respondent's or their own private body parts,
  - for the purpose of sexual gratification,<sup>8</sup>
  - without the consent of the Complainant,
  - including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity.

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<sup>7</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent), though a Decision-maker may consider compelling evidence that rebuts an assertion of unwelcomeness. Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a Reasonable Person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

<sup>8</sup> Contact with private body parts is considered to be done for the purpose of sexual gratification unless: (1) the contact can be proven inadvertent; (2) the contact is for a legitimate medical (or other privileged) purpose and thus is conduct for which consent should have been sought and obtained by the provider; (3) the contact involves a Respondent who is pre-sexual, based on maturity/age (thus their intent is not sexual); (4) the contact involves a Respondent who cannot developmentally understand sexual contact or that their contact is sexual; or (5) The contact is something like butt-slapping on a team and is both minimal and unlikely to have sexual motivation or purpose, as shown by the context of the act(s).

**c. Incest:**

- Sexual intercourse,
- between persons who are related to each other,
- within the degrees wherein marriage is prohibited by Colorado law.

**d. Statutory Rape:**

- Sexual intercourse,
- with a person who is under the statutory age of consent of 17 years old.

**4) Dating Violence:**

- Violence,<sup>9</sup>
- committed by a Respondent,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant
  - The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
    - 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

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<sup>9</sup> For purposes of the Policy, violence includes situations where the Respondent intentionally or recklessly causes the Complainant serious physical, emotional, or psychological harm.

- Intent is evidenced when a Reasonable Person would be more likely to act with the purpose of causing serious harm rather than for any other reason
- Recklessness is evidenced by a disregard of obvious risk to the safety of the Complainant
- Legitimate use of violence for self-defense is not chargeable under the Policy because the purpose is safety, not harm. It may also be used as a defense if it is not clear at the time of charging whether the use of violence was for self-defense or not. Self-defense is only to be considered if it is prompted by physical violence or the threat thereof.
- Consensual use of violence, such as in kink relationships, would also not meet this definition in most circumstances
- Threats to seriously harm the Complainant or people they care about may be chargeable under this definition if doing so causes serious emotional or psychological harm
- Threats to harm oneself, even if made to cause emotional or psychological harm, are not considered violence under this definition (but may be addressable under the Student Conduct Policy)



**5) Domestic Violence:**<sup>10</sup>

- Violence,<sup>11</sup>
- committed by a Respondent who is a current or former spouse or intimate partner of the Complainant,
- by a person with whom the Complainant shares a child in common, or
- by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Colorado, or
- by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Colorado.

**6) Stalking:**

- A Respondent engaging in a course of conduct,
- on the basis of Sex,
- directed at the Complainant, 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 Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling

**D. Sexual Misconduct**

**1) Sexual Exploitation:**

- Any person taking non-consensual or abusive sexual advantage of another, that does not constitute Sexual Harassment as defined above,
- for their own benefit or for the benefit of anyone other than the person being exploited.

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<sup>10</sup> To categorize an incident as Domestic Violence under the Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

<sup>11</sup> As defined in the footnote for Dating Violence.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Distributing (e.g., Airdropping, Snapchatting, displaying on a device for others to see) Authentic or Synthetic Non-Consensual Intimate Imagery (NCII)<sup>12,13</sup>
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent)
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings

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<sup>12</sup> Authentic Non-Consensual Intimate Imagery includes authentic (i.e., real) sexually explicit, nude, or intimate videos, photos, or audio recordings of an individual distributed without the consent of the individual depicted.

<sup>13</sup> Synthetic Non-Consensual Intimate Imagery includes videos, photos, or audio representations of an individual that have been digitally manipulated (i.e., faked) to depict an individual in a sexually explicit, nude, or intimate manner or saying sexual or explicit words/statements and distributed without the consent of the individual depicted. Synthetic NCII depicts sexually related actions or behaviors that never happened, or places identifiable individuals in pornographic, nude, or sexual situations without their consent.

- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)

**E. Other Prohibited Conduct (when motivated by the Complainant's Protected Characteristic(s)/status)**

**1) Bullying:**

- Repeated and/or severe aggressive behavior
- that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,
- that is not speech or conduct that is otherwise protected by the First Amendment.

**2) Endangerment:**

- Threatening or causing physical harm;
- extreme verbal, emotional, or psychological abuse; or
- other conduct which threatens or endangers the health or safety of any person or damages their property.

**3) Hazing:**

- Any act or action
- which does or is likely to endanger the mental or physical health or safety of any person
- as it relates to a person's initiation, admission into, or affiliation with any School group or organization.

For the purposes of this definition:

- It is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the student group or student organization, for an allegation of Hazing to be upheld
- It shall not constitute an excuse or defense to a Hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained
- The actions of alumni, active, new, and/or prospective members of a student group or student organization may be considered Hazing

**4) Retaliation**

- The School or any member of the School's community,

- taking or attempting to take materially adverse action,
- by intimidating, threatening, coercing, harassing, or discriminating against any individual,
- for the purpose of interfering with any right or privilege secured by law or Policy, or
- because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Policy and associated procedures.

The exercise of rights protected under the First Amendment does not constitute Retaliation. It is also not Retaliation for the School to pursue disciplinary action against those who make materially false statements in bad faith in the course of a resolution process under the Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

#### 5) **Failure to Comply/Process Interference**

- Intentional failure to comply with the reasonable directives of the Title IX Coordinator in the performance of their official duties, including with the terms of a no contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an Informal Resolution agreement
- Intentional failure to comply with mandated reporting duties as defined in the Policy
- Intentional interference with a resolution process, including, but not limited to:
  - Destroying or concealing evidence
  - Seeking or encouraging false testimony or providing false testimony or evidence
  - Intimidating or bribing a witness or party

### **F. Sanction Ranges**

The following sanction ranges apply to Prohibited Conduct under the Policy. Sanctions can be assigned outside of the specified ranges based on aggravating or mitigating circumstances, or the Respondent's cumulative disciplinary record.

- **Discrimination:** reprimand/warning through expulsion or termination

- **Discriminatory Harassment:** reprimand/warning through expulsion or termination
- **Title VII Sexual Harassment:** reprimand/warning through expulsion or termination
- **Quid Pro Quo Harassment:** reprimand/warning through expulsion or termination
- **Sexual Harassment (Hostile Environment):** reprimand/warning through expulsion or termination
- **Rape:** suspension through expulsion or termination
- **Fondling:** reprimand/warning through suspension (termination for Employees).
- **Incest:** reprimand/warning through restrictions/probation
- **Statutory Rape:** reprimand/warning through suspension (termination for employees)
- **Stalking:** restrictions/probation through expulsion or termination
- **Dating/Domestic Violence:** restrictions/probation through expulsion or termination
- **Sexual Exploitation:** reprimand/warning through expulsion or termination
- **Bullying:** reprimand/warning through expulsion or termination
- **Endangerment:** reprimand/warning through expulsion or termination
- **Hazing:** reprimand/warning through expulsion or termination
- **Retaliation:** reprimand/warning through expulsion or termination
- **Failure to Comply/Process Interference:** reprimand/warning through expulsion or termination

## **G. Consent, Force, and Incapacitation**

As used in the Policy, the following definitions and understandings apply:

### **1) Consent:**

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.<sup>14</sup>

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

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<sup>14</sup> Colorado Revised Statute § 18-3-401 defines consent as “cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. A current or previous relationship shall not be sufficient to constitute consent. Submission under the influence of fear shall not constitute consent.” This definition of consent is applicable to criminal prosecutions for sex offenses in Colorado but may differ from the definition used by the School to address Policy violations.

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

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual activity. Consent is evaluated from the perspective of what a Reasonable Person would conclude are mutually understandable words or actions. Reasonable reciprocation can be implied consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

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

Silence or the absence of resistance alone should not be interpreted as consent. Although resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected. If a sexual partner shares the clear expectation for the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of Sexual Assault.

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

Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical

roughness during otherwise consensual sexual activity, those acts may constitute Dating Violence or Sexual Assault.<sup>15</sup>

## **2) Force:**

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced.

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

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

## **3) Incapacitation:**

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction).

A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including as a result of alcohol or other drug consumption.

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

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

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of the Policy.

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<sup>15</sup> Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual.

“Should have known” is an objective, Reasonable Person standard that assumes that a Reasonable Person is both sober and exercising sound judgment.

#### **H. Unethical Relationships Policy (See [Appendix G](#))**

### **13. Standard of Evidence**

The School uses the preponderance of the evidence standard of evidence when determining whether a Policy violation occurred. This means that the School will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent violated the Policy.

### **14. Notice/Complaints of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct**

A report provides the School Notice of an allegation or concern about Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct and provides an opportunity for the Title VI/IX Coordinator to provide information, resources, and supportive measures. A Formal Complaint informs the School that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide later to make a Formal Complaint. An individual other than a Complainant may make a report of Discrimination or Harassment on behalf of another person or group; however, that individual does not become the Complainant. Reports or Formal Complaints of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct may be made using any of the following options:

- 1) File a report or Formal Complaint with, or give verbal Notice to, the Title VI/IX Coordinator or to any member of the Nondiscrimination Team. Such a report or Formal Complaint may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail, to the office of the Title VI/IX Coordinator or any other Nondiscrimination Team member listed in the Policy.
- 2) Report online at [Equal Opportunity](#). Anonymous reports are accepted but the report may give rise to a need to try to determine the Parties’ identities if not provided. Anonymous reports may limit the School’s ability to investigate, respond, and provide remedies, depending upon what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to unidentified Complainants who are the subject of anonymous reports.

As used in the Policy, the term “Formal Complaint” means a document or electronic submission (such as by electronic mail or through an online portal provided by Iliff for this purpose) that contains the Complainant’s physical or digital signature or otherwise indicates that the Complainant is the person filing the complaint, and requests that the School investigate the



allegations. If Notice is submitted in a format that does not meet this standard, the Title VI and Title IX Coordinator will contact the Complainant to determine whether the Complainant is requesting that the Recipient initiate an investigation or other appropriate resolution procedures.<sup>16</sup>

Reporting carries no obligation to file a Formal Complaint, and in most situations, the School is able to respect a Complainant's request to not initiate an investigation or other appropriate resolution procedures. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, in which the School may need to initiate an investigation or other appropriate resolution procedures. If a Complainant does not wish to file a Formal Complaint, the School will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of privacy by submitting a report that allows the School to discuss and/or provide supportive measures, in most circumstances.

### **15. Limits on Reporting**

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

Acting on Notice/Formal Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the School's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

In extraordinary circumstances, the Administrator may exercise their sole discretion to allow a non-participatory Complainant to refile the same complaint after a Resolution has been reached. The Administrator will assess whether (1) the Complainant's failure to participate or fully participate deprived the process of critical information that would have been available had the Complainant fully participated; and (2) there is evidence that the Complainant's non-participation was a result of coercion, intimidation, threats, or undue pressure directly related to their participation. In all situations where refiling is desired, the Complainant should make a written request to the Administrator to refile, which the Administrator may grant or deny. The Administrator's decision is not subject to appeal.

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<sup>16</sup> As required by federal law, the School may not initiate a resolution process for allegations of Title IX Sexual Harassment without a Formal Complaint. For all other allegations of prohibited conduct under the Policy, a Formal Complaint is not required, and the Recipient may initiate its resolution process upon Notice of the alleged misconduct. Notice can be substituted in place of references to a Formal Complaint for allegations other than Title IX Sexual Harassment throughout the Policy.

## **16. False Allegations and Evidence**

Deliberately false and/or malicious accusations under the Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a Policy violation determination. False allegations may be a form of Harassment and/or Retaliation or may fall within other School policies.

Witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation, Informal Resolution, or hearing can be subject to discipline under appropriate School policies.

## **17. Confidentiality/Privacy**

Iliff makes every effort to preserve the Parties' privacy. The School will not share the identity of any individual who has made a report of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct; any Complainant; any individual who has been reported to be the perpetrator of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation or resolution proceeding arising under these policies and procedures.<sup>17,18</sup>

Further, Parties and Advisors are expected to maintain the confidentiality of all information created by or shared with them by the School during any investigation and/or resolution process. Parties are entitled to share their own accounts and experiences but are encouraged to consider the sensitivity of the matter if they do so and should consult with their Advisors on any potential implications of doing so.

Additional information regarding confidentiality and privacy can be found in [Appendix F](#).

## **18. Emergency Removal/Interim Actions/Leaves**

The School can act to remove a Student Respondent accused of Title IX Sexual Harassment from its Education Program or Activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any Student or other individual justifies removal. This risk analysis is performed by the Academic Dean and the Associate Dean of Students. Students accused of other forms of Discrimination, Harassment, or Other Prohibited Conduct (not Sex-based) are subject to interim suspension, which can be imposed for safety reasons.

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<sup>17</sup> 20 U.S.C. 1232g.

<sup>18</sup> 34 C.F.R. § 99.

Employees are subject to existing procedures for interim actions and leaves.

### **19. Federal Timely Warning Obligations**

The School must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the Iliff community.

The School will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions considering the potential danger.

### **20. Amnesty**

The School community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report alleged misconduct to School officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the Iliff community that Complainants choose to report misconduct to Iliff officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process.

To encourage reporting and participation in the process, Iliff offers Parties and witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by the School, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

#### **A. Students**

The School also maintains an amnesty policy for Students in addition to witnesses who offer help to others in need.

#### **B. Employees**

Sometimes, Employees are hesitant to report Discrimination, Harassment, Retaliation, or Other Prohibited Conduct they have experienced for fear that they may get in trouble themselves. The School may, at its discretion, offer Employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident.

## **21. Preservation of Evidence**

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders and is particularly time sensitive. The School will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

### **Sexual Assault**

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better)
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure evidence container (if provided by law enforcement)
- Seeking medical treatment can be essential even if it is not for the purpose of collecting forensic evidence

### **Stalking/Dating Violence/Domestic Violence/Sexual Harassment**

- Evidence in the form of text and voice messages will be lost in most cases if a party or witness changes their phone number
  - Make a secondary recording of any voice messages and/or save the audio files to a cloud server
  - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook)
- Save copies of e-mail and social media correspondence, including notifications related to account access alerts
- Take time-stamped photographs of any physical evidence including notes, gifts, etc. in place when possible
- Save copies of any messages, to include those showing any request for no further contact
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible
- If changing devices, make sure to transfer any files needed to the new device

During the initial meeting between the Complainant and the Title VI and Title IX Coordinator, the importance of taking these actions will be discussed, if timely.

## **22. Federal Statistical Reporting Obligations**

Certain institutional officials (those deemed to be Campus Security Authorities) have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All “primary crimes,” which include criminal homicide, Sexual Assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- 3) Violence Against Women Act (VAWA-based crimes), which include Sexual Assault, Domestic Violence, Dating Violence, and Stalking<sup>19</sup>
- 4) Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on or off campus or in the surrounding area, but no addresses given) must be shared with the Clery Coordinator for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include student affairs, campus public safety, local police, human resources staff, advisors to student organizations, and any other official with significant responsibility for Student and campus activities.

### **23. Independence and Conflict of Interest**

The Title VI and Title IX Coordinator manages the Nondiscrimination Team and acts with independence and authority, free from bias and conflicts of interest. The Title VI and Title IX Coordinator oversees all Resolutions under the Policy and associated procedures. The members of the Resolution Process Pool are vetted and trained to ensure they are not biased for or against any party in a specific Formal Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or Discrimination by the Title VI and Title IX Coordinator, contact the School president. Concerns of bias, misconduct, Discrimination, or a potential conflict of interest by any other Nondiscrimination Team member should be raised with the Title VI and Title IX Coordinator.

### **24. Policy Revision**

The Policy and associated procedures succeed all previous policies addressing Discrimination, Harassment, sexual misconduct, and/or Retaliation, for incidents occurring on or after August 14, 2020. The Title VI and Title IX Coordinator regularly reviews and updates the Policy and procedures. Incidents occurring before August 14, 2020, will be addressed using the policy that was in place at the time of the incident, but the procedures used will be those in place at the time of the Formal Complaint. The School reserves the right to make changes to this document as necessary, and those changes are effective once they are posted online.

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<sup>19</sup> 42 U.S.C. sections 13701 through 14040.

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

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

A change required by a court or government order could occur during an active investigation or resolution process. If that happens, the School reserves the right to adjust the Policy and Procedures accordingly and notify the Parties of any necessary mid-process changes. This could include entirely replacing the Policy or associated procedures, which could necessitate restarting an investigation or resolution process. The School will make every effort to minimize the impact on the Parties as much as possible if changes are unavoidable.

The Policy is effective July 1, 2025.

## **APPENDIX A: PROCEDURAL DEFINITIONS**<sup>20</sup>

The following definitions apply to the Equal Opportunity, Harassment, And Nondiscrimination Policy and Procedures:

- **Advisor.** Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to a resolution process, advise the party on that process, and conduct questioning for the party at the hearing, if any.
- **Administrator.** The person with primary responsibility for overseeing and enforcing the Equal Opportunity, Harassment, and Nondiscrimination Policy and procedures. As used throughout the Policy and procedures, the “Administrator” also includes their designee(s).
- **Appeal Decision-maker.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s) accordingly.
- **Complainant.** An individual who has allegedly been subjected to conduct that could constitute Discrimination, Harassment, Retaliation, or Other Prohibited Conduct under the Policy.
- **Confidential Resource.** An individual who is not a Mandated Reporter of Notice of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct under the Policy (irrespective of Clery Act Campus Security Authority status). Please note: All Iliff employees are Mandated Reporters.
- **Day.** A business day when the School is in normal operation. All references to days in the Policy refer to business days unless specifically noted as calendar days.
- **Decision-maker.** The person or panel who reviews evidence, determines relevance, and makes the Final Determination of whether the alleged conduct has violated the Policy and/or assigns sanctions.
- **Directly Related Evidence.** Evidence connected to the allegations, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and which cannot be relied upon by the Decision-maker. Compare to Relevant Evidence below.
- **Education Program or Activity.** Locations, events, or circumstances in which the School exercises substantial control over both the Respondent and the context in which the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct occurs. It also includes any building owned or controlled by a student organization that the School officially recognizes.

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<sup>20</sup> Defined terms are considered “terms of art” and are capitalized throughout this document.

- **Employee.** A person, including Faculty, employed by the School, either full- or part-time, including Student-Employees when acting within the scope of their employment
- **Faculty.** Any member of the Iliff community who is responsible for academic activities, teaching, research, or the academic evaluation of Students.
- **Final Determination.** A conclusion by the standard of evidence that the alleged conduct did or did not violate the Policy.
- **Finding.** A conclusion by the standard of evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Formal Complaint.** A document submitted or signed by a Complainant or signed by the Administrator alleging a Respondent engaged in Discrimination, Harassment, Retaliation, and/or Prohibited Conduct under the Policy and requesting that the School investigate the allegation(s).
- **Formal Grievance Process.** “Process A,” the School’s method of formal resolution to address Title IX Sexual Harassment allegations, which complies with the requirements of the Title IX regulations (34 C.F.R. § 106.45) and the Violence Against Women Act amendments to the Clery Act (34 C.F.R. § 668). [See [Appendix D](#) for information on the Administrative Resolution Process (“Process B”) the School may use to resolve complaints in certain situations.]
- **Informal Resolution.** A Resolution the Parties agree to, and the Administrator approves, which occurs prior to a Final Determination.
- **Investigation Report.** The Investigator’s written summary of all Relevant Evidence gathered during the investigation. Versions include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) the School authorizes to gather facts about an alleged violation of the Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report of Relevant Evidence and a file of Directly Related Evidence.
- **Mandated Reporter.** A School Employee who is obligated by Policy to share knowledge, Notice, and/or reports of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct with the Administrator (and/or their supervisor).<sup>21</sup>
- **Nondiscrimination Team.** The Administrator, any deputy coordinators, and any member of the <<[Resolution Process Pool](#)>>.

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<sup>21</sup> Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under the Policy.



- **Notice.** When an Employee, Student, or third party informs the Administrator or other Official with Authority of the alleged occurrence of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.
- **Official with Authority (OWA).** A School Employee who has responsibility to implement responsive measures for Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct on the School's behalf. (See [Iliff OWAs](#))
- **Parties.** The collective term for the Complainant(s) and Respondent(s) involved in a complaint.
- **Pattern.** Allegations or evidence that one person has engaged in two or more substantially similar actions toward one or more targets, wherein the proof of one action is likely to increase the proof/likelihood of the other(s).
- **Process A.** The Formal Grievance Process detailed in the procedures [below](#) and defined [above](#).
- **Process B.** The Administrative Resolution Process detailed in [Appendix D](#) that only applies when Process A does not, as determined by the Title VI & Title IX Coordinator.
- **Protected Characteristic.** Any characteristic for which a person is afforded protection against Discrimination and Harassment by law or School policy.
- **Reasonable Person.** A reasonable person under similar circumstances and with similar identities to the Complainant.
- **Relevant Evidence.** Evidence that tends to prove or disprove any element of an offense or any issue materials to resolving a complaint.
- **Remedies.** Typically, post-Resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence of behaviors prohibited by the Policy, and restore access to the School's Education Program or Activity.
- **Resolution.** The result of an Informal Resolution, Formal Grievance Process, or Administrative Resolution Process.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute Discrimination based on a Protected Characteristic, Harassment, or Retaliation for engaging in a protected activity under the Policy, or Other Prohibited Conduct.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated the Policy.
- **Student.** Any individual who has accepted an offer of admission, or who is registered for or enrolled in for-credit or non-credit-bearing coursework, and who maintains an ongoing educational relationship with the School, even if not currently taking classes.

- ***Title IX Coordinator.*** At least one official designated by the School to ensure compliance with Title IX and the School's Title IX program. References to the Title IX Coordinator throughout the Policy may also encompass a Coordinator's designee for specific tasks.
- ***Title IX Team.*** The Title IX Coordinator and any member of the [Resolution Process Pool](#).
- ***Title VI Coordinator.*** At least one official designated by the School to ensure compliance with Title VI and the School's Title VI program. References to the Title VI Coordinator throughout the Policy may also encompass a Coordinator's designee for specific tasks.

## **APPENDIX B: PROTECTED CHARACTERISTICS AND RELATED DEFINITIONS**

This appendix includes definitions of the characteristics protected under this Policy, as well as associated terms. This Policy does not attempt to prohibit the conduct listed below, in and of itself. Being Antisemitic, Islamophobic, Racist, Ableist, etc., may be protected expression under the First Amendment. Iliff prohibits only conduct that rises to the level of Discrimination, Discriminatory Harassment, Retaliation, and the Other Prohibited Conduct as defined in this Policy.

- **Age.** Forty years of age or older for purposes of protection against Discrimination and Harassment under federal law and Policy.
- **Antisemitism.** Conduct that excludes, harms, persecutes, expresses hatred or animus toward, or is unequal, based on an individual's or group's actual or perceived Jewish ancestry or ethnicity/ethnic characteristics, national origin, or is based on support for Jews, Israel (conceived as a Jewish state/collectivity), or Zionism [(see the International Holocaust Remembrance Alliance (IHRA) definition and examples of Antisemitism in Appendix O, that inform this definition, which the federal government uses as the Title VI standard to assess Policy violations when Antisemitism rises to the level of Discrimination, Harassment, or Retaliation)].
- **Caste.** A person's actual or perceived descent-based or hereditary status, typically involving social stratification or classes.
- **Citizenship Status.** An individual's legal relationship with the United States acquired through birth, naturalization, or another legal process.
- **Color.** The actual or perceived pigmentation, complexion, or shade/tone of a person's skin (i.e., lightness, darkness, or other color characteristic of a person's skin), regardless of that person's Race or Ethnicity.
- **Colorism.** Conduct that excludes, harms, persecutes, or expresses hatred or animus toward individuals or groups, or that is unequal, based on actual or perceived Color.
- **Creed.** A set of moral or ethical beliefs and the practices and observances associated with those beliefs. Although Creed includes traditional religious beliefs, it also incorporates belief systems that may not be expressed by an organized religious group.
- **Disability.** A physical, intellectual, or psychiatric impairment that substantially limits one or more major life activities, having a history or record of such an impairment, or being perceived by others as having such an impairment.
- **Domestic Violence Victim Status.** The actual or perceived experience of being a domestic violence victim; attending, participating in, preparing for or requesting leave to attend to a criminal or civil proceeding related to domestic violence for which the

individual or family or household member is a victim; or requesting an academic or employment adjustment because of domestic violence.

- **Ethnicity/Ethnic Characteristics.** Belonging to a population, group, or subgroup of people based on shared culture/cultural background (e.g., language, food, music, dress, values, and beliefs), history, ancestry, or descent, or having the characteristics commonly attributed to such Ethnicity.
- **Family Responsibilities.** Providing care for family members including children, parents, pregnant or nursing people, and those caring for aging or disabled family members.
- **Gender Expression.** Outward expression of gender, often through clothing, behavior, mannerisms, speech patterns, and activities.
- **Gender Identity.** An individual's internal sense of their gender.
- **Islamophobia.** Conduct that excludes, harms, persecutes, expresses hatred or animus toward, or is unequal, based on an individual's or group's actual or perceived Muslim or Islamic ancestry or Ethnicity/Ethnic Characteristics, National Origin, or is based on support for Muslims or Muslim-majority countries or nations.
- **Marital Status.** The state of being married or unmarried.
- **National Origin.** A person's actual or perceived place of origin, ancestry, Ethnicity/Ethnic Characteristic, language or accent, cultural heritage, surname or name associated with a nation, or association with people of a particular nation or origin, regardless of a person's citizenship or immigration status. For the purposes of this definition, National Origin also encompasses actual or perceived Shared Ancestry, Ethnic Characteristics, or citizenship or residency in a country with a dominant religion or distinct religious identity.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth, false pregnancy, or termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- **Race.** A person's actual or perceived (by others) membership in a group characterized by shared physical, cultural, or ethnic traits. This includes traditional racial groups (e.g., White, Black, African American, Asian, American Indian, or Alaska Native) as well as those that may be defined by ancestry, ethnic identity, or perceived racial affiliation.
- **Racism.** Conduct that excludes, harms, persecutes, or expresses hatred or animus toward individuals or groups, or that is unequal, based on actual or perceived Race.
- **Sex.** Birth Sex (under Title IX). Outside Title IX, Sex can include gender identity, gender expression, sexual orientation, sex characteristics, and sex stereotypes.
- **Shared Ancestry.** Actual or perceived ethnic, cultural, or ancestral background (e.g., lineage, familial origins, genetic inheritance, language, customs, societal norms, and heritage). Discrimination on the ground of Shared Ancestry can include Discrimination

based on actual or perceived religion (e.g., Jewish, Christian, Muslim, Sikh, Hindu, Buddhist, Shinto, indigenous/religious group), when that Discrimination is interwoven with Shared Ancestry or Ethnicity/Ethnic Characteristics.

# **ILIFF SCHOOL OF THEOLOGY PROCEDURES FOR ALLEGED VIOLATIONS OF THE EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION POLICY FOR ALL FACULTY, STUDENTS, EMPLOYEES, AND THIRD PARTIES**

## **1. Overview**

Recipient will act on any Notice/Formal Complaint of violation of the Equal Opportunity, Harassment, and Nondiscrimination Policy (“the Policy”) that the Administrator or any other Official with Authority receives. The Recipient uses two sets of procedures, known as Process A and Process B. Process A is compliant with the federal Title IX regulations. It involves an investigation and live hearing, including cross-examination. [It also includes an Informal Resolution option.]

Process A is applicable to all Formal Complaints of Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking that occur within the Recipient’s Education Program or Activity.

Process B applies to: (1) Formal Complaints of alleged Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, or Stalking that fall outside of the Recipient’s Education Program or Activity; and (2) all other complaints of Discrimination, Harassment, and Retaliation on the basis of all Protected Characteristics. The choice between applying Process A or B is solely at the Administrator’s discretion. Occasionally, a Formal Complaint will include conduct that falls within both Processes A and B. When that occurs, Process A will typically be used to address all allegations.

## **2. Notice/Complaint**

Upon receipt of Notice or a Formal Complaint of an alleged Policy violation, the Title VI & Title IX Coordinator will initiate a prompt initial assessment to determine the School’s next steps. The Title VI & Title IX Coordinator will contact the Complainant to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

## **3. Collateral Misconduct**

Collateral misconduct includes potential violations of other Iliff policies that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures.<sup>22</sup> In such circumstances, the Title VI & Title IX Coordinator may consult with School officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges

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<sup>22</sup> The same procedural rights apply to prohibited conduct under the Policy as well as to any collateral misconduct allegations that are charged.

should be filed, but the exercise of collateral charges under these procedures is within the Title VI & Title IX Coordinator's discretion. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the Student, Faculty, and Employee handbooks.

## **APPENDIX C: FORMAL GRIEVANCE PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY (KNOWN AS PROCESS “A”)**

### **1. Initial Assessment**

The Title VI & Title IX Coordinator conducts an initial assessment, typically within five (5) business days of receiving Notice or a Formal Complaint.<sup>23</sup> The initial assessment typically includes:

- Assessing whether the reported conduct may reasonably constitute a Policy violation
- Determining whether the School has jurisdiction over the reported conduct
- Offering and coordinating supportive measures for the Parties
- Notifying the Complainant, or the person who reported the allegation(s), of the available resolution options
- Determining whether the Complainant wishes to file a Formal Complaint
- Notifying the Respondent of the available resolution options if a Formal Complaint is made

#### ***Helping a Complainant Understand Resolution Options***

If the Complainant indicates they wish to file a Formal Complaint, the Title VI & Title IX Coordinator will work with the Complainant to determine which resolution option they prefer. The Title VI & Title IX Coordinator will seek to abide by the Complaint’s wishes but may have to take another approach depending upon their assessment of the situation.

If the Formal Grievance Process is chosen, the Title VI & Title IX Coordinator will initiate an investigation.

If any party indicates that they want to pursue an Informal Resolution option, the Title VI & Title IX Coordinator will refer the matter to the appropriate individuals(s) if the Title VI & Title IX Coordinator determines Informal Resolution is available and the other Parties consent to participate. Informal Resolution cannot be used to resolve a Formal Complaint of Title IX Sexual Harassment involving an Employee Respondent and a Student Complainant.<sup>24</sup>

If the Complainant does not want any action taken, the Title VI & Title IX Coordinator will consider that request. Typically, allegations of Student-on-Student and Employee-on-Employee misconduct will not prompt the Formal Grievance Process unless deemed necessary by the Title VI & Title IX Coordinator, though the Complainant can elect to pursue the formal process in the future. The Title VI & Title IX Coordinator may need to refer allegations of Employee-on-Student

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<sup>23</sup> If circumstances require, the President or Title VI & Title IX Coordinator will designate another person to oversee the resolution process should an allegation be made about the Title VI & Title IX Coordinator or the Title VI & Title IX Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

<sup>24</sup> 34 C.F.R. § 106.45.



misconduct to the Formal Grievance Process regardless of the Complainant's wishes, depending on the nature of the allegations.

### ***Title VI & Title IX Coordinator Authority to Initiate a Complaint***

The Title VI & Title IX Coordinator has ultimate discretion as to whether a Formal Complaint is made and may consult with appropriate Iliff Employees, and/or conduct a violence risk assessment to aid their determination whether to sign a Formal Complaint on behalf of the Complainant. The Administrator may consider elements such as patterns of behavior, predation, threats, violence, use of weapons, or involvement of minors in determining whether to sign a Formal Complaint.

If a Complainant is not participating or attempting to participate in the School's Education Program or Activity at the time of making a Formal Complaint, they can request that the Title VI & Title IX Coordinator sign a Formal Complaint. When the Title VI & Title IX Coordinator signs a Formal Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged misconduct. If the Title VI & Title IX Coordinator declines to sign a Formal Complaint, alternative processes may be available and can be explored with the Title VI & Title IX Coordinator.

## **2. Dismissal (Mandatory and Discretionary)**<sup>25</sup>

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

- 1) The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment as defined above, even if proven
- 2) The Sex-based conduct did not occur in the School's Education Program or Activity (including buildings or property controlled by recognized student organizations) and/or the School does not have control of the Respondent
- 3) The Sex-based conduct did not occur against a person in the United States
- 4) The Complainant alleging Sex-based conduct is not participating in or attempting to participate in the School's Education Program or Activity at the time of filing the Formal Complaint, and based on the available information, the Title VI & Title IX Coordinator has determined that they do not need to sign a Formal Complaint on the School's behalf<sup>26</sup>

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

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<sup>25</sup> These dismissal requirements are mandated by 34 CFR § 106.45.

<sup>26</sup> A Complainant who is not participating or attempting to participate in the Recipient's Education Program or Activity is still entitled to supportive measures, but the Formal Grievance Process is not applicable unless the Title VI & Title IX Coordinator signs the Formal Complaint in the event the Complainant cannot/will not do so.

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

A Complainant who decides to withdraw a Formal Complaint may later request to reinstate it or refile it.

Upon any dismissal, the School will promptly and simultaneously send the Parties written notice of the dismissal and the rationale for doing so.

This dismissal decision is appealable by any party. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate.

When the Title VI & Title IX Coordinator has signed a Formal Complaint and later determines that the basis for signing is no longer compelling, the Title VI & Title IX Coordinator may rescind the Formal Complaint and notify the Parties accordingly. This is not a dismissal, and there is no opportunity to appeal because the Complainant may still file a Formal Complaint if they wish to, in most circumstances.

### **3. Appeal of Dismissal**

The Parties may appeal a decision to dismiss or not to dismiss their Formal Complaint. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal decision.

A dismissal may be appealed on the following grounds:

- 1) A procedural irregularity affected the outcome of the matter
- 2) New evidence that was not reasonably available at the time the determination regarding dismissal was made, that could affect the outcome of the matter
- 3) The Title VI & Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter
- 4) The dismissal was erroneously granted or denied

The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Title VI & Title IX Coordinator will share the request and supporting documentation with all other Parties and provide three (3) business days for other Parties and the Title VI & Title IX Coordinator to respond to the request. At the conclusion of the response period, the Title VI & Title IX Coordinator will forward the request, as well as any

response provided by the other Parties and/or the Title VI & Title IX Coordinator to the Dismissal Appeal Decision-maker for consideration.

If the appeal request does not provide information that meets the grounds in the Policy, the Dismissal Appeal Decision-maker will deny the request, and the Parties, their Advisors, and the Title VI & Title IX Coordinator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in the Policy, then the Dismissal Appeal Decision-maker will notify all Parties and their Advisors, and the Title VI & Title IX Coordinator of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Decision-maker has seven (7) business days to review and decide on the appeal, though extensions can be granted at the Title VI & Title IX Coordinator's discretion, and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Dismissal Appeal Decision-maker may consult with the Title VI & Title IX Coordinator and/or legal counsel on questions of procedure or rationale for clarification, if needed. The Title VI & Title IX Coordinator will maintain documentation of all such consultation.

#### **4. Emergency Removal/Interim Suspension of a Student**

The School may emergency remove a Student accused of Title IX Sexual Harassment upon receipt of a Formal Complaint or at any time during the Formal Grievance Process. Prior to an emergency removal, the School will conduct an individualized risk assessment and may remove the Student if that assessment determines that an immediate threat to the physical health or safety of any Student or other individual justifies removal. Students accused of other forms of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct (not Sex-based) are subject to interim suspension, which can be imposed for safety reasons.

When an emergency removal or interim suspension is imposed, wholly or partially, the affected Student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Title VI & Title IX Coordinator will meet with the Student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is

appropriate, should be modified, or should be lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal or interim suspension will be deemed waived. A Student can later request a meeting to show why they are no longer an immediate threat because conditions related to the threat have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Title VI & Title IX Coordinator determines it is equitable for them to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Title VI & Title IX Coordinator for review.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title VI & Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

## **5. Placing Employees on Leave**

When the Respondent is an Employee, or a Student-Employee accused of misconduct in the course of their employment, existing provisions in the Employment Handbook or Student Conduct Policy for interim action are typically applicable instead of the above emergency removal process.

## **6. Counter-Complaints**

The School is obligated to ensure that the Formal Grievance Process is not abused for retaliatory purposes. Although the School permits the filing of counter-complaints, the Title VI & Title IX Coordinator will use an initial assessment, described above, to assess whether the allegations in the counter-complaint are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a Policy violation.

Counter-complaints determined to have been reported in good faith will be processed using the Formal Grievance Process. At the Title VI & Title IX Coordinator's discretion, investigation of such claims may take place after resolution of the underlying initial Formal Complaint.

## **7. Advisors in the Formal Grievance Process**

The Parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the Formal Grievance Process, if they so choose.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-maker.

#### **A. Who Can Serve as an Advisor**

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the resolution process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>27</sup> Parties have the right to choose not to have an Advisor in the initial stages of the Formal Grievance Process, prior to a hearing.

The Title VI & Title IX Coordinator will offer to assign a trained Advisor to any party.

The School cannot guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, the School is not obligated to provide an attorney to advise that party.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Title VI & Title IX Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

The School may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Title VI & Title IX Coordinator. The decision to grant this request is at the Title VI & Title IX Coordinator's sole discretion and will be granted equitably to all Parties.

#### **B. Advisor's Role in the Formal Grievance Process**

Advisors should help the Parties to prepare for each meeting or hearing and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Parties are expected to respond to questions on their own behalf throughout the Formal Grievance Process. Although the Advisor generally may not speak on behalf of their advisee, except for conducting cross-examination during a hearing, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing

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<sup>27</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

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

### **C. Records Shared with Advisors**

Advisors are entitled to the same opportunity as their advisee to receive copies of the Draft and Final Investigation Reports, as well as the Directly Related Evidence file. Parties will be asked to sign releases for the School to share materials with an Advisor.

Advisors are expected to maintain the confidentiality of the records the School shares with them. Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). The Recipient may decline to share materials with any Advisor who has not executed the NDA. Iliff may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the School's confidentiality expectations.

### **D. Advisor Expectations**

The School generally expects an Advisor to adjust their schedule to allow them to attend Iliff meetings/interviews/hearings when planned, but the School may change scheduled meetings/interviews/hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The School may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

All Advisors are subject to the same Iliff policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by the School. Advisors are expected to advise without disrupting proceedings.

### **E. Advisor Policy Violations**

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the School's established rules of decorum will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the

meeting/interview/hearing may be ended, or other appropriate measures implemented, including the School requiring the party to use a different Advisor or providing a different School-appointed Advisor. Subsequently, the Title VI & Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

## **8. Resolution Options Overview**

The Formal Grievance Process is the School's primary resolution approach unless all Parties and the School agree to an Informal Resolution. The process considers the Parties' preferences but is ultimately determined at the Title VI & Title IX Coordinator's discretion.

Resolution proceedings are private. All persons present at any time during a resolution process are expected to maintain the privacy of the proceedings in accordance with the Policy.

There is an expectation of privacy around what Investigators share with Parties during interviews and for any materials the institution shares with the Parties during the resolution process. The Parties have discretion to share their own knowledge and evidence with others if they choose, except for information the Parties agree not to disclose as part of an Informal Resolution. Iliff encourages Parties to discuss any sharing of information with their Advisors before doing so.

### **A. Informal Resolution**

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title VI & Title IX Coordinator at any time prior to a Final Determination, or the Title VI & Title IX Coordinator may offer the option to the Parties. The School will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution. To engage in Informal Resolution, a Complaint must first submit a Formal Complaint.

Three approaches to Informal Resolution are detailed in this section.

- 1) **Supportive Resolution.** When the Title VI & Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation. Supportive Resolution involves only the party who opts for it.
- 2) **Accepted Responsibility.** When the Respondent accepts responsibility for violating Policy and accepts the recommended sanction(s), and the Complainant(s) and Title VI & Title IX Coordinator are agreeable to the resolution terms.
- 3) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to,

mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution process at any time and initiate or resume the Formal Grievance Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Grievance Process should Informal Resolution not be successful.

If an investigation is already underway, the Title VI & Title IX Coordinator has discretion to determine if the investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Prior to engaging in Informal Resolution, the School will provide the Parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that the School will maintain and under which circumstances they may be released.

#### Informal Resolution Approaches

##### **(1) Supportive Resolution**

Most commonly offered once a Formal Complaint is filed (whereas supportive measures, as described in [Section 9](#) of the Policy, are offered in response to Notice). The Title VI & Title IX Coordinator will meet with the Complainant to determine reasonable supports that are designed to restore or preserve the Complainant's access to the School's Education Program and Activity. Such supports can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Title VI & Title IX Coordinator may also provide reasonable supports for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Title VI & Title IX Coordinator does not believe there is a need to sign a Formal Complaint. At the discretion of the Title VI & Title IX Coordinator, this resolution option can result in an agreement between the Complainant and the School that does not require assent from any other party, as long as it does not unduly burden any other party or function punitively with respect to them.



## **(2) Accepted Responsibility**

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Formal Grievance Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title VI & Title IX Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Title VI & Title IX Coordinator will determine whether all Parties and the School are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title VI & Title IX Coordinator implements the accepted Finding that the Respondent is in violation of Iliff Policy, implements agreed-upon restrictions and remedies, and determines any other appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Formal Grievance Process will either begin or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the Discrimination or Harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

## **(3) Alternative Resolution**

The institution offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction between the Parties; indirect action by the Title VI & Title IX Coordinator or other appropriate School officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

The Title VI & Title IX Coordinator has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Title VI & Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The Title VI & Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Formal Grievance Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). Where the failure to abide by the Informal Resolution agreement terms results in a failure to remedy a Policy violation, the Administrator must consider whether to dissolve the agreement and reinstate the Formal Grievance Process to remedy the impact as required by law. The results of Formal Complaints resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, the School will initiate or continue an investigation and subsequent Formal Grievance Process to determine whether the Policy has been violated.

## **B. Formal Grievance Process (begins at [Section 10](#) below)**

### **Resolution Process Pool**

The Recipient relies on a pool of external, trained third-party neutral professionals to carry out the resolution options.

## **C. Pool Member Roles**

Pool members are trained annually, and can serve in any of the following roles at the Title VI & Title IX Coordinator's discretion:

- Appropriate intake of and initial guidance pertaining to Formal Complaints
- Perform or assist with initial assessment
- Advisor to Parties
- Informal Resolution Facilitator
- Investigator
- Hearing Facilitator
- Decision-maker
- Appeal of Dismissal Decision-maker

- Appeal Decision-maker

#### **D. Pool Member Appointment**

The Title VI & Title IX Coordinator, in consultation with senior administrators as necessary, appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Formal Complaints, the School can also designate permanent roles for individuals in the Pool.

### **9. Notice of Investigation and Allegations (NOIA)**

The Title VI & Title IX Coordinator will provide the Parties written Notice of the Investigation and Allegations (the “NOIA”) upon commencement of the Formal Grievance Process. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA will include:

- A meaningful summary of all allegations
- The names of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the School presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a Final Determination that the Policy has been violated
- The name(s) of the Investigator(s), along with a process to notify the Title VI & Title IX Coordinator of any conflict of interest that the Investigator(s) may have in advance of the interview process
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all Relevant and Directly Related Evidence obtained
- A statement of the potential sanctions/responsive actions that could result
- A statement about the School’s policy on Retaliation
- Information about process confidentiality
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor

- A statement informing the Parties that the School's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Formal Grievance Process
- Information about how a party may request disability accommodations or other support assistance during the Formal Grievance Process
- A link to the School's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address(es) as indicated in official Recipient records, or emailed to the Parties' Iliff-issued email or other approved accounts. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

## **10. Resolution Timeline**

The School will make a good faith effort to complete the Formal Grievance Process within sixty to ninety (60-90) business days, including any appeals, which the Title VI & Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Formal Grievance Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

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

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

The School will make a good faith effort to complete the Formal Grievance Process as promptly as circumstances permit and will regularly communicate with the Parties to update them on the progress and timing of the process.

## **11. Ensuring Impartiality**

No individual materially involved in the administration of the Formal Grievance Process, including the Title VI & Title IX Coordinator, Investigator(s), and Decision-maker(s), may have or demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title VI & Title IX Coordinator will vet the assigned Investigator(s), Decision-maker(s), and Appeal Decision-maker(s) for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The Parties may raise a concern regarding bias or conflict of interest at any time during the Formal Grievance Process, and the Title VI & Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member, or other trained individual, will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title VI & Title IX Coordinator, concerns should be raised with Iliff's president.

The Formal Grievance Process involves an objective evaluation of all Relevant Evidence obtained, including evidence that supports that the Respondent violated the Policy and evidence that supports that the Respondent did not violate the Policy. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written Investigation Report that accurately summarizes this evidence.

## **12. Witness Role and Participation in the Investigation**

Witnesses who are Recipient Employees are strongly encouraged to cooperate with and participate in the Recipient's investigation and Formal Grievance Process. Student witnesses and witnesses from outside the Iliff community are encouraged to cooperate with Iliff investigations and to share what they know about a Formal Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx), or, in limited circumstances, by telephone. The School will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

## **13. Interview Recording**

It is standard practice for Investigators to create a record of all interviews pertaining to the Formal Grievance Process, by recording, transcript, or written summary. The Parties may review

copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

All interviews are recorded, and all involved persons should be made aware of the audio and/or video recording. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may suggest additional questions to be asked of another party or witness or additional witnesses. Those subsequent meetings or interviews are also recorded and/or transcribed.

#### **14. Evidentiary Considerations**

The Investigator(s) and the Decision-maker(s) will only consider Relevant or Directly Related Evidence.

Neither the investigation nor the hearing will consider:

- 1) Questions or evidence about the Complainant's sexual predisposition<sup>28</sup>
- 2) Questions or evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct, or if the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent<sup>29</sup>
- 3) Questions or evidence about a party or witness's records that are made or maintained by a physician, psychologist, or psychiatrist unless the party or witness provides voluntary, written consent for the records to be considered

Within the boundaries stated above, the investigation and the hearing can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

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<sup>28</sup> The School defines "predisposition" in alignment with its commonly understood and dictionary definition of being inclined toward a thing, action, or person. Predisposition does not encompass an aversion, or being disinclined to a thing, action, or person.

<sup>29</sup> The School defines "prior sexual behavior" to include only sexual actions taken by or involving a Complainant prior to the reported incident(s), not the absence of such actions.

## **15. Investigation**

All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all available, relevant Parties and witnesses, obtaining Relevant Evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

The School may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondent(s), when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

Investigations involve the following:

- Determining the names of and contacting all involved Parties and potential witnesses to participate in an investigation interview
- Identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses
- Providing written notification of the date, time, and location of all investigation meetings, including the expected participants and purpose
- Conducting any necessary follow-up interviews with Parties or witnesses
- Providing the Parties and witnesses an opportunity to verify the accuracy of either a summary or transcript of their interview(s)
- Soliciting the names of suggested witnesses and questions each party wishes to have asked of another party or witness
- Writing a Draft Investigation Report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and party and witness interviews, and provides all Relevant Evidence
- Compiling a Directly Related Evidence File
- Providing the Parties and their respective Advisors an electronic or hard copy of the Draft Investigation Report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the School does not intend to rely in reaching a determination, for a ten (10)-business-day review and comment period so that each party may meaningfully respond to the evidence. The Parties may elect to waive the full ten (10) days.

- Incorporating any new, Relevant Evidence and information obtained through the Parties' review of the Draft Investigation Report and any follow-up meetings into the Final Investigation Report
- Responding in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report
- Sharing the Final Investigation Report with the Title VI & Title IX Coordinator and/or legal counsel for their review and feedback
- Providing the Title VI & Title IX Coordinator with the Final Investigation Report and Directly Related Evidence File

## **16. Referral for Hearing**

Provided that the Formal Complaint is not resolved through Informal Resolution, once the Final Investigation Report is shared with the Parties, the Title VI & Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be held less than ten (10) business days from the conclusion of the investigation – when the Final Investigation Report is transmitted to the Parties and the Decision-maker – unless all Parties and the Decision-maker agree to an expedited timeline.

The Title VI & Title IX Coordinator will select an appropriate Decision-maker from the Pool and provide a copy of the Final Investigation Report and the file of Directly Related Evidence.

## **17. Hearing Decision-maker**

The Decision-maker will not have had any previous involvement with the Formal Complaint. The Title VI & Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process if a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

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

## **18. Live Hearing Requirements**

The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The Decision-maker and Parties must be able to simultaneously see



and hear a party or witness while that person is speaking. Both options are considered fair and equitable. Alternative arrangements may also be made at the Title VI & Title IX Coordinator's discretion.

- The Parties may make a request to the Title VI & Title IX Coordinator that the hearing be held in person or via video technology, but they must do so at least three (3) business days prior to the hearing. The Title VI & Title IX Coordinator retains discretion to determine whether the hearing will occur in person or via video technology.
  - All hearings will be recorded, and Parties may request a copy of the recording from the Title VI & Title IX Coordinator following the live hearing.
  - No unauthorized recordings are permitted.
- **Scheduling.** Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to the Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet the School's resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Formal Grievance Processes that occur during months between contracts.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision-maker, hearing facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Decision-maker. Witnesses are present only during their portion of the testimony.
- **Advisors.** The Parties may have the assistance of an Advisor of their choice at the hearing or can request that the School appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves.
  - During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor. No other persons (e.g., additional support persons, advisors, friends, family) may accompany, attend, or listen in on the hearing unless explicitly authorized by the Title VI & Title IX Coordinator, with each party being provided the same opportunity.
  - Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a matter consistent with the Policy.
  - During the hearing, all questions that a party wishes to ask must be posed by the Advisor, not the Parties.
  - If the party does not have an Advisor, the Title VI & Title IX Coordinator will provide the party with an Advisor for the purpose of Advisor-conducted questioning.
- **Impact Statements.** Each party may submit an impact and/or mitigation statement to the Title VI & Title IX Coordinator that the Decision-maker will review during any sanction determination. Parties are allowed up to 48 hours post-hearing to submit or amend their impact and/or mitigation statements.

- Upon receipt of an impact and/or mitigation statement, the Title VI & Title IX Coordinator will review the impact/mitigation statement to determine whether any immediate needs exist.
- The Title VI & Title IX Coordinator will only provide the impact statements to the Decision-maker if the Decision-maker determines that the Policy has been violated. When the Title VI & Title IX Coordinator shares the impact statements with the Decision-maker, they will also be shared with the Parties.
- **Disability Accommodations and Other Assistance.** Parties should contact the Title VI & Title IX Coordinator at least three (3) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- **Conflicts of Interest or Bias.** The Decision-maker must not have a bias for or against Complainants or Respondents generally or the individual Complainant or Respondent involved in the Formal Complaint.
  - The Decision-maker must recuse themselves if such bias or conflict of interest exists.
  - If the Decision-maker believes there is possible conflict of interest or bias, they will consult with the Title VI & Title IX Coordinator about possible recusal or removal.
  - The Parties may raise challenges that the Decision-maker is biased or has a conflict of interest. The Parties must raise challenges with the Title VI & Title IX Coordinator within two (2) business days of receiving the hearing notice.
  - The Title VI & Title IX Coordinator will only remove and replace a Decision-maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
  - If a Decision-maker recuses themselves as the result of a conflict of interest or bias, or is removed, the Title VI & Title IX Coordinator will promptly appoint a new Decision-maker who does not have a conflict of interest or bias and notify the Parties accordingly.
- **Evidence Provided to Decision-maker and Parties.**
  - The Decision-maker will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least ten (10) business days in advance of the hearing.
  - The Parties will be provided with electronic copies of all the materials provided to the Decision-maker as part of the hearing notice, unless those materials have already been provided.<sup>30</sup>

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<sup>30</sup> Hard-copy materials may be provided upon request to the Title VI & Title IX Coordinator. The Final Investigation Report and Relevant Evidence may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

## **19. Hearing Notice**

The Title VI & Title IX Coordinator will send the Parties a notice of hearing letter no less than ten (10) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice is presumptively delivered. The notice includes:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result
- The time, date, and location of the hearing
- A description of any technology that will be used to facilitate the hearing
- Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the Parties and witnesses participating in the hearing, the identity of the Decision-maker, details related to questioning, the role of Advisors, impact/mitigation statements, and how to request disability accommodations or other assistance

## **20. Witness Participation**

Witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. They may participate in-person or via video technology that allows the Decision-maker and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an Advisor without the Title VI & Title IX Coordinator's express permission.

The Title VI & Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

If any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title VI & Title IX Coordinator may reschedule the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless:

- All Parties and the Decision-maker assent to the new witness's participation in the hearing without remanding the Formal Complaint back to the Investigator,
- The Decision-maker deems the evidence presented by the new witness to be relevant and not information already established in the record, and
- The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

If the above criteria are not met, but the witness's evidence is deemed relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing
- Provide the Parties with at least five (5) business days to review the relevant portions of the new witness's statements, if such statements are submitted
- Remand the Formal Complaint back to the Investigator for further investigation or verification
- Allow the Parties to review and comment on the testimony of the new witness<sup>31</sup>

If the evidence is deemed not relevant, the Decision-maker may proceed with the hearing absent the new witness's participation.

## **21. Pre-Hearing Meetings**

The Decision-maker will offer to convene pre-hearing meeting(s) with the Parties and their Advisors to familiarize them with the hearing process and invite them to submit the questions or topics they wish to ask or discuss at the hearing. This allows the Decision-maker to consider their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration on a Decision-maker's pre-hearing decision based on any new information or testimony offered at the hearing. The Decision-maker will consider arguments that evidence identified as relevant in the Final Investigation Report is, in fact, not relevant. Similarly, evidence identified by the Investigator(s) as directly related but not relevant may be argued to be relevant. The Decision-maker will document and share their rationale for any evidence or question exclusion or inclusion, if any, at a pre-hearing meeting with each party.

The Decision-maker will work with the Parties to finalize a witness list for the hearing, and the Title VI & Title IX Coordinator will notify any witnesses of the hearing's logistics. The Decision-maker, **only** with the agreement of all Parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the Final Investigation Report or during the hearing, and their presence is not essential to assess their credibility.

Pre-hearing meeting(s) will not be recorded. The pre-hearing meetings will typically be conducted as separate meetings with each party/Advisor, and can be done remotely, or as a written communication exchange. The Decision-maker will work with the Parties to establish

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<sup>31</sup> 34 C.F.R. § 668.46(k)(3)(B)(3) requires "timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings."

the format and timing of the meetings and will circulate a summary of any rulings made to ensure all Parties and Advisors are aware.

## **22. Hearing Procedures**

### **A. Evidentiary Considerations**

The Parties must provide all evidence to the Investigator(s) prior to completion of the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant, the Decision-maker may proceed with the hearing absent the new evidence.

The new Relevant Evidence will be admitted to the record if:

- All Parties and the Decision-maker assent to the new evidence being included in the hearing without remanding the Formal Complaint back to the Investigator,
- The evidence is not duplicative of evidence already in the record, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing
- Provide the Parties with at least five (5) business days to review the Relevant Evidence
- Remand the Formal Complaint back to the Investigator for further investigation or analysis
- Allow the Parties time to review and comment on the new evidence

If the evidence is deemed not relevant, the Decision-maker may proceed with the hearing without allowing the new evidence.

### **B. Collateral Misconduct**

The Decision-maker has the authority to hear and make determinations on all allegations of Discrimination, Harassment, Retaliation, and Other Prohibited Conduct under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that occurred in concert with the Discrimination, Harassment,

Retaliation, or Other Prohibited Conduct, even though those collateral allegations may not specifically fall within the Policy.

### **C. Joint Hearings**

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title VI & Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or Formal Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Formal Complaint with respect to each alleged policy violation.

### **D. Introductions and Hearing Procedure Explanation**

The Decision-maker will:

- Explain the hearing procedures
- Introduce the participants
- Answer any procedural questions prior to and as they arise throughout the hearing

### **E. Investigator Presentation of Final Investigation Report**

The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Decision-maker and then by the Parties through their Advisors. The Investigator may attend the duration of the hearing or be excused after their testimony at the Decision-maker's discretion.

### **F. Testimony and Questioning**

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Decision-maker. The Decision-maker will facilitate questioning of the Parties and witnesses first by the Decision-maker and then by the Parties through their Advisors.

All questions are subject to the Decision-maker's relevance determination. The Advisor will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted). The proceeding will pause to allow the Decision-maker to consider the question (and state it if it has not already been

stated aloud), and the Decision-maker will determine whether the question will be permitted, disallowed, or rephrased. The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-maker will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive and has the final say on all questions and relevance determinations. The Decision-maker may consult with legal counsel on any admissibility questions.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Decision-maker may elect to address those issues, consult with legal counsel, refer them to the Title VI & Title IX Coordinator, and/or preserve them for appeal. If bias is not an issue at the hearing, the Decision-maker should not permit irrelevant questions that probe for Investigator bias.

#### **G. Refusal to Submit to Questioning and Inferences**

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker can only rely on the available Relevant Evidence in making a Final Determination. The Decision-maker may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer any or all questions. Typically, after brief opening statements, the order of questioning will be questions from the Decision-maker, questions from the party's own Advisor, then questions from the other Parties' Advisors. The same order will be used for questioning of witnesses, who do not typically make opening statements. The Parties then make brief closing statements, and then the hearing transitions into closed session for deliberation.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

#### **H. Hearing Recordings**

The School records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-maker, the Parties, their Advisors, Appeal Decision-makers, and other appropriate Iliff officials will be permitted to review the recording or review a transcript of the recording upon request to the Title VI & Title IX Coordinator. No unauthorized

disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

### **23. Deliberation and Determination**

After closing statements from the Parties, the Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the standard of evidence. If a panel is used, a simple majority vote is required to determine the Finding. Deliberations are not recorded.

When there is a Finding of responsibility on one or more of the allegations, the Decision-maker may then consider the previously submitted party impact and/or mitigation statement(s) in determining appropriate sanction(s). The Title VI & Title IX Coordinator will ensure that each of the Parties has an opportunity to review any submitted impact and/or mitigation statement(s) once they are submitted.

The Decision-maker will also review any pertinent conduct history provided by the Compliance Office and will determine the appropriate sanction(s) in consultation with other appropriate administrators, if required.

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

This statement must be submitted to the Title VI & Title IX Coordinator within five (5) business days of the end of deliberations unless the Title VI & Title IX Coordinator grants an extension. If an extension is granted, the Title VI & Title IX Coordinator will notify the Parties.

### **24. Notice of Outcome**

The Title VI & Title IX Coordinator will provide the Parties with a written outcome notification within ten (10) business days of the conclusion of the Formal Grievance Process. The outcome notification will specify the Finding for each alleged Policy violation, any sanction(s) that may result, which the School is permitted to share pursuant to federal or state law, and a detailed rationale, written by the Decision-maker, supporting the Findings to the extent the School is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no party appeals.

The Title VI & Title IX Coordinator will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome



notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official Recipient records, or emailed to the Parties' Iliff-issued or other approved email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

## **25. Rights of the Parties (See Appendix E)**

## **26. Sanctions**

Factors the Decision-maker may consider when determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct
- The need for sanctions/responsive actions to prevent the future recurrence of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct
- The need to remedy the effects of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct on the Complainant and the community
- The impact on the Parties
- The Respondent's acknowledgement of responsibility or contrition
- Any other information deemed relevant by the Decision-maker

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

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

### **A. Student Sanctions**

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

- *Reprimand*: A formal statement that the conduct was unacceptable and a warning that further violation of any School policy, procedure, or directive will result in more severe sanctions/responsive actions
- *Required Counseling*: A mandate to meet with and engage in either Iliff-sponsored or external counseling to better comprehend the misconduct and its effects

- *Restrictions:* A Student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or holding leadership roles in student organizations
- *Probation:* An official sanction for violation of Iliff policy, providing for more severe disciplinary sanctions if the Student is found in violation of any Iliff policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension:* Separation from the School, or one or more of its facilities, for a defined period of time, typically not to exceed two (2) years, after which the Student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the Student is eligible to return if the School determines it is appropriate to re-enroll/readmit the Student. The Student is typically required to vacate School property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Title VI & Title IX Coordinator or other appropriate official. During a School-wide suspension, the Student is banned from Iliff property, functions, events, and activities unless they receive prior written approval from an appropriate Iliff official. This sanction may be enforced with a trespass action, as necessary.
- *Expulsion:* Permanent separation from the School. The Student is banned from Iliff property, and the Student's presence at any Iliff-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary.
- *Withholding Diploma:* The School may withhold a Student's diploma for a specified period of time and/or deny a Student participation in commencement activities as a sanction if the Student is found responsible for violating the Policy
- *Revocation of Degree:* While very rarely exercised, the School reserves the right to revoke a degree previously awarded by the School for fraud, misrepresentation, and/or other violation of Iliff policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a Student prior to graduation. Revocation can occur when the offense would have otherwise resulted in expulsion if the Respondent were still a student. Delay of degree certification is applicable for any situation that would have resulted in suspension of the Respondent if the Respondent were still a student, and the degree will only be conferred once the degree suspension period is completed. The degree suspension period is usually implemented for the same length of time for which a sanction of suspension would have been imposed if Respondent were still enrolled.
- *Other Actions:* In addition to, or in place of, the above sanctions, the School may assign any other sanctions as deemed appropriate

## **B. Student Organization Sanctions**

The following are the common sanctions that may be imposed upon student group organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any School policy, procedure, or directive will result in more severe sanctions/responsive actions
- *Probation*: An official sanction for violation of Iliff policy, providing for more severe disciplinary sanctions if the group or organization is found in violation of any Iliff policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of Iliff funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student group or organization recognition and/or Iliff support for a defined period of time not to exceed two (2) years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in Iliff-related activities, whether they occur on or off campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the School.
- *Expulsion*: Permanent termination of student group or organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason
- *Loss of Privileges*: Restricted from accessing specific Iliff privileges for a specified period of time
- *Other Actions*: In addition to, or in place of, the above sanctions, the School may assign any other sanctions as deemed appropriate

## **C. Employee Sanctions/Responsive/Corrective Actions**

Responsive actions for an Employee who has engaged in Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*

- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Delay of (or referral for delay of) Tenure Track Progress*
- *Assignment to a New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions: In addition to, or in place of, the above sanctions/responsive actions, the School may assign any other responsive actions as deemed appropriate*

## **27. Withdrawal or Resignation Before Complaint Resolution**

### **A. Students**

Should a Respondent decide not to participate in the Formal Grievance Process, the process proceeds absent their participation to a reasonable resolution. If a Student Respondent withdraws from the School, the Formal Grievance Process typically ends with a dismissal, as the School has lost primary disciplinary jurisdiction over the withdrawn Student. However, the School may continue the Formal Grievance Process when, at the discretion of the Title VI & Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

Regardless of whether the Formal Complaint is dismissed or pursued to completion of the Formal Grievance Process, the School will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When a Student withdraws or takes a leave of absence while the process is pending, the Student may not return to the School in any capacity until the Formal Complaint is resolved and any sanctions imposed are satisfied. If the Student indicates they will not return, the Title VI & Title IX Coordinator has discretion to dismiss the Formal Complaint and bar the Student from returning. The Registrar, Office of Enrollment, and Human Resources may be notified accordingly.

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

## **B. Employees**

Should an Employee Respondent decide not to participate in the Formal Grievance Process, the process proceeds absent their participation to a reasonable resolution. If an Employee Respondent leaves their employment with the School with unresolved allegations pending, the Formal Grievance Process typically ends with dismissal, as the School has lost primary disciplinary jurisdiction over the former Employee. However, the School may continue the Formal Grievance Process when, at the discretion of the Title VI & Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

Regardless of whether the Formal Complaint is dismissed or pursued to completion of the Formal Grievance Process, the School will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When an Employee resigns and the Formal Complaint is dismissed, the Employee may not return to the School in any capacity. The Registrar, Office of Enrollment, and Human Resources will be notified accordingly. A note will be placed in the Employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with the School. The records retained by the Title VI & Title IX Coordinator will reflect that status.

## **28. Appeal of the Final Determination**

The Title VI & Title IX Coordinator will designate an Appeal Decision-maker from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker will have been previously involved in the Formal Grievance Process for the Formal Complaint. If a panel is used, the Title VI & Title IX Coordinator will designate a voting chair.

### **A. Appeal Grounds**

Appeals are limited to the following grounds:

- 1) A procedural irregularity affected the outcome of the matter

- 2) There is new evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter
- 3) The Title VI & Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter
- 4) The Decision-maker's Final Determination is substantially contrary to the weight of the evidence in the record (applicable to suspension, expulsion, or termination-level offenses only)
- 5) The sanctions fall outside the range of sanctions designated for this offense, considering the Respondent's cumulative conduct/disciplinary record (applicable to suspension, expulsion, or termination-level offenses only)

## **B. Appeal Request**

Any party may submit a written appeal request to the Title VI & Title IX Coordinator within five (5) business days of the delivery of the notice of outcome.

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

If the appeal request does not provide information that meets the grounds in the Procedures, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the appeal request meets the grounds in the Procedures, then the Appeal Decision-maker will notify all Parties and their Advisors, the Title VI & Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Title VI & Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the appeal request with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that appeal request will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in the Procedures and will either be approved or denied. If approved, it will

be forwarded to the party who initially requested an appeal, the Title VI & Title IX Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified in writing.

No party may submit any new appeal request after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

### **C. Appeal Determination Process**

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the Finding/Final Determination only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence standard of evidence.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the Finding and/or sanction(s).

The Appeal Decision-maker may consult with the Title VI & Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title VI & Title IX Coordinator will maintain documentation of all such consultation.

### **D. Appeal Outcome**

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the Title VI & Title IX Coordinator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new hearing with new Pool members serving in the Investigator and Decision-maker roles.

A notice of appeal outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. The appeal outcome letter will specify the

Finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which the School is permitted to share according to federal or state law, and the rationale supporting the essential Findings to the extent the School is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official institutional records, or emailed to the Parties' Iliff-issued email or other approved account. Once mailed, emailed, and/or received in person, the appeal outcome letter will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new Finding or sanction, that Finding or sanction can be appealed one final time on the grounds listed above and in accordance with the Procedures.

If a remand results in a new Finding or sanction that is different from the original Finding or sanction, that new Finding or sanction can be appealed, once, on any of the available appeal grounds.

#### **E. Sanction Status During the Appeal**

Any sanctions imposed as a result of the Final Determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal and interim suspension procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within two (2) business days of implementation.

### **29. Long-Term Remedies/Other Actions**

Following the conclusion of the Formal Grievance Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title VI & Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the School community that are intended to stop the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct, remedy the effects, and prevent recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services



- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for Employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.>>

At the Title VI & Title IX Coordinator's discretion, the Parties may be provided certain long-term support or measures even if no Policy violation is found.

When no Policy violation is found, the Title VI & Title IX Coordinator will address any remedies the School owes the Respondent to ensure no effective denial of educational access.

The School will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the School's ability to provide these services.

### **30. Failure to Comply with Sanctions and/or Responsive Actions**

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

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the School.

Supervisors are expected to enforce completion of sanctions/responsive actions for their Employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title VI & Title IX Coordinator's satisfaction.

### **31. Recordkeeping**

For a period of at least seven (7) years following the conclusion of the Formal Grievance Process, the School will maintain records of:

- 1) Each Discrimination, Harassment, Retaliation, and Other Prohibited Conduct Formal Grievance Process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation
- 2) Any disciplinary sanctions imposed on the Respondent
- 3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to the School's Education Program or Activity
- 4) Any appeal and the result therefrom
- 5) Any Informal Resolution and the result therefrom
- 6) All materials used to train the Title VI & Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitators, and any person who is responsible for implementing the School's resolution processes. Iliff will make these training materials publicly available on Iliff's website
- 7) Any other actions taken in response to a report or Formal Complaint including:
  - a. The basis for all conclusions that the response was not deliberately indifferent
  - b. Any measures designed to restore or preserve equal access to the School's Education Program or Activity

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

### **32. Disability Accommodations**

Iliff is committed to providing reasonable accommodations and support to qualified Students, Employees, or others with disabilities to ensure equal access to the School's resolution processes.

Anyone needing such accommodations or support should contact the Title VI & Title IX Coordinator, who will work with Human Resources and/or the ADA/504 Student Coordinator as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

### **33. Other Support**

Iliff will address other reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout a resolution process
- Other support as deemed reasonable and necessary to facilitate participation in a resolution process

## **APPENDIX D: ADMINISTRATIVE RESOLUTION FOR ALLEGED VIOLATIONS OF THE POLICY (KNOWN AS PROCESS “B”)**

### **1. Initial Assessment**

The Title VI & Title IX Coordinator conducts an initial assessment, typically within five (5) business days of receiving Notice.<sup>32</sup> The initial assessment typically includes:

- Assessing whether the reported conduct may reasonably constitute a Policy violation
- Determining whether the School has jurisdiction over the reported conduct
- Offering and coordinating supportive measures for the Parties
- Notifying the Complainant, or the person who reported the allegation(s), of the available resolution options
- Determining whether the Complainant wishes to file a Formal Complaint
- Notifying the Respondent of the available resolution option if a Formal Complaint is made

### ***Helping a Complainant to Understand Resolution Options***

If the Complainant indicates they wish to initiate the Administrative Resolution Process, the Title VI & Title IX Coordinator will work with the Complainant to determine which resolution option they want to pursue. The Title VI & Title IX Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

Upon receiving a complaint that falls under the Administrative Resolution Process, the Title VI & Title IX Coordinator will initiate an investigation.

If any party indicates that they want to pursue an Informal Resolution option, the Title VI & Title IX Coordinator will refer the matter to the appropriate individuals(s) if the Title VI & Title IX Coordinator determines Informal Resolution is available and the other Parties consent to participate.

If the Complainant does not want any action taken, the Title VI & Title IX Coordinator will consider that request, and in most circumstances no resolution process will be initiated (unless deemed necessary by the Title VI & Title IX Coordinator), though the Complainant can elect to initiate one later, if desired.

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<sup>32</sup> If circumstances require, the President or Title VI & Title IX Coordinator will designate another person to oversee the resolution process should an allegation be made about the Title VI & Title IX Coordinator or the Title VI & Title IX Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

The Administrator may consider elements such as patterns of behavior, predation, threats, violence, use of weapons, or involvement of minors in determining whether to initiate a resolution process.

### ***Title VI & Title IX Coordinator's Authority to Initiate the Administrative Resolution Process***

The Title VI & Title IX Coordinator has ultimate discretion as to whether to pursue an Administrative Resolution Process and may consult with appropriate Iliff Employees, and/or conduct a violence risk assessment to aid their determination whether to initiate a complaint.

When the Title VI & Title IX Coordinator initiates a complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged misconduct. If the Administrator declines to initiate a complaint, alternative processes may be available and can be explored with the Title VI & Title IX Coordinator.

The process followed considers the Parties' preference but is ultimately determined at the Title VI & Title IX Coordinator's discretion. If at any point during the initial assessment or investigation the Title VI & Title IX Coordinator determines that reasonable cause does not support the conclusion that Respondent violated the Policy, the process will end, and the Parties will be notified.

The Complainant may request that the Title VI & Title IX Coordinator review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Title VI & Title IX Coordinator, but the request is usually only granted in extraordinary circumstances.

## **2. Interim Suspension**

The School may interim suspend a Student accused of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct upon receipt of Notice or at any time during the Administrative Resolution Process.

When an interim suspension is imposed, wholly or partially, the affected Student will be notified of the action, which will include a written rationale, and the option to challenge the interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Title VI & Title IX Coordinator will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the interim suspension is appropriate, should be modified, or should be lifted. When this meeting is not requested within two (2) business days, objections to the interim suspension will be deemed waived. A Student can later request a meeting to show why they no longer pose a safety concern because the related conditions have

changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Title VI & Title IX Coordinator determines it is fair for them to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Title VI & Title IX Coordinator for review.

An interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title VI & Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

### **3. Placing an Employee on Leave**

When the Respondent is an Employee, or a Student-Employee accused of misconduct in the course of their employment, existing provisions in the Employee Handbook and/or the Student Handbook for interim action are typically applicable instead of the above emergency removal process.

### **4. Counter-Complaints**

The School is obligated to ensure that the Administrative Resolution Process is not abused for retaliatory purposes. Although the School permits the filing of counter-complaints, the Title VI & Title IX Coordinator will use an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a Policy violation.

Counter-complaints determined to have been reported in good faith will be processed using the Administrative Resolution Process below. At the Title VI & Title IX Coordinator's discretion, investigation of such claims may take place after resolution of the underlying initial allegations.

### **5. Advisors in the Administrative Resolution Process**

The Parties may each have an Advisor of their choice present with them for all meetings and interviews within the Administrative Resolution Process.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-maker.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Title VI & Title IX Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share

information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

#### **A. Who Can Serve as an Advisor?**

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the resolution process. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>33</sup>

The School cannot guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, the School is not obligated to provide an attorney to advise that party.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Title VI & Title IX Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

The School may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Title VI & Title IX Coordinator. The decision to grant this request is at the Title VI & Title IX Coordinator's sole discretion and will be granted equitably to all Parties.

If a party requests that all communication be made through their attorney Advisor instead of to the party, the Recipient will agree to copy both the party and their Advisor on all communications.

#### **B. Advisor's Role in the Administrative Resolution Process**

Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Parties are expected to respond to questions on their own behalf throughout the Administrative Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Administrative Resolution Process

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<sup>33</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

### **C. Records Shared with Advisors**

Advisors are entitled to the same opportunity as their advisee to receive copies of the Draft and Final Investigation Reports. Parties will be asked to sign releases for the School to share materials with an Advisor.

Advisors are expected to maintain the confidentiality of the records the School shares with them. Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). The Recipient may decline to share materials with any Advisor who has not executed the NDA. Iliff may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the School's confidentiality expectations.

### **D. Advisor Expectations**

The School generally expects an Advisor to adjust their schedule to allow them to attend Iliff meetings/interviews when planned, but the School may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The School may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview by telephone, video conferencing, or other similar technologies as may be convenient and available.

All Advisors are subject to the same Iliff policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by the School. Advisors are expected to advise without disrupting proceedings.

### **E. Advisor Policy Violations**

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

## 6. Resolution Options Overview

The Administrative Resolution Process is the School's primary resolution approach unless all Parties and the School agree to an Informal Resolution. The process considers the Parties' preferences but is ultimately determined at the Title VI & Title IX Coordinator's discretion.

Resolution proceedings are private. All persons present at any time during a resolution process are expected to maintain the privacy of the proceedings in accordance with the Policy.

### A. Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title VI & Title IX Coordinator at any time prior to a Final Determination, or the Title VI & Title IX Coordinator may offer the option to the Parties. The School will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Four approaches to Informal Resolution are detailed in this section.

- 1) **Supportive Resolution.** When the Title VI & Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation. Supportive Resolution involves only the party who opts for it.
- 2) **Educational Conversation.** When the Title VI & Title IX Coordinator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.
- 3) **Accepted Responsibility.** When the Respondent accepts responsibility for violating Policy and accepts the recommended sanction(s), and the Complainant(s) and Recipient are agreeable to the resolution terms.
- 4) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

It is not necessary to pursue Informal Resolution first in order to pursue an Administrative Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Administrative Resolution Process.



The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Administrative Resolution Process should Informal Resolution not be successful.

If an investigation is already underway, the Title VI & Title IX Coordinator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Prior to implementing Informal Resolution, the School will provide the Parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the School.

### Informal Resolution Approaches

#### **(1) Supportive Resolution**

Most commonly offered once a complaint is filed (whereas supportive measures, as described in [Section 9](#) of the Policy, are offered in response to Notice). The Title VI & Title IX Coordinator will meet with the Complainant to determine reasonable supports that are designed to restore or preserve the Complainant's access to the School's education program and activity. Such supports can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Title VI & Title IX Coordinator may also provide reasonable supports for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Title VI & Title IX Coordinator does not believe there is a need to sign a complaint. At the discretion of the Title VI & Title IX Coordinator, this resolution option can result in an agreement between the Complainant and the School that does not require assent from any other party, as long as it does not unduly burden any other party or function punitively with respect to them.

#### **(2) Educational Conversation**

The Complainant(s) may request that the Title VI & Title IX Coordinator address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent's decision not to attend, the Title VI & Title IX Coordinator may also implement remedial

actions to ensure that policies and expectations are clear and to minimize the risk of the recurrence of any behaviors that may not align with Policy.

### **(3) Accepted Responsibility**

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Administrative Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title VI & Title IX Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Title VI & Title IX Coordinator will determine whether all Parties and the School are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title VI & Title IX Coordinator implements the accepted finding that the Respondent is in violation of Iliff Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Administrative Resolution Process will either begin or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the Discrimination or Harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

### **(4) Alternative Resolution**

The institution offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Title VI & Title IX Coordinator or other appropriate Iliff officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

The Title VI & Title IX Coordinator may consider the following factors to assess whether alternative resolution is appropriate, or which form of alternative resolution may be most successful for the Parties:

- The Parties' amenability to alternative resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether interim action is needed
- Skill of the alternative resolution facilitator with this type of Complaint
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties
- Adequate resources to invest in alternative resolution (e.g., time, staff)

The Title VI & Title IX Coordinator has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Title VI & Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The Title VI & Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Administrative Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). Where the failure to abide by the Informal Resolution agreement terms results in a failure to remedy a Policy violation, the Administrator must consider whether to dissolve the agreement and reinstate the Administrative Resolution Process to remedy the impact as required by law. The results of reports resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, the School will initiate or continue an investigation and subsequent Administrative Resolution Process to determine whether the Policy has been violated.

## **B. Administrative Resolution Process**

Administrative Resolution can be pursued at any time during the process for any behavior for which the Respondent has not accepted responsibility that would constitute conduct covered by the Policy if proven. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the Title VI & Title IX Coordinator will provide written notification of the investigation to the Parties at an appropriate time during the investigation. Typically, notice is given at least two (2) business days in advance of an interview. Advanced notice facilitates the Parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Written notification will include a meaningful summary of the allegations and the policies alleged to have been violated and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official Recipient records, or emailed to the Parties' Iliff-issued or other approved email account. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

The School aims to complete all investigations within a sixty (60)-business-day time period, which can be extended by the Title VI & Title IX Coordinator as necessary for appropriate cause. Investigations can take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

Once an investigation is initiated, the Title VI & Title IX Coordinator appoints an Investigator(s) to conduct it. These Investigators may be members of the Pool, or any other properly trained Investigator, whether internal or external to the Iliff community.

The School will make a good faith effort to complete the investigation as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the investigation.

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

All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all available, relevant Parties and witnesses, obtaining Relevant Evidence, and identifying sources of expert information, as necessary.

## **7. Resolution Process Pool**

The School relies on a pool of external, trained third-party neutral professionals (the “Pool”) to carry out the resolution options.

### **A. Pool Member Roles**

Pool members are trained annually, and can serve in any of the following roles, at the Title VI & Title IX Coordinator’s discretion:

- Appropriate intake of and initial guidance pertaining to Notice
- Perform or assist with initial assessment
- Advisor to Parties
- Informal Resolution Facilitator
- Investigator
- Decision-maker
- Appeal Decision-maker

### **B. Pool Member Appointment**

The Title VI & Title IX Coordinator, in consultation with senior administrators as necessary, appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different complaints, the School can also designate permanent roles for individuals in the Pool.

## **8. Notice of Investigation and Allegations**

The Title VI and Title IX Coordinator will provide the Parties written Notice of the Investigation and Allegations (the “NOIA”) upon commencement of the Administrative Resolution Process. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA will include:

- A meaningful summary of all allegations
- The names of the involved Parties (if known)

- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the School presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a Final Determination that the Policy has been violated
- The name(s) of the Investigator(s), along with a process to notify the Title VI & Title IX Coordinator of any conflict of interest that the Investigator(s) may have in advance of the interview process
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all Relevant Evidence obtained
- A statement of the potential sanctions/responsive actions that could result
- A statement about the School's policy on Retaliation
- Information about process confidentiality
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor
- A statement informing the Parties that the School's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Administrative Resolution Process
- Information about how a party may request disability accommodations or other support assistance during the Administrative Resolution Process
- A link to the Recipient's VAWA Brochure, if applicable
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address(es) as indicated in official Recipient records, or emailed to the Parties' liff-issued email or other approved accounts. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

## **9. Resolution Timeline**

The School will make a good faith effort to complete the Administrative Resolution Process within thirty to sixty (30-60) business days, including any appeals, which the Title VI & Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Administrative Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

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

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

The School will make a good faith effort to complete the Administrative Resolution Process as promptly as circumstances permit and will regularly communicate with the Parties to update them on the progress and timing of the process.

#### **10. Ensuring Impartiality**

No individual materially involved in the administration of the Administrative Resolution Process, including the Title VI & Title IX Coordinator, Investigator(s), and Decision-maker(s), may have or demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title VI & Title IX Coordinator will vet the assigned Investigator(s), Decision-maker(s), and Appeal Decision-maker(s) for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The Parties may raise a concern regarding bias or conflict of interest at any time during the Administrative Resolution Process, and the Title VI & Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member, or other trained individual, will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title VI & Title IX Coordinator, concerns should be raised with the School's president.

The Administrative Resolution Process involves an objective evaluation of all Relevant Evidence obtained, including evidence that supports that the Respondent violated the Policy and evidence that supports that the Respondent did not violate the Policy. Credibility determinations will not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written Investigation Report that accurately summarizes this evidence.

## **11. Investigation**

All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all available, relevant Parties and witnesses, obtaining Relevant Evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

The School may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondent(s), when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

Investigations involve the following:

- Determining the identity of and contacting all involved Parties and potential witnesses to participate in an investigation interview
- Identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses
- Providing written notification of the date, time, and location of all investigation meetings, including the expected participants and purpose
- Conducting any necessary follow-up interviews with Parties or witnesses
- Providing the Parties and witnesses an opportunity to verify the accuracy of either a summary or transcript of their interview(s)
- Soliciting the names of suggested witnesses and questions each party wishes to have asked of another party or witness
- Writing a Draft Investigation Report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and party and witness interviews, and provides all Relevant Evidence
- Providing the Parties and their respective Advisors an electronic or hard copy of the Draft Investigation Report for a ten (10) business-day review and comment period so that each party may meaningfully respond to the evidence. The Parties may elect to waive the full ten (10) days.
- Incorporating any new, Relevant Evidence and information obtained through the Parties' review of the Draft Investigation Report and any follow-up meetings into the Final Investigation Report
- Responding in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report



Sharing the Final Investigation Report with the Title VI & Title IX Coordinator and/or legal counsel for their review and feedback

- Providing the Title VI & Title IX Coordinator with the Final Investigation Report, including recommending Findings and a Final Determination of whether the Respondent violated the Policy

## **12. Investigation Process Details**

### **A. Witness Role and Participation in the Investigation**

Witnesses who are Recipient Employees are strongly encouraged to cooperate with and participate in the Recipient's investigation and Administrative Resolution Process. Student witnesses and witnesses from outside the School community are encouraged to cooperate with Iliff investigations and to share what they know about a complaint.

Party and/or witness interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, WebEx), or, in limited circumstances, by telephone. The School will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

### **B. Interview Recording**

It is standard practice for Investigators to create a record of all interviews pertaining to the Administrative Resolution Process, by recording, transcript, or written summary. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

All interviews are recorded, and all involved persons should be made aware of the audio and/or video recording. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may suggest additional questions to be asked of another party or witness or additional witnesses. Those subsequent meetings or interviews are also recorded and/or transcribed.

### **C. Evidentiary Considerations**

The Parties must provide all evidence to the Investigator(s) prior to completion of the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant, the Decision-maker may proceed with making Findings and a Final Determination absent the new evidence.

The new Relevant Evidence will be admitted to the record if:

- All Parties and the Decision-maker assent to the new evidence being considered without remanding the matter back to the Investigator,
- The evidence is not duplicative of evidence already in the record, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Provide the Parties with at least five (5) business days to review the Relevant Evidence
- Remand the matter back to the Investigator for further investigation or analysis
- Allow the Parties time to review and comment on the new evidence

If the evidence is deemed not relevant, the Decision-maker may proceed with making Findings and a Final Determination without allowing the new evidence.

Any evidence that is relevant and credible may be considered, including a Respondent's prior disciplinary history as well as evidence indicating a pattern of misconduct, subject to the limitation in (D) below. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

#### **D. Evidentiary Exclusions**

Unless the Decision-maker determines it is appropriate, the investigation and the Finding do not consider: (1) incidents not directly related to the possible violation(s), unless they evidence a pattern; (2) the irrelevant sexual behavior of the Parties (though there may be a limited exception made with regard to the sexual behavior between the Parties); (3) irrelevant character evidence.

Although the Respondent's previous conduct violations (if any) are not generally admissible as information supporting the current allegation(s), the Investigator(s) may supply the Decision-maker with information about previous good faith allegations and/or findings when that information suggests potential pattern and/or predatory conduct.

Character witnesses or evidence may be offered. The Decision-maker will determine if the character evidence is relevant. If so, it may be considered. If not, it will be excluded.

A party or witness's records that are made or maintained by a physician, psychologist, or psychiatrist are inadmissible unless the party or witness provides voluntary, written consent for the records to be considered.

### **13. Respondent Admits Responsibility**

If a Respondent elects to admit to the charged violations and waive further process at any point in the Administrative Resolution Process, the Decision-maker is authorized to accept that admission, adopt it as their Finding/Final Determination, and administer sanctions. This would waive the Respondent's right to appeal. If the Respondent rejects the Finding/Final Determination/sanctions, or does not admit to all charged violations, the Administrative Resolution Process continues to its conclusion. The Complainant retains their right to appeal a Final Determination when a Respondent admits responsibility.

### **14. Determination**

Within two to three (2-3) business days of receiving the Investigator's Final Investigation Report, the Title VI & Title IX Coordinator reviews the report and all responses, and then makes the Final Determination by applying the standard of evidence.

If the record is incomplete, the Decision-maker may direct the Investigator(s) to re-open the investigation, or may direct or conduct any additional inquiry necessary, including meeting informally with the Parties or any witnesses if needed.

The Decision-maker may invite and consider impact and/or mitigation statements from the Parties when determining appropriate sanction(s), if any.

### **15. Notice of Outcome**

The Title VI & Title IX Coordinator will provide the Parties a written outcome notification within three (3) business days of the Resolution. The outcome notification will specify the Finding for each alleged Policy violation, any sanction(s) that may result, which the School is permitted to share pursuant to federal or state law, and a detailed rationale, written by the Decision-maker, supporting the Findings to the extent the School is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no party appeals. Unless based on the Respondent's admission of responsibility, the Determination may be appealed by any party.

The Administrator will provide the Parties with the outcome notification, or without significant time delay between notifications. Notice may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official

Recipient records, or emailed to the Parties' Iliff-issued or other approved email account. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

## **16. Sanctions**

Factors the Decision-maker may consider when determining sanctions and responsive action include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct
- The need for sanctions/responsive actions to prevent the future recurrence of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct
- The need to remedy the effects of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct on the Complainant and the community
- The impact on the Parties
- The Respondent's acknowledgement of responsibility or contrition
- Any other information deemed relevant by the Decision-maker

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

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

### **A. Student Sanctions**

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

- *Reprimand*: A formal statement that the conduct was unacceptable and a warning that further violation of any School policy, procedure, or directive will result in more severe sanctions/responsive actions
- *Required Counseling*: A mandate to meet with and engage in either Iliff-sponsored or external counseling to better comprehend the misconduct and its effects
- *Restrictions*: A Student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or holding leadership roles in student organizations

- *Probation*: An official sanction for violation of School policy, providing for more severe disciplinary sanctions if the Student is found in violation of any Iliff policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Separation from the School, or one or more of its facilities, for a defined period of time, typically not to exceed two (2) years, after which the Student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the Student is eligible to return if the School determines it is appropriate to re-enroll/readmit the Student. The Student is typically required to vacate Iliff property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Title VI & Title IX Coordinator or other appropriate official. During a School-wide suspension, the Student is banned from Iliff property, functions, events, and activities unless they receive prior written approval from an appropriate Iliff official. This sanction may be enforced with a trespass action, as necessary.
- *Expulsion*: Permanent separation from the School. The Student is banned from School property, and the Student's presence at any Iliff-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary.
- *Withholding Diploma*: The School may withhold a Student's diploma for a specified period of time and/or deny a Student participation in commencement activities as a sanction if the Student is found responsible for violating the Policy
- *Revocation of Degree*: While very rarely exercised, the School reserves the right to revoke a degree previously awarded by the School for fraud, misrepresentation, and/or other violation of School policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a Student prior to graduation. Revocation can occur when the offense would have otherwise resulted in expulsion if the Respondent were still a student. Delay of degree certification is applicable for any situation that would have resulted in suspension of the Respondent if the Respondent were still a student, and the degree will only be conferred once the degree suspension period is completed. The degree suspension period is usually implemented for the same length of time for which a sanction of suspension would have been imposed if Respondent were still enrolled.
- *Other Actions*: In addition to, or in place of, the above sanctions, the School may assign any other sanctions as deemed appropriate

## **B. Student Organization Sanctions**

The following are the common sanctions that may be imposed upon student groups organizations singly or in combination:

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any School policy, procedure, or directive will result in more severe sanctions/responsive actions
- *Probation:* An official sanction for violation of School policy, providing for more severe disciplinary sanctions if the group or organization is found in violation of any School policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of School funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension:* Termination of student group or organization recognition and/or School support for a defined period of time not to exceed two (2) years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in Iliff-related activities, whether they occur on or off campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the School.
- *Expulsion:* Permanent termination of student group or organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason
- *Loss of Privileges:* Restricted from accessing specific Iliff privileges for a specified period of time
- *Other Actions:* In addition to, or in place of, the above sanctions, the School may assign any other sanctions as deemed appropriate

## **C. Employee Sanctions/Responsive/Corrective Actions**

Responsive actions for an Employee who has engaged in Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*

- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Delay of (or referral for delay of) Tenure Track Progress*
- *Assignment to a New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions: In addition to, or in place of, the above sanctions/responsive actions, the School may assign any other responsive actions as deemed appropriate*

## **17. Withdrawal or Resignation Before Complaint Resolution**

### **A. Students**

Should a Respondent decide not to participate in the Administrative Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a Student Respondent withdraws from the Recipient, the Administrative Resolution Process typically ends with a dismissal, as the Recipient has lost primary disciplinary jurisdiction over the withdrawn Student. However, the School may continue the Administrative Resolution Process when, at the discretion of the Title VI & Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

Regardless of whether the Formal Complaint is dismissed or pursued to completion of the Administrative Resolution Process, the School will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When a Student withdraws or takes a leave of absence while the process is pending, the Student may not return to the School in any capacity until the allegations are resolved and any sanctions imposed are satisfied. If the Student indicates they will not return, the Title VI & Title IX Coordinator has discretion to dismiss the allegations and bar the Student from returning. The Registrar, Office of Enrollment, and Human Resources may be notified accordingly.

If the Student Respondent takes a leave of absence for a specified period of time (e.g., one semester or term), the Administrative Resolution Process may continue remotely. If

found in violation, that Student is not permitted to return to Iliff unless and until all sanctions, if any, have been satisfied.

## **B. Employees**

Should an Employee Respondent decide not to participate in the Administrative Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an Employee Respondent leaves their employment with the School with unresolved allegations pending, the Administrative Resolution Process typically ends with dismissal, as the School has lost primary disciplinary jurisdiction over the former Employee. However, the School may continue the Administrative Resolution Process when, at the discretion of the Title VI & Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

Regardless of whether the allegations are dismissed or pursued to completion of the Administrative Resolution Process, the School will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When an Employee resigns and the allegations are dismissed, the Employee may not return to the School in any capacity. The Registrar, Office of Enrollment, and Human Resources will be notified accordingly. A note will be placed in the Employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with the School. The records retained by the Title VI & Title IX Coordinator will reflect that status.

## **18. Appeals**

The Title VI & Title IX Coordinator will designate an Appeal Decision-maker from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker will have been previously involved in the Administrative Resolution Process for the matter. The Title VI & Title IX Coordinator will designate a voting chair if a panel is used.

### **A. Appeal Grounds**

Appeals are limited to the following grounds:

- 1) A procedural irregularity affected the outcome of the matter
- 2) There is new evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter



- 3) The Title VI & Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter
- 4) The Decision-maker's Final Determination is substantially contrary to the weight of the evidence in the record (applicable to suspension, expulsion, or termination-level offenses only)
- 5) The sanctions fall outside the range of sanctions designated for this offense, considering the Respondent's cumulative conduct/disciplinary record (applicable to suspension, expulsion, or termination-level offenses only)

## **B. Appeal Request**

Any party may submit a written appeal request to the Title VI & Title IX Coordinator within five (5) business days of the delivery of the notice of outcome.

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

If the appeal request does not provide information that meets the grounds in the procedures, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the appeal request meets the grounds in the Procedures, then the Appeal Decision-maker will notify all Parties and their Advisors, the Title VI & Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Title VI & Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the appeal request with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that appeal request will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in the Procedures and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Title VI & Title IX Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will

be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified in writing.

No party may submit any new appeal request after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

### **C. Appeal Determination Process**

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the Finding/Final Determination only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the Finding and/or sanction(s).

The Appeal Decision-maker may consult with the Title VI & Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title VI & Title IX Coordinator will maintain documentation of all such consultation.

### **D. Appeal Outcome**

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the Title VI & Title IX Coordinator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new hearing with new Pool members serving in the Investigator and Decision-maker roles.

A notice of appeal outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. The appeal outcome letter will specify the Finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which the School is permitted to share according to federal or state law, and the rationale supporting the essential Findings to the extent the School is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official institutional records, or emailed to the Parties' Iliff-issued email or other approved account. Once mailed, emailed, and/or received in person, the appeal outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new Finding or sanction, that Finding or sanction can be appealed one final time on the grounds listed above and in accordance with the Procedures.

If a remand results in a new Finding or sanction that is different from the original Finding or sanction, that new Finding or sanction can be appealed, once, on any of the available appeal grounds.

#### **E. Sanction Status During the Appeal**

Any sanctions imposed as a result of the Final Determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the interim suspension procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within two (2) business days of implementation.

### **19. Long-Term Remedies/Actions**

Following the conclusion of the Administrative Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title VI & Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the Iliff community that are intended to stop the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct, remedy the effects, and prevent its recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Community education
- Permanent alteration of work arrangements for Employees

- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the Title VI & Title IX Coordinator's discretion, the Parties may be provided certain long-term support or measures even if no Policy violation is found.

When no Policy violation is found, the Title VI & Title IX Coordinator will address any remedies the School owes the Respondent to ensure no effective denial of educational access.

The School will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the School's ability to provide these services.

## **20. Failure to Comply with Sanctions and/or Responsive Actions**

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

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the School.

Supervisors are expected to enforce completion of sanctions/responsive actions for their Employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title VI & Title IX Coordinator's satisfaction.

## **21. Recordkeeping**

In implementing the Policy and Procedures, the Administrator will maintain records of all allegations, investigations, and Resolutions, indefinitely, or as required by federal or state law or institutional policy.

## **22. Statement of the Rights of the Parties (See Appendix E)**

### **23. Disability Accommodations**

Iliff is committed to providing reasonable accommodations and support to qualified Students, Employees, or others with disabilities to ensure equal access to the Schools's Resolution Process.

Anyone needing such accommodations or support should contact the Title VI & Title IX Coordinator, who will work with the ADA/504 Student Coordinator and/or the Human Resources Director as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

### **24. Other Support**

The School will address other reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout a resolution process
- Other support as deemed reasonable and necessary to facilitate participation in a resolution process

## **APPENDIX E: STATEMENT OF THE PARTIES' RIGHTS**

### **Under the Policy and Procedures, the Parties have the right to:**

- An equitable investigation and Resolution of all credible allegations of prohibited Discrimination, Harassment, Retaliation, and Other Prohibited Conduct, when reported in good faith to Iliff officials
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional reports or Formal Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations
- Be informed in advance of any Iliff public release of information regarding the allegation(s) or underlying incident(s), whenever possible
- Have all personally identifiable information protected from the School's release to the public without consent, except to the extent permitted by law
- Be treated with respect by Iliff officials
- Have Iliff Policy and Procedures followed without material deviation
- Voluntarily agree to resolve allegations under the Policy through Informal Resolution without Iliff pressure, if Informal Resolution is approved by the Title VI and Title IX Coordinator
- Not be discouraged by Iliff officials from reporting Discrimination, Harassment, Retaliation, and Other Prohibited Conduct to both on-campus and off-campus authorities
- Be informed of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) for the School to assist in notifying such authorities, if the party chooses. This also includes the right not to be pressured to report.
- Have Iliff security and/or other Iliff officials respond promptly to alleged Policy violations
- Be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, and/or other services, both on campus and in the community
- A School-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct
- Be informed of available assistance in changing academic and/or employment situations after an alleged incident of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct if such changes are reasonably available. No report or Formal

Complaint, or investigation, either institutional or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:

- Changing an Employee's work environment (e.g., reporting structure, office/workspace relocation)
- Transportation assistance
- Visa/immigration assistance, if available
- Rescheduling or adjusting an exam, paper, and/or assignment
- Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
- Transferring class sections
- Temporary withdrawal/leave of absence (may be retroactive)
- Campus safety escorts
- Alternative course completion options
- Have the School maintain supportive measures for as long as necessary, ensuring they remain confidential, provided confidentiality does not impair the School's ability to provide the supportive measures or comply with the law
- Receive sufficiently advanced written notice of any School meetings or interviews involving another party, when possible
- Identify and have the Investigator(s), Advisors, and/or Decision-maker question relevant available witnesses, including expert witnesses
- Provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant by the Investigator(s)/Decision-maker, may be asked of any party or witness
- Have Complainant's inadmissible sexual predisposition/prior sexual behavior or any party's irrelevant character evidence excluded by the Decision-maker
- Review the Relevant and Directly Related Evidence (if applicable) obtained and respond to that evidence
- A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record
- Receive a copy of all Relevant and Directly Related Evidence (if applicable) obtained during the investigation, subject to privacy limitations imposed by federal and state law, and a ten (10)-business-day period to review and comment on the evidence
- Receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed, and to have at least ten (10) business days to review and comment on the report prior to a hearing
- Be informed of the names of all witnesses whose information will be used to make a Finding, in advance of that Finding, when relevant
- Regular status updates on the investigation and/or resolution process
- Have reports of alleged Policy violations addressed by Pool members, or others, who have received relevant annual training as required
- A Decision-making panel that is not single Sex in its composition, if a panel is used
- Preservation of confidentiality/privacy, to the extent possible and permitted by law

- Meetings, interviews, and/or hearings that are closed to the public
- Petition that any School representative in the process be recused on the basis of disqualifying bias and/or a conflict of interest
- Be able to select an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process
- Apply the appropriate standard of evidence, preponderance of the evidence, to make a Finding and Final Determination after an objective evaluation of all Relevant Evidence
- Be present, including presence via remote technology, during all testimony given and evidence presented during any hearing
- Have an impact and/or mitigation statement considered by the Decision-maker following a Final Determination of responsibility for any allegation, but prior to sanctioning
- Be promptly informed of the resolution process Finding(s) and sanction(s) (if any) and be given a detailed rationale for the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay)
- Be informed in writing of when a School decision is considered final and any changes to the Final Determination or sanction(s) that occur post outcome letter delivery
- Be informed of the opportunity to appeal the Finding(s) and sanction(s) and the procedures for doing so in accordance with the School's appeal grounds
- A fundamentally fair resolution as defined in the Procedures



## **APPENDIX F: PRIVACY AND CONFIDENTIALITY**

For the purpose of the Policy, privacy and confidentiality have distinct meanings.

**Privacy** means that information related to Notice or a Formal Complaint will be shared with a limited number of School Employees who “need to know” in order to assist in the assessment, investigation, and resolution of the Formal Complaint. All Employees who are involved in the School’s response to Notice under the Policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of Student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), as outlined in the School’s Student Records Policy. The privacy of Employee records will be protected in accordance with Human Resources policies.

**Confidentiality** exists in the context of laws (including Title IX) that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. See [Section 6](#) of the Policy for more information about Confidential Resources.

When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (1) the individual gives written consent for its disclosure; (2) there is a concern that the individual will likely cause serious physical harm to self or others; or (3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Confidential Resources may share non-identifiable information for statistical tracking purposes as required by the federal Clergy Act. Other information may be shared as required by law.

## **APPENDIX G: MODEL UNETHICAL RELATIONSHIPS POLICY**

### **Expectations Regarding Unethical Relationships**

There are inherent risks in any romantic or sexual relationship between persons in unequal positions, such as Faculty member-Student or supervisor-Employee. In reality, these relationships may be less consensual than perceived by the person whose position confers power or authority. Similarly, each of the Parties may view the relationship differently, particularly in retrospect. Circumstances may change, and once welcome conduct may become unwelcome at some point in the relationship.

Even when the Parties have initially consented to romantic or sexual involvement, the possibility of a later allegation of a policy violation still exists. The Recipient does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the Recipient's goals and policies. However, for the personal protection of members of this community, relationships in which power differentials are inherent (e.g., Faculty-Student, Employee-Student) are generally discouraged. They may also violate standards of professionalism and/or professional ethics.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or otherwise evaluative role over the other party are inherently problematic. Therefore, persons with direct supervisory or otherwise evaluative responsibilities who are involved in such relationships must promptly inform their supervisor and/or the Administrator. The existence of this type of relationship will likely result in removing the supervisory or evaluative responsibilities from the Employee or shifting a party from being supervised or evaluated by someone with whom they have established a consensual relationship. When an applicable relationship existed prior to adoption of the Policy or prior to employment, the duty to notify the appropriate supervisor still pertains.

While no relationships are specifically prohibited by the Policy, failure to timely self-report such relationships to a supervisor as required can result in disciplinary action for an Employee. The Administrator will determine whether to refer violations of this provision to Human Resources for resolution, or to pursue resolution under the Policy, based on the circumstances of the allegation.

## **APPENDIX H: FREEDOM OF EXPRESSION, PROTESTS, DEMONSTRATIONS, AND POSTINGS**

Iliff supports the principles and rights related to peaceful and open dialogue, expression, and academic freedom, but also recognizes that those rights are limited, and do not extend to behavior prohibited by Iliff's other policies, or that meets any of the following criteria:

- Does not respect Iliff's reasonable time, place, and manner regulations
- Creates a substantial disruption to Iliff's Education Program and Activities
- Constitutes Discrimination or Harassment on the ground of Race, Color, or National Origin
- Constitutes Bullying, Endangerment, or Retaliation
- Uses tents, barriers, or walls not provided by the Iliff, or for purposes not authorized by Iliff
- Obstructs, blocks, or impedes entrances, exits, or pedestrian or vehicular traffic or movement
- Occurs in areas of campus unauthorized for protest, demonstration, or access
- Uses unauthorized open flames (e.g., torches, fires, oil lamps)
- Uses amplified sound or voice in a manner that conflicts with School policies
- Is violent, threatening, destructive, damaging, or defacing; incites violence; or endangers the health or safety of Students, Employees, and third parties
- Violates Iliff's other policies, including, but not limited to Student Conduct Code, Employee Handbook, Campus Event, postings, acceptable use, failure to comply, unauthorized entry, etc., criminal conduct, or other policy violations, or federal or state law or regulations

In some instances, such as when the misconduct persists; involves or incites violence, threats, endangerment, destruction, or damage; or prompts DU Campus Safety, or other local, state, or federal officials to become involved.

## **APPENDIX I: INTERNATIONAL HOLOCAUST REMEMBRANCE ALLIANCE DEFINITION**

For many schools and colleges, there is a unified recognition of our shared obligation to address all forms of Discrimination, Harassment, and Retaliation. When it comes to Antisemitism, however, the federal government has recognized a longstanding equal protection issue that it has sought to correct: while Title VI of the Civil Rights Act of 1964 requires schools to ensure their programs and activities are free from Discrimination, Harassment, and intimidation on the grounds of Race, Color, and National Origin, because Jewish identity is so multifaceted, without a universally accepted definition for administrators to reference, Antisemitism may occur without redress because of ambiguity in identifying Antisemitic acts on the ground of any particular characteristic.

As of the promulgation of this model policy in Summer 2025, the Executive Branch of the federal government has made the eradication of Antisemitism in education a top priority, and all schools and colleges should share that goal as part of their interest in creating a welcoming and inclusive educational and employment environment. To that end, the federal government has issued an Executive Order directing federal agencies to consider the IHRA definition of Antisemitism when assessing Title VI complaints, and the Department of Education has made clear that it expects any institution receiving federal funds to do the same pursuant to their affirmative obligation under federal law (34 C.F.R. § 100.4). ATIXA's goal with this model template is to help ensure that all forms of Discrimination, Harassment, Retaliation, and Other Prohibited Conduct merit the same time, attention, effective resolutions, and remedies, without exception.

As a result, ATIXA has embraced this definition as part of a comprehensive approach to Title VI compliance. It is also worth noting that, notwithstanding the above, the importance of clarity in such definitions is not entirely unique to Antisemitism. To the extent that any other group feels that it is being routinely and systemically discriminated against, and that there is a need for a uniform consensus definition to clarify what is and is not bias-motivated illegal conduct, that group's concerns should likewise be addressed. As the U.S. Department of Education's Office for Civil Rights has explained, "We must remain particularly attentive to the claims of students who may be targeted for harassment based on their membership in groups that exhibit both ethnic and religious characteristics, such as Arab Muslims, Jewish Americans, and Sikhs."<sup>34</sup> Indeed, several other groups are also working on IHRA-inspired definitions.<sup>35</sup>

It is also important to clarify that the use of IHRA should not, and indeed cannot, in any way, restrict or prohibit lawful expression. The use of the IHRA definition does not add any new crimes, classes, punishments, or enhancements, or revise any of the well-established standards and long-standing rules for determining what is or is not considered conduct versus speech in the context of Title VI violations. It simply defines a term within the context of Title VI, which

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<sup>34</sup> <https://www.ed.gov/about/offices/list/ocr/religious-rights2004.html>

<sup>35</sup> <https://www.hinduamerican.org/hinduphobia>

regulates behavior (not speech), and ensures that already existing rules will be consistently applied as intended.

While the IHRA definition of Antisemitism is not to be used as an “offense” with which someone can be charged and held accountable under this policy, it informs how institutions should define Antisemitism, and administrators and other decision-makers should respond to Title VI violations, when such conduct rises to a level that warrants discipline (i.e., when it is motivated by Antisemitism and is therefore Discrimination, Harassment, Retaliation or Other Prohibited Conduct arising from Antisemitism).

Practically speaking, what the Executive Order requires schools to do is quite narrow. All it does is ensures that when analyzing the intent behind unlawful discriminatory *actions* (not speech) that target Jewish people under Title VI, *when* there is an allegation that the victim was chosen because of an aspect of their Jewish identity, authorities should *consider* (as rebuttable, contextual evidence) the world's most well-accepted definition of Antisemitism. We offer it here, with credit and gratitude to IHRA, for that purpose and because its examples are usefully illustrative, when balanced with First Amendment protections.

This is the 2016 IHRA definition, in full:

**“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non- Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”**

To guide IHRA in its work, the following examples may serve as illustrations: Manifestations might include the targeting of the state of Israel, conceived as a Jewish collectivity. However, criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic. Antisemitism frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for “why things go wrong.” It is expressed in speech, writing, visual forms and action, and employs sinister stereotypes and negative character traits.

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.

- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
- Denying the fact, scope, mechanisms (e.g., gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the state of Israel.

**Antisemitic acts are criminal** when they are so defined by law (for example, denial of the Holocaust or distribution of antisemitic materials in some countries).

**Criminal acts are antisemitic** when the targets of attacks, whether they are people or property – such as buildings, schools, places of worship and cemeteries – are selected because they are, or are perceived to be, Jewish or linked to Jews.

**Antisemitic discrimination** is the denial to Jews of opportunities or services available to others and is illegal in many countries.”<sup>36</sup>

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<sup>36</sup> <https://holocaustremembrance.com/resources/working-definition-antisemitism>