

# 2020 Sexual/Gender-Based Misconduct, Domestic/Dating Violence, and Stalking

## POST UNIVERSITY STATEMENT OF SEXUAL VALUES

Post University is committed to providing a learning, working and living environment that is open, supportive, and safe. As a community, this University will not tolerate sexual/gender-based misconduct of any kind. Post University expressly prohibits the sexual/gender-based misconduct noted below, and those found engaging in it will be subject to University disciplinary action and may be subject to criminal charges and prosecution under Federal and State laws.

This policy informs the Post University community of our values and outlines violations of a sexual/gender-based nature. This policy identifies one's rights, options, and resources, and describes actions individuals may take if they experience an incident of sexual misconduct, domestic/dating violence, and stalking or are accused of those violations.

Post University recognizes that part of a student's development at the University may include learning and understanding themselves as sexual individuals. Post University also respects and upholds the principle that not all students find it necessary to explore their sexual nature or sexuality. Post therefore aims to provide an environment that is comfortable and respectful of all students regarding sex and their sexuality. Understanding and applying this policy to the behavior and behavioral expectations of all members of the community helps to ensure Post's goal of being a safe, open community regarding sexuality. Failure to comply with this policy may result in a complaint of sexual/gender-based misconduct.

Post University strives to promote an environment where mutual respect, communication, cultural competency, understanding and awareness are the foundation for any sexual behavior or activity. Mutual respect and communication are keys to maintaining each student's personal integrity when engaging in relational and sexual behavior.

Post University must comply with Title IX of the Education Amendments of 1972, which prohibits discrimination (including sexual harassment and sexual violence) based on sex in the University's educational programs and activities. Title IX also prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. Post University has designated a Title IX Coordinator to coordinate Post's compliance with and response to inquiries concerning Title IX.

For more information about Title IX, please contact the University's Director of Title IX and Disability Services, Jennifer Labate, at (203) 596-6027, [JLabate@Post.edu](mailto:JLabate@Post.edu), 800 Country Club Road, Waterbury, CT 06723. One may also contact the Title IX and Disability Assistant Coordinator, Rachel Powell, at (203) 591-5231, or the Deputy Title IX/Sexual Misconduct Response Coordinators, Karin Mann, at (203) 596-4669, and Crystal Vuole at (203) 596-4553. A complaint may also be filed with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting [www2.ed.gov/about/offices/list/ocr/complaintintro.html](http://www2.ed.gov/about/offices/list/ocr/complaintintro.html) or calling (800) 421-3481.

The Post University Annual Security Report is available online <https://post.edu/security-report> and a printed copy of the report is available, upon request, at the Campus Security office.

## SEXUAL/GENDER-BASED MISCONDUCT VIOLATION DEFINITIONS

Post University prohibits conduct on the basis of sex that satisfies one or more of the following:

- 1) An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
- 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or

- 3) Sexual assault, defined as:  
Sex Offenses—Any sexual act directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent.
- Rape - Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
  - Sexual Assault With An Object - To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the Complainant.
  - Fondling - The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, without the consent of the Complainant.
  - Incest - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Connecticut law.
  - Statutory Rape - Sexual intercourse with a person who is under 16 years old, the statutory age of consent.
- 4) Dating Violence, defined as: violence committed by a person who is 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.
- 5) Domestic Violence, defined as: a felony or misdemeanor crime of violence committed—
- By a current or former spouse or intimate partner of the Complainant;
  - By a person with whom the Complainant shares a child in common;
  - By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
  - By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Connecticut;
  - 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 Connecticut.

Domestic Violence and Dating Violence may be physical, sexual, emotional, economic, technological or psychological actions or threats that influence another person. They include a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner.

Forms include:

- Physical abuse refers to actions that threaten or harm an intimate or romantic partner's physical safety.
- Sexual abuse (see sexual assault).
- Emotional abuse includes words and/or actions, which manipulate or hurt an individual emotionally and psychologically.
- Economic abuse includes words and/or actions which restrict a person's access to money, assets, credit, or financial information; unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.
- Technological abuse includes an act or pattern of behavior that is intended to harm, threaten, intimidate, control, stalk harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras

and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

- Verbal abuse is the use of words or the withholding of conversation to manipulate and/or hurt a romantic or intimate partner.
- Spiritual abuse refers to the utilization of a partner's spiritual or religious beliefs to manipulate and/or hurt a partner. It may also include forcing or preventing a partner to practice certain beliefs.

Examples may include, but not be limited to, the following:

- Leaving their partner somewhere with no way to get home.
- Pulling hair or pinching skin as a form of punishment.
- Blocking a partner's exit when they try to leave the room.
- Throwing, smashing, or breaking objects.
- Hitting, punching, grabbing, choking or pushing their partner.
- Saying their partner is crazy, ugly, stupid, etc.
- Constantly calling or texting their partner when they are not together.
- Threatening to "out" the partner if in a same-sex relationship.
- Insisting on always knowing the location of their partner.
- Refusing to acknowledge a problem that their partner feels is important.
- Persuading partner from doing something they want to do.
- Insisting how their partner should dress.
- Calling someone degrading names.
- Withholding sex and/or affection as a form of punishment.
- Forcing another faith practice on their partner.
- Mocking, ridiculing, or insulting their partner's religious or spiritual beliefs.
- Excessively criticizing how their partner spends their money.

- 6) Stalking, defined as: engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
- Fear for the person's safety or the safety of others; or
  - Suffer substantial emotional distress.

For the purposes of this definition—

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

Stalking can include:

- a. Repeated, unwanted, intrusive, and frightening communications by phone, mail, e-mail, text, social media, etc.
- b. Following or lying in wait at places such as home, school, work, or recreation place.
- c. Repeatedly leaving or sending unwanted items or presents.
- d. Making direct or indirect threats of harm against the Complainant, their children, relatives, friends, or pets.
- e. Damaging or threatening to damage the Complainant's property.
- f. Harassing the Complainant through the Internet.
- g. Posting information or spreading rumors about the Complainant on the Internet, in a public place, or by word of mouth.
- h. Obtaining personal information about the Complainant (outside the context of a conduct process) by accessing public records, using Internet search services, hiring private investigators, going

through their garbage, following them, contacting their friends, family, work, or neighbors, etc.

To an outsider, stalking behavior can appear friendly and unthreatening, such as showering the Complainant with gifts or flattering messages. The Complainant may find themselves needing to explain to others just how intrusive and frightening unwanted attention can be. Stalking is sometimes dismissed when it is done via technology (cell phones, computers, networking sites, surveillance equipment, and so on), but the medium is not what matters—it is the pattern of repeated, unwanted communication.

7. *Sexual Exploitation*: Sexual Exploitation is taking nonconsensual, unjust, or abusive advantage of another in a sexual or intimate context. Sexual exploitation includes, but it is not limited to sexting, prostituting another person; engaging in permitting, reproducing, or facilitating nonconsensual viewing, videotaping, photographing, or audio taping of sexual or intimate activity; knowingly infecting another person with a sexually transmitted disease; or secretly giving another person or pushing another person to use drugs or alcohol to make the person submit to sexual activity.
8. *Sexual Harassment*: Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and any other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical or otherwise when one or more of the following conditions are present:
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education, evaluation of a student's academic performance, or term or condition of participation in student activities or in other events or activities sanctioned by the University;
  - b. Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions or other decisions about participation in student activities or other events or activities sanctioned by the University;
  - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive work or educational environment.
9. *Gender-Based Harassment*: *Gender-based harassment* includes harassment based on sex or gender, sexual orientation, gender identity, or gender expression, which may include acts of intimidation or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature. Gender-based harassment can occur if individuals are harassed either for exhibiting what is perceived as a stereotypical characteristic of their sex or for failing to conform to stereotypical notions of masculinity or femininity. To constitute harassment, the conduct must unreasonably interfere with another person's education or participation in the educational programs or activities or create an intimidating, hostile, demeaning, or offensive academic or living environment.
10. *Attempted Act*: Any attempts to commit sexual/gender-based misconduct are also prohibited under this policy, as is aiding in the acts of sexual/gender-based misconduct as an accomplice.
11. *Retaliation*: Retaliation is prohibited against any individual who has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under regulations implementing Title IX. Independent action may be taken against anyone engaging in retaliation. This includes any Complainants, Respondents, witnesses, Advisors, or any Sexual Misconduct Board Members. The exercise of rights under the First Amendment does not constitute retaliation. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation.

#### **AFFIRMATIVE CONSENT AND RELATED DEFINITIONS**

1. *Affirmative Consent*: Affirmative consent is the equal approval, given freely, willingly, and knowingly of each participant to desired sexual involvement. Consent is an affirmative, conscious decision, indicated clearly by words or actions to engage in mutually accepted sexual contact. Affirmative consent may be revoked at any time during the sexual activity by any person engaged in the sexual activity. It is the

responsibility of each person to ensure that he or she has the affirmative consent of all persons engaged in the sexual activity to engage in the sexual activity and that the affirmative consent is sustained throughout the sexual activity. The existence of a past or current dating or sexual relationship between the student or employee reporting or disclosing the alleged violation and the responding student and employee, in and of itself, shall not be determinative of a finding of affirmative consent. A person forced to engage in sexual contact by force, threat of force, or coercion has not consented to contact. Lack of mutual affirmative consent is the crucial factor in any sexual assault. If there is confusion or ambiguity, participants in sexual activity need to stop and verbally clarify each person's willingness to continue.

2. Consent CANNOT be given if a person's ability to consent is substantially impaired because of a mental or physical condition. Examples of such mental or physical conditions include, but are not limited to incapacitation, unconsciousness, coercion, physical force, substantial impairment because of a psychological health condition, substantial impairment because of voluntary intoxication; or substantial impairment because of the deceptive administration of any drug, intoxicant or controlled substance. Mutual intoxication or substance impairment does not exonerate any individual nor lessens the consequences. Consent can NEVER be given by anyone under the age of sixteen.
3. *Coercion*: Unlike seduction, coercion involves unreasonable and unwanted pressure to engage in sexual activity. Engaging in sexual activity should be the result of a freely given choice. Persons should engage in sexual activity because they want to do so, and not because someone has pressured them into it. Threatening and pressuring someone until they finally say "Okay, just get it over with" does not mean an individual has obtained consent.
4. *Incapacitation*: Incapacitation means being in a state where a person lacks the capacity to appreciate the fact that the situation is sexual or cannot appreciate (rationally or reasonably) the nature and/or extent of the situation. A person who knows or should reasonably have known that another person is incapacitated may not engage in sexual activity with that person.

A person's state of incapacity is a subjective determination that will be made after the incident considering all the facts available because people reach incapacitation at different points and as a result of different stimuli. They exhibit incapacity in different ways. The following factors bear on incapacity:

- Body weight, height, and size
- Tolerance for alcohol and other drugs
- Amount and type of alcohol or other drugs consumed, and the mixture taken
- Amount of food intake before consumption
- Voluntariness of consumption
- Vomiting
- Propensity for blacking out (mentally or physically)
- Genetics

Alcohol-related incapacity results from a level of alcohol ingestion that is more severe than impairment, being under the influence, drunkenness or intoxication. It is less severe than alcohol poisoning or overdose, which may lead to coma or death. Evidence of incapacity may be detected from context clues, such as:

- Slurred speech
- Bloodshot eyes
- The smell of alcohol on their breath
- Shaky equilibrium
- Vomiting
- Outrageous or unusual behavior
- Unconsciousness

None of these facts, except for sleep or unconsciousness, will constitute – in and of itself –incapacitation. Indications of consent are irrelevant if the initiator knows or should reasonably have known of the incapacity of another person.

## **IF YOU BELIEVE THAT AN INCIDENT HAS OCCURRED**

Post University is committed to providing support and services in order to help you through this process. A student who has experienced an incident of sexual/gender-based misconduct, domestic/dating violence, or stalking should seek help, support, and information. There are many sources for information, assistance and support. If you have experienced such an incident, you should consider the following immediate actions:

- Remember, you are not alone, and this is not your fault.
- Try to get to a safe place.
- Consider notifying a member of Residence Life, Campus Security, Mental Health and Wellness Services, Health Services or the Title IX Coordinator. Many of these resources have after-hours and emergency contacts (see chart in the Student Handbook for contact information).
- You have the right to notify law enforcement, file a report, or obtain a protective order, apply for a temporary restraining order or seek enforcement of an existing protective or restraining order. You may also have a campus authority make a notification for you. Campus authorities will also honor any lawful protective or temporary restraining orders.
- If you have been assaulted, try to avoid showering, bathing, douching, urinating, or cleaning up in any way. This will prevent the loss of valuable evidence, though evidence can still be collected even if you do. Do not wash any clothes, towels, or sheets that may contain evidence. Evidence can be preserved and collected for up to five (5) days.
- Preserve all physical evidence in a paper bag (not plastic) or deliver directly to law enforcement.
- Preserve all communications, pictures, texts or other items that might be used in cases of sexual/gender-based misconduct, stalking or domestic/dating violence.
- Utilize University and community resources for immediate and long-term assistance.
- Go to Health Services or an area hospital (Waterbury or Saint Mary's Hospital). Individuals are encouraged to seek medical attention as soon as possible after an act of sexual assault or domestic/dating violence. Medical care is important to address any injuries you may have and to protect against sexually transmitted diseases and pregnancy.
- Counseling Services are available to all Post University main campus students. Students may call (203) 596-4585 to schedule an appointment. These services are free and confidential.
- Post University's Crisis Hotline Available 24/7: (203) 228-8706. This is a limited-confidential resource.

## **REPORTING RESOURCES**

Post University is committed to creating an environment in which students who have experienced an incident of sexual/gender-based misconduct are encouraged to come forward and make a report. Members of the Post community are strongly encouraged to seek support and information from available reporting sources. Reporting may help you to gain some control over the situation and make informed decisions using information provided by the reporting source. Your prompt reporting will not only benefit and support you, but it will also help the University in maintaining a safe community. Ultimately, this is your decision. The Complainant can then be provided with information about obtaining support, resources, and the process associated with making a report or a formal complaint with the University or with a law enforcement agency.

Post University's required reporters are officials with authority who are required to share your disclosure with the Title IX Coordinator. This excludes employees who are employees of Mental Health and Wellness Services and Health Services, who can keep your disclosure confidential. Mental Health and Wellness Services and Health Services are fully confidential reporting sources. They do not file reports with the Title IX Coordinator. They will keep your information and name confidential unless it is determined that you and/or the campus are in imminent danger. They will provide free, confidential support, crisis intervention, community outreach and referrals, as well as help you explore your options to address the incident.

## **INTERPERSONAL VIOLENCE RESPONSE TEAM**

Post University's Interpersonal Violence Response Team supports students by providing services and guidance regarding sexual/gender-based misconduct incidents. The Interpersonal Violence Response Team consists of a diverse group of Post employees and community members that are well versed in the Post University Sexual/Gender-Based Misconduct Policy and procedures. Interpersonal Violence Response Team



professionals can explain what options are available to the student and will guide them in accessing these resources. The Post University Interpersonal Violence Response Team is committed to supporting individual's rights and needs, and respects that all choices are left up to the Complainant.

Professionals on campus with a Sexual Misconduct Safe Place sticker (see below) in their office are trained in the University's Sexual/Gender-Based Misconduct Policy. These faculty and staff members can support students who have been involved in a sexual/gender-based misconduct situation. If you have concerns about a friend, roommate, fellow student, or employee regarding sexual/gender-based misconduct, these people are also here to help you. Please seek out these professionals if you need their support. These individuals and Interpersonal Violence Response Team members are required to report the incident of sexual/gender-based misconduct to the Title IX Coordinator. For confidential resources, see [www.post.edu/healthservices](http://www.post.edu/healthservices) for Health Services, and [www.post.edu/counseling](http://www.post.edu/counseling) for Mental Health and Wellness Services.

### **SEXUAL MISCONDUCT SAFE PLACE STICKER**



### **CONFIDENTIALITY AND COMMUNICATION TYPES**

With respect to any report or complaint of sexual/gender-based misconduct, Post University will endeavor to maintain the confidentiality of the matter and all individuals involved to the extent permitted by law. Post University will balance the needs of individuals involved with its obligation to protect the safety and wellbeing of the community at large. In all cases, Post University will respect the privacy and dignity of all individuals involved. According to state and federal laws, if an individual under the age of sixteen is involved in an act of sexual/gender-based misconduct, the informed party must report the incident to the local police and the Department of Children and Families.

**Limited Confidential:** Limited confidential sources must notify the Title IX Coordinator. Any other report sharing will be limited, based on your safety and the safety of the community. The source will call the police only at the request of the student.

**Confidential:** Confidential sources are prohibited from breaking confidentiality unless given permission by the person who disclosed the information; there is an imminent threat of harm to self or others; the conduct involves the suspected abuse of a minor under the age of 16; or as otherwise required or permitted by law or court order.

**Anonymous:** If you wish to file an anonymous complaint, you may do so online at: <https://post.edu/title-IX-reporting>. This complaint will be sent to the Title IX Coordinator.

## IMPORTANT PHONE NUMBERS AND RESOURCES

<b>FOR ALL EMERGENCIES — DIAL 9-1-1</b>				
<b>Resource</b>	<b>Location</b>	<b>Hours</b>	<b>Type of Communication</b>	<b>Services Provided</b>
Sexual Misconduct Board Chair:  Sandra Wilson	Library - Lower Level	9:00 a.m.-5:00 p.m.	Limited Confidential	Hearing board official. Provides students with guidance on procedures and trained advisors. (203) 596-4664
Campus Safety *	Security Kiosk	24/7	Limited Confidential	Special confidentiality rules apply regarding sexual assaults. (203) 596-4502
Mental Health and Wellness Services* Dr. Renée Pitre Aubrey Fappiano Nakia Miller George Hayes  Brittany Henderson	Center for Mental Health and Wellness - North Hall Room 116  Drubner Athletic Center	M-Th 9:00 a.m.-6:00 p.m. F 9:00 a.m. – 4:00 p.m.	Confidential	Licensed counselors are available for students and staff. Services are free. (203) 596-4585
Health Services *	East Annex	M-TR: 10:00 a.m.-4:00 p.m. F: 10:00 a.m.-2:00 p.m.	Confidential	Medical assistance and referral for students. (203) 596-4503
Title IX/Sexual Misconduct Response Coordinators * Jennifer Labate, Rachel Powell Karin Mann, Crystal Vuole	North Hall Room 116, Drubner, Traurig Lower Level	9:00 a.m.-5:00 p.m.	Limited Confidential	Informs a student of their rights, as well as support services.  (203) 596-6027 (203) 591-5231 (203) 596-4669 (203) 596-4553
National 24-hour Sexual Assault hotline	Off campus	24/7	Confidential	Rape, Abuse and Incest National Network hotline 1 (800) 656-HOPE (4673)
Post's Crisis Hotline	On campus	24/7	Limited Confidential	Connects directly to the Community Director On duty (203) 228-8706
Campus Life Staff*	Lower Level Leever	M-F: 9:00 a.m. - 5:00 p.m.	Limited Confidential	Will provide support and resources and assist the Complainant at residence halls. (203) 596-4540
Safe Haven's Sexual Assault Program *	29 Central Ave. Waterbury, CT	24/7	Confidential	Provides support services, including medical and legal advocacy, for the Complainant and survivors of sexual assault and domestic violence. (203) 753-3613
St. Mary's Hospital	43 Cole St. Waterbury, CT	24/7	Confidential	Emergency care, including sexual trauma care. (203) 709-6004
Statewide 24-hour toll-free hotline	Off campus	24/7	Confidential	Connecticut Sexual Assault Crisis Services hotline 1 (888) 999-5545



Waterbury Hospital	64 Robbins St. Waterbury, CT	24/7	Confidential	Emergency care, including sexual trauma care. (203) 573-6500
Waterbury Police *	255 E Main St. Waterbury, CT	24/7	Limited Confidential	Emergency Call 9-1-1. Non-emergency call (203) 574-6911
Anonymous Reporting Form	<a href="https://post.edu/title-ix-reporting">https://post.edu/title-ix-reporting</a>	24/7	Anonymous	Your anonymous report will be sent to the Title IX Coordinator

\* *Interpersonal Violence Response Team Members*

### **SIGNIFICANT THREAT TO THE COMMUNITY**

In cases where the Respondent poses a significant risk to the general safety of the campus community, the Title IX Coordinator will contact the Sexual Misconduct Board Chair. If they conclude that a significant threat exists, they will take necessary action to protect the community while preserving the Complainant's privacy, which includes, but is not limited to issuing a temporary ban to the Respondent from Post University's campus.

### **REPORTING TO LAW ENFORCEMENT**

Because sexual misconduct, domestic/dating violence, and stalking may constitute both a violation of University policy and criminal activity, the University encourages students to report alleged incidents promptly to local law enforcement agencies. However, it is a student's decision whether to file a criminal report. We encourage you to seek out the support system that feels most appropriate and helpful. Criminal investigations may be useful in gathering relevant evidence, particularly forensic evidence. Because the standards for finding a violation of criminal law are different from the standards for finding a violation of University Policy, criminal investigations or reports are not determinative of whether sexual/gender-based misconduct, for purposes of this Policy, has occurred. In other words, conduct may constitute sexual/gender-based misconduct under this Policy even if law enforcement agencies lack enough evidence of a crime and therefore decline to prosecute.

The filing of a complaint of sexual/gender-based misconduct under this Policy is independent of any criminal investigation or proceeding, and the University may not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation and provide supportive measures to protect the parties and the University community, if necessary.

### **Law Enforcement Process**

When the police arrive, they will take a statement and ensure that you are physically safe. The police will also interview you about what happened. This may be difficult, but it is very important in order to complete a police report. The interview is conducted in private, but you can request to have a friend, or another supportive person accompany you if you wish. The police will get as much information as possible about the incident and investigate the case further.

Once an investigation is completed, the police refer the case to the District Attorney's office. The District Attorney's office decides whether your case will be prosecuted by considering factors such as the amount of evidence available to prove the charge(s) in court.

### **STUDENT CONDUCT PROCESS FOR SEXUAL/GENDER-BASED MISCONDUCT**

#### **Definitions of Participants**

- Complainant*: The person filing a complaint of a violation of the Sexual/Gender-Based Misconduct Policy by another student or employee that could constitute sexual harassment. The person must be participating in or attempting to participate in an educational program or activity.
- Respondent*: The student accused of violating the Sexual/Gender-Based Misconduct Policy by committing an act that could constitute sexual harassment.
- Trained Sexual/Gender-Based Misconduct Support Person for the Complainant and Respondent*: The Support Person is a Post Community staff or faculty member appointed by the Sexual Misconduct Board Chair who is trained to support and to provide information regarding the University's Sexual Misconduct Policy and the Campus Conduct process.
  - Support Persons are available upon request.

- Individuals may choose from a diverse list of potential Support Persons and may switch at any point should they choose.
  - While students can elect not to use a Support Person, students are strongly encouraged to choose and to work with a Support Person.
  - The Support Person may assist throughout the Campus Conduct Process, including being present at the conduct hearing. They are trained to help understand the nature of the formal complaint and to discuss the policy and all processes involved, including the alleged violations, severity of the accusations and possible sanctions.
  - In consultation with other University officials or faculty members where appropriate, a Support Person may assist in arranging accommodations which may include:
    - Change of on-campus student housing to different on-campus location
    - Exam (paper, assignment) rescheduling
    - Taking an Incomplete in a class
    - Transferring of sections
    - Alternative course completion options
    - Change of work arrangements
    - Change of campus transportation options
    - No Contact Orders
- d. *Advisor:* The Complainant and the Respondent may each bring an Advisor to the Hearing. The Advisor is an ally who provides comfort and helps the Complainant or Respondent. The Advisor may be any member of the Post University community (student, faculty, or staff) or an outside party. The Advisor may be an attorney. The selected Advisor must meet with the Sexual Misconduct Board Chair prior to the Hearing. The selected Advisor may attend any informal or formal meeting. The Advisor will be responsible for cross-examining the opposing party and any witnesses during a live hearing.
- e. *Sexual/Gender-Based Misconduct Board:* The Sexual/Gender-Based Misconduct Board (herein Board) consists of five trained Post University faculty and/or staff members in addition to the Board Chair. All Board Members receive annual training regarding the dynamics of sexual misconduct, stalking and domestic/dating violence, the factors relevant to a determination of credibility, the appropriate manner in which to receive and evaluate sensitive information, the manner of deliberation, and the application of the preponderance of the evidence standard, as well as the University's policies and procedures.
- f. *Title IX Coordinator:* The Title IX Coordinator (herein Coordinator) manages the day-to-day responsibilities associated with the University's Title IX compliance, the Violence Against Women Act, and Connecticut state statutes regarding gender-based misconduct. The Coordinator ensures that individuals are aware of their rights as well as support services regarding gender-based misconduct. The Coordinator also collects the relevant facts related to the reported incident and assesses whether a further review or investigation is necessary in order to ensure the safety of the impacted student and the community. If the Complainant decides to file a formal complaint, the Coordinator, as a neutral party, will investigate the incident; notify and interview the Complainant, the Respondent, and witnesses; obtain and review relevant documents; and present the Investigation Report at the Sexual Misconduct Board Hearing. The Investigation Report will make no findings, conclusions or recommendations.

The Coordinator also receives annual training regarding the dynamics of sexual misconduct, stalking and domestic/dating violence, the factors relevant to a determination of credibility, the appropriate manner in which to receive and evaluate sensitive information, the manner of deliberation, and the application of the preponderance of the evidence standard, as well as the University's policies and procedures.

### **Time Frame for Reporting**

There is no time limit on reporting or filing complaints of policy violations, although the University's ability to respond fully may be limited with the passage of time. If the Respondent is no longer affiliated with the University (e.g., the report is made after the student has left or graduated), the University will provide reasonably available remedial measures to assist the Complainant in identifying external reporting options and may take other appropriate action.

Upon receipt of a report, the University will impose reasonable and appropriate supportive measures designed to eliminate the hostile environment and protect the parties involved. The University will make reasonable efforts to communicate with the parties to ensure that all safety and emotional and physical well-being concerns are being addressed. Supportive measures may be imposed regardless of whether formal disciplinary action is sought by the Complainant or the University. A Complainant or Respondent may request a No Contact Order or other protective measure, or the University may choose to impose supportive measures at its discretion to ensure the safety of all parties, the safety of the broader community, and/or the integrity of the process.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by a supportive measure. The University will take immediate and responsive action to enforce a previously implemented measure. Supportive measures will be kept private, to the extent that maintaining the confidentiality would not impair the ability of the University to provide the supportive measures.

These measures are non-disciplinary and non-punitive individualized services, and they are offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. They are designed to restore or preserve equal access to educational programs or activities without unreasonably burdening the other party.

### **Range of Supportive Measures**

Supportive measures will be implemented at the discretion of the University. Potential remedies, which may be applied to the Complainant and/or the Respondent, include:

- Providing access to counseling services and assistance in setting up an initial appointment, both on and off campus.
- Imposing a No Contact Order between parties.
- Rescheduling of exams and assignments (in conjunction with appropriate faculty).
- Providing alternative course completion options (with the agreement of the appropriate faculty).
- Changing a class schedule, including the ability to take deferral, drop a course without penalty or transfer sections (with the agreement of the appropriate faculty).
- Changing a work schedule or job assignment.
- Changing an on-campus housing assignment.
- Aiding in completing housing relocation.
- Limiting an individual or organization's access to certain University facilities or activities pending resolution of the matter.
- Providing a voluntary leave of absence.
- Providing an escort to ensure safe movement between classes and activities.
- Providing access to medical services.
- Providing academic support services, such as tutoring.
- Assisting with transportation needs.
- Imposing interim suspension or leave.
- Any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.

### **Interim Suspension or Leave**

Where the report of sexual harassment, sexual violence, stalking, or domestic/dating violence poses a substantial and immediate threat of harm to the safety or well-being of an individual or members of the campus community, or to the performance of normal University functions, the University may place a student on interim suspension. Students may be placed on interim suspension at the discretion of the Sexual/Gender-Based Misconduct Chair. This will be done on an emergency basis only after undertaking an individualized safety and risk analysis. The Respondent student will be provided notice and an opportunity to challenge the decision; a non-student employee Respondent will be placed on administrative leave during the pendency of the process under existing procedures. Pending resolution of the case, the individual may be denied access to campus, campus facilities and/or all other University activities or privileges for which the individual might otherwise be

eligible. When interim suspension or a leave is imposed, the University will make reasonable efforts to complete the investigation and resolution within an expedited time frame.

## **SEXUAL/GENDER-BASED MISCONDUCT REPORTING RESOLUTION**

### **Meeting with Title IX Coordinator**

Upon receipt of any allegation of sexual/gender-based misconduct, the Title IX Coordinator will schedule a meeting with the Complainant. At the meeting, the Coordinator will provide the Complainant with a general understanding of this Policy and identify forms of support or immediate interventions available to the Complainant. This may involve accommodations regarding the Complainant's housing, academic schedule, University employment or transportation options, and other protective remedies outlined in the Supportive Measures section above. This also includes No Contact Orders.

The Complainant has the right to choose how to proceed after the allegation has been made. There are internal options within the University, as well as options with local law enforcement. The Complainant has the right to decide upon the course of action to be taken after the allegation has been filed. The Complainant may seek a Formal or Alternative resolution or request confidentiality and/or no resolution.

The University will endeavor to honor the resolution choice of the Complainant to the extent permitted by law. Post will balance the needs of individuals involved with its obligation to protect the safety and well-being of the community at large. In exceptional cases, such as cases threatening community safety, the University may decide that further action is required even if the Complainant desires no action or an Informal Resolution. As set forth in this policy, reports of sexual misconduct undergo a Title IX Review to determine the appropriate response in such cases. In such circumstances, the reasons and the steps the University will take will be explained to the Complainant.

In making this determination, the University may consider:

- The seriousness of the alleged conduct.
- The respective ages and roles of the Complainant and Respondent,
- Whether there have been other complaints or reports of harassment or misconduct against the Respondent.
- The rights of the Respondent to receive notice and relevant information before disciplinary action is sought.
- If circumstances suggest there is an increased risk of the Respondent committing additional acts of sexual misconduct or other violence.
- Whether the Respondent has a history of arrests or records from a prior school indicating a history of violence.
- Whether the alleged perpetrator threatened further sexual violence or other violence against the student or others.
- Whether the sexual misconduct was committed by multiple perpetrators.
- If the circumstances suggest there is an increased risk of future acts of sexual misconduct under similar circumstances.
- Whether the sexual violence was perpetrated with a weapon.
- Whether the school possesses other means to obtain relevant evidence.

The Title IX Coordinator in consultation with the Sexual Misconduct Board Chair will balance the Complainant's request with its obligation to provide a safe and non-hostile environment for the campus community.

### **Informal Resolution**

Informal Resolution is a remedies-based, non-judicial approach designed to eliminate a hostile environment without taking formal disciplinary action against a Respondent. The Complainant may request Informal Resolution or Formal Resolution. Where the Title IX Coordinator concludes that Informal Resolution may be appropriate, the University will take immediate and corrective action by applying individual and community measures designed to maximize the Complainant's access to educational, extracurricular, and/or University employment activities and to eliminate a hostile environment. Examples of such remedies are detailed in the

Supportive Measures section outlined above. (See Supportive Measures) Other potential remedies include targeted or broad-based educational programming or training, direct confrontation of the Respondent and/or indirect action taken by the Title IX Coordinator, Deputies, or University. Depending upon the form of Informal Resolution used, it may be possible to maintain the Complainant's anonymity.

The University will not compel or require the parties to participate in any Informal Resolution process, and the parties should voluntarily consent in writing. The parties should receive a written notice disclosing: the allegations; the requirements of the Informal Resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations; the right to withdraw from the Informal Resolution process and resume the formal process with respect to the complaint; any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared.

The Informal Resolution process, even if voluntary, **may not** be used in cases involving sexual harassment of a student by an employee. The decision to pursue an Informal Resolution will be made when the University has enough information about the nature and scope of the conduct, which may occur at any time. An Informal Resolution will typically be completed within thirty (30) business days of the initial report.

## **APPEAL PROCEDURE FOR INTERIM SUSPENSION OR INFORMAL RESOLUTION**

### **Basis and Process for Appeal**

The written appeal will be submitted to the Senior Vice President within 48 hours of notice of a decision and must include specific grounds the student considers appropriate to support his/her challenge of the interim suspension. The appeal must establish that:

- a. There was a material and prejudicial departure from the procedures set forth in these guidelines, and/or
- b. The evidence presented clearly does not support the decision, and/or
- c. The sanction imposed is not consistent with the gravity of the offense, and/or
- d. There was a conflict of interest or a bias against one of the parties by the decision maker.

The person reviewing the written appeal must render a decision within one (1) week of receiving the written request. The status from the initial decision remains in effect until the review and final decision are rendered. However, the Senior Vice President may, in special circumstances where he/she believes the student's academic standing or well-being may be jeopardized, suspend the sanctions until the decision about the appeal is rendered and communicated to the student.

### **Formal Resolution**

If the Respondent is a currently enrolled student, any person who has experienced an incident of sexual/gender-based misconduct may file a formal written complaint with the Director of Title IX and Disability Services, Jennifer Labate, (203) 596-6027. The complaint shall contain a concise statement of the alleged violations of the Sexual Misconduct Policy and a detailed statement of the facts supporting the alleged violations. Although there is no time limit on the filing of a formal complaint with the University, the University strongly encourages a prompt filing so that a more satisfactory and complete investigation can be conducted. Filing a formal complaint launches an investigation into the sexual/gender-based misconduct violation. The Sexual Misconduct Board will hear the case and decide.

Please see the following for a flow chart of the investigation and hearing process. <https://post.edu/docs/sexual-misconduct-process-investigation-and-hearing-flow-chart/>

### **Responding to a Formal Complaint**

The Respondent shall receive written notification of the filing of a formal complaint, along with a copy of the formal complaint, after the Title IX Coordinator has received the complaint. The Respondent must arrange and meet with the specified Sexual Misconduct Board Chair or designee within three (3) business days after receiving the complaint in order to discuss the nature of the complaint, the rights and responsibilities of the Respondent, and the Hearing process. The Respondent shall receive a written copy of this policy at that time.

A Trained Sexual Misconduct Support Person and Advisor may accompany the Respondent to the meeting with the Sexual Misconduct Board Chair. If the Respondent fails to arrange and meet with the Sexual Misconduct Board Chair, the complaint will be determined by the Board for adjudication.

## **Investigation Report**

The University will respond to the allegation in a prompt, impartial, procedurally fair and effective manner. Upon receipt of the allegation, the University will strive to complete the investigation and adjudication processes (excluding the appeal process) within sixty (60) calendar days. The Title IX Coordinator will write an Investigation Report appropriately summarizing the investigation and all relevant evidence obtained. Prior to completion of the Investigation Report, the Title IX Coordinator will send to each party and the party's Advisor, if any, all evidence obtained that is directly related to the complaint, to review in an electronic format or a hard copy, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a party or other source.

The parties will be given at least ten (10) days to submit a meaningful written response, which the investigator will consider prior to completion of the Investigation Report. The University shall make all such evidence subject to the parties' inspection and review and give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination, whether included as relevant in the Investigation Report or not.

The Title IX Coordinator will finalize the Investigation Report that fairly summarizes relevant evidence and, at least ten (10) days prior to a hearing, send to each party and the party's Advisor, if any, the Investigation Report in an electronic format or a hard copy, for their review and written response.

## **Prehearing Process**

- The University reserves the right to extend any time periods identified in this policy in accordance with the law.
- Once the Respondent has been notified of the formal written complaint, the Complainant and Respondent will be kept informed of all developments and will be advised of the procedures that will guide the resolution of the complaint.
- A formal complaint cannot proceed strictly under Title IX from anyone outside of the United States; if the conduct did not occur in the University's education program or activity; if the conduct did not occur against a person in the United States; or if at the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the University. However, while a formal complaint cannot proceed strictly under Title IX in these limited circumstances, Connecticut law and this policy permit advancement of this action under these processes.
- All relevant reports and documents are to be made available to the Respondent and Complainant once they are prepared and no later than ten (10) business days prior to the Hearing.
- The Respondent and Complainant have the right to petition that any member of the Sexual Misconduct Board be removed based on bias or conflict of interest at least three (3) days prior to the Hearing.
- Each Board Member must indicate to the Sexual Misconduct Board Chair within three (3) days prior to the Hearing whether they have knowledge of the participants in the case that may impair – or may be perceived to impair – their ability to hear and determine a case impartially, and to recuse them if their participation might compromise the integrity of the Hearing process.
- One (1) week prior to the Hearing, the Respondent and Complainant will be informed in writing of the date and time of the Hearing.
- The Respondent and Complainant shall have the opportunity to make a request to the Sexual Misconduct Board Chair for witnesses to testify on their behalf. The Sexual Misconduct Board Chair shall determine which witnesses shall testify based on the relevance of their testimony.
- After the Investigation Report has been sent to the parties and before reaching a determination regarding responsibility, Sexual Misconduct Board Chair must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. These questions and answers will not be provided to the Hearing Board. Because the Sexual Misconduct Board Chair is not a voting Hearing Board member, any information learned will not impact deliberations in the event a party refuses to participate in cross examination. The Sexual Misconduct Board Chair must explain to the party proposing the questions any decision to exclude a question as not relevant.



- The Respondent and Complainant must notify the Sexual Misconduct Board Chair of any Advisors, support people, and witnesses attending the Hearing five (5) business days prior to the Hearing.
- Any additional scheduling requests must be directed to the Sexual Misconduct Board Chair to be determined.
- If a sexual misconduct case is also being heard by a civil or criminal court, the University retains the right to hear the case regardless of the timing of the civil or criminal case, and to implement appropriate actions (such as No Contact Orders, removal from campus residence facilities, removing a student from a class or classes or Interim Suspension, and changing campus transportation and/or working arrangements) to maintain the safety of the campus.
- The Campus Conduct Process shall be private to the extent possible and as allowed by law.
- The University will attempt to select a hearing date within fifteen (15) business days after the Respondent has received the formal complaint.

### **Rights of Both the Complainant and Respondent**

- All parties involved in a sexual misconduct complaint process have the right to a prompt, fair, and impartial investigation and resolution of the complaint. The burden of proof and the gathering of evidence sufficient to reach a determination regarding responsibility rests on the University and not on the parties.
- The right to be treated equitably and have any provisions, rules, or practices applied equally to all parties.
- The right to seek appropriate off-campus resources and outside remedies.
- The right to a live hearing.
- The right to have all relevant evidence, including both inculpatory and exculpatory evidence, evaluated objectively and to have credibility determined without respect to a person's status as a Complainant, Respondent or witness.
- The right to discuss the allegations under investigation and to gather and present relevant evidence.
- The right to a hearing that does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- The right to have a parent or guardian act on behalf of a Complainant, Respondent, party or other individual, including the ability to file a formal complaint, if given consent to do so or if they have the legal right to act on their behalf.
- The right to reasonably prompt time frames for the conclusion of the hearing process, including appeals. This process allows for temporary delays or limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's Advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
- The right to have a Trained Support Person, Advisor and Attorney present during the Hearing, provided that these parties do not cause the meeting to be unduly delayed or postponed. The Complainant and Respondent have the right to consult with an attorney at their own expense. The Support Person, Advisor and Attorney can participate in the sexual misconduct campus conduct process, in an advisory capacity.
- The right to request that disciplinary procedures begin promptly and are conducted by a University Official trained in issues related to sexual/gender-based misconduct.
- The right to receive written notice of the outcome and sanction(s) of the Sexual Misconduct Board Hearing.
- The right to appeal the finding and sanction of the Sexual Misconduct Board in accordance with the provisions of this policy.
- The right to petition that any member of the Sexual Misconduct Board be removed based on bias or conflict of interest.
- The right to present relevant witnesses to the Sexual Misconduct Board, including expert witnesses.
- The rights to have the University compel the presence of student, faculty and staff witnesses.

- The right to be present for all testimony given and evidence presented before the Sexual Misconduct Board.
- The right to provide a written Impact Statement to be read by the Board at the conclusion of the Hearing provided the Respondent was found to have violated the Sexual Misconduct Policy, and to have that statement considered by the Board in determining its sanctions.
- The right to be free from retaliation.
- The Complainant and the Respondent are entitled to be informed in writing of the results of the disciplinary proceeding no later than 1 business day after it concludes and have their identities kept private, except as necessary to carry out a disciplinary proceeding or as permitted under state or federal law.
- Post University shall not disclose the identity of the Complainant or the Respondent, except as necessary to carry out a disciplinary proceeding or as permitted under state and federal law.
- Post University shall not restrict any rights guaranteed against government action by the U.S. Constitution, including the First Amendment, the Due Process clauses of the Fifth and Fourteenth Amendments, and the Fourth Amendment. Post University will also not deny any individual's rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq. or any regulations promulgated thereunder.

### **SPECIAL PROCEDURES**

1. *False Reports:* The University will not tolerate intentional false reporting of incidents. It is a violation of the Student Code of Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.
2. *Leniency/Amnesty:* For the Complainant: The University encourages reporting of incidents of sexual misconduct. Sometimes, Reporting Parties are hesitant to make reports because they fear that they may be charged with violations of the Student Code of Conduct, such as underage drinking at the time of the incident. To encourage reporting of sexual misconduct incidents, the University will exercise leniency or amnesty towards a Complainant with respect to taking action for other violations of the Student Code of Conduct.
3. *For the Good Samaritan:* The welfare of students in our community is paramount. At times, students on and off campus may need assistance. The University encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to aid others, for fear that they may get themselves in trouble. For example, a student who has been drinking underage might hesitate to assist another student who experienced an incident of sexual misconduct. The University will exercise leniency or amnesty towards the Good Samaritan with respect to taking action for other violations of the Student Code of Conduct.
4. *Past Sexual History/Character:* If, in the past, a Respondent was found to have violated the Sexual Misconduct Policy ("Past Violation"), the information related to the Past Violation may be considered by the Hearing Board if the previous violation was substantially like the present complaint; and the previous violation indicates a pattern of behavior and substantial conformity with that pattern by the Respondent.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

### **THE HEARING**

- The Sexual Misconduct Board Chair shall assemble a Board of five trained members of Post's administration and/or faculty to hear sexual conduct cases. Each Board shall be composed of representatives of both genders.
- All hearings shall be closed to the public.
- All hearings will be audio-recorded. A digital file and transcript will be made available to the Complainant and/or Respondent for inspection and review and in the event a request for an appeal is filed.

- Except for the official audio recording of the Hearing, cell phones and electronic devices are prohibited from the Hearing room.
- Board Members shall be provided with access to written information and evidence at least 72 hours prior to the Hearing.
- The Respondent and Complainant may be accompanied by their Support Person and Advisor. The Support Person and Advisor are present to act as counselors and to support the Respondent and Complainant, and to provide advice on procedural matters. A hearing will not be cancelled or postponed in the event a scheduled Support Person or Advisor does not attend. If the scheduled Support Person and Advisor is not able to attend, the Complainant/Respondent should arrange for a substitute.
- If the Respondent or Complainant fails to appear at the Hearing, the matter will be resolved in their absence.
- Witnesses may be present at the Hearing only at the time they are called to testify. A hearing will not be canceled or postponed if a scheduled witness does not attend.
- The Sexual Misconduct Board Chair must permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Sexual Misconduct Board Chair must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally.
- If a party does not have an Advisor present at the live hearing, the University must provide without fee or charge to that party, an Advisor of the University's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.
- Individuals testifying before the Board may not communicate with each other during the hearing process.
- At the start of the Hearing, the Chair shall ask the Respondent if they have received the formal complaint, and if they understand the nature of the formal complaint. The Hearing Board will presume that the Respondent is not responsible for the alleged misconduct until a determination regarding responsibility is made at the conclusion of the hearing process.
- Hearings may be conducted with all parties physically present in the same geographic location or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. At the request of either party, the University must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Sexual Misconduct Board and the parties to simultaneously see and hear the party or the witness answering questions.
- The Title IX Coordinator will present the formal complaint along with the information obtained through the investigative process to the Sexual Misconduct Board. The Hearing Board shall consider only the information and evidence related to the alleged violations set forth in the formal complaint.

The remainder of the Hearing shall customarily proceed in the following order:

1. Opening statement from Complainant.
  2. Opening statement from Respondent.
  3. Board questioning of Complainant and Respondent.
  4. Complainant and Respondent's cross examination of opposing parties, including previously submitted questions.
  5. Board questioning of witnesses (each witness will be questioned separately).
  6. Complainant and Respondent questioning of witnesses, including cross examination.
  7. The chair will facilitate questions by the Complainant and Respondent.
  8. Final questions from the Board.
  9. Complainant's closing statement.
  10. Respondent's closing statement.
- The Board will deliberate in private and make an appropriate determination based on the information and evidence presented during the Hearing. In making its determination, the Board shall consider only

the evidence admitted at the Hearing and the admission of evidence shall be within the discretion of the Board.

- The Board, by majority decision, will determine whether the Respondent violated the Sexual Misconduct Policy as alleged in the formal complaint by finding either: “Did violate” or “Did not violate” the Sexual Misconduct Policy. The Board’s determination shall be based on a “Preponderance of the Evidence” standard that means, “It is More Likely than Not” that a violation of the Sexual Misconduct Policy occurred.
- If the Board renders a determination of “Did violate”, the Board will review the Impact Statements provided by the Complainant and Respondent and will recommend a sanction consistent with those specified in the Post University Code of Conduct.
- The Board shall have one business day to render a decision.
- The Title IX Coordinator will notify both the Complainant and Respondent simultaneously in writing of the Board’s decision.
- The written determination must include identification of the allegations; a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; findings of fact supporting the determination; conclusions regarding the application of the University code of conduct and policies to the facts; a statement of, and rationale for, the result as to each allegation, including any disciplinary sanctions imposed on the Respondent and whether remedies designed to restore or preserve equal access to the University’s education program or activity will be provided to the Complainant.
- The determination regarding responsibility becomes final either on the date that the parties are provided with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

#### **Formal Appeal Process**

- Both the Complainant and the Respondent may file a written appeal of the Board’s decision. The appeal must be based on one or more of the following:
  - New information directly related to the case that was unavailable during the investigation period or during the Hearing itself that would materially impact the decision.
  - Procedural error or irregularity that might have affected the decision.
  - Sanction imposed is disproportionate to the violation.
  - An evidentiary error, such as the refusal to hear material evidence or reliance upon clearly in appropriate and/or prejudicial evidence, which may have influenced the outcome of the proceedings.
  - Clear and convincing evidence that the investigator’s findings were arbitrary and capricious, that the investigator had a conflict of interest or a bias against one of the parties.
- The purpose of the appeal is not to rehear the underlying case; rather, it is to determine if there is enough information presented to allow reconsideration of the Hearing Board’s decision.
- Appeals must be made, in writing, to the Senior Vice President within five (5) business days of the notification of the decision. If one party files an appeal, the other party will be notified in writing. The parties will be given a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome. Appeals procedures will be implemented equally for all parties.
- The Senior Vice President will review the appeal and render its decision within five (5) business days after receiving the notice of appeal.
- The decision of the Senior Vice President is final.

#### **Official University Sanctions**

1. *Formal Verbal Warning:* A verbal statement to a student about their violation of University policies.
2. *Disciplinary Warning:* A written notice to a student indicating that specific behavior or activity is in violation of University policies.
3. *Campus Restrictions:* Loss of designated campus privilege(s).
4. *Community Service:* Mandated service hours on campus or with off-campus business organizations.
5. *Education:* Mandated educational course with professional staff for a period determined by the

University's designee.

6. *Disciplinary Probation*: A designated period in which a student is formally put on notice for his/her behavior, while not severe enough to warrant expulsion, was severe enough to warrant a serious course of action. While on Disciplinary Probation, a student may be subject to expulsion should additional infractions occur. Disciplinary Probation is a status that may include periodic reporting sessions with an appropriate administrator, loss of privilege to represent the University or attend University activities.
7. *Residence Hall Reassignment*: Mandatory reassignment from one residence hall to another for inappropriate behavior. Loss of visiting privileges in the former building may accompany this sanction.
8. *Residence Hall Suspension*: The University reserves the right to suspend a student's Housing Agreement for any specified period. This period may range from one day to one semester or more.
9. *Residence Hall Dismissal/Ban*: Dismissal and/or ban from the University residence halls. Students must apply for re-entry to the Senior Vice President.
10. *Institutional Suspension*: Disciplinary suspension of a student's registration for a specific period. Residential students' Housing Agreements are also suspended during this time. Students removed from the University for conduct that presented a threat to themselves, other persons, or property may not re-enter without prior approval from the Senior Vice President.
11. *Institutional Dismissal*: Attendance at the University is terminated, constituting the maximum disciplinary penalty. Students are banned from all campus facilities, grounds and events.

### **Record Keeping**

The University will maintain the following records for a period of seven years:

- Each sexual harassment investigation including any determination regarding responsibility
- Any required audio or audiovisual recording or transcript
- Any disciplinary sanctions imposed on the Respondent
- Any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity
- Any appeal and the result therefrom
- Any Informal Resolution and the result therefrom
- Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment
- Documentation of the basis for conclusions
- Documentation that measures designed to restore or preserve equal access to the University's education program or activity were taken
- All materials used to train Title IX Coordinators, the Sexual Misconduct Board, and any person who facilitates an Informal Resolution process; these training materials will be available on the University's website and will be made available upon request for inspection by members of the public.

This Sexual/Gender Based Misconduct Policy contains the most current University language in compliance with the laws of the State of Connecticut, the United States Department of Education's Office of Civil Rights Title IX Amendments, and the Violence Against Women Act.