



**Policy Title:** Non-Discrimination and Anti-Harassment

**Responsible Office:** Vice President for Community Life and Dean of Students

**Audience:** Board, Faculty, Staff, Students

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**NON-DISCRIMINATION AND ANTI-HARASSMENT  
(TITLE VI AND TITLE IX)  
POLICIES AND PROCEDURES**

**UNION PRESBYTERIAN SEMINARY**

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## NON-DISCRIMINATION AND ANTI-HARASSMENT (TITLE VI AND TITLE IX) POLICY AND PROCEDURES

### UNION PRESBYTERIAN SEMINARY

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Union Presbyterian Seminary (“UPSem,” “the Seminary”), by its charter and by its purpose, prepares people to be leaders of gospel-inspired transformative change in pursuit of a more just and compassionate world. In view of this central purpose, we enter into community with one another under Jesus Christ's model of mutual respect and forbearance (Colossians 3:12-17). Thus, our life together in community is an important part of our preparation for ministry, as we seek to experience and embody values in our life together that will enable us to provide leadership for other communities of faith.

UPSem seeks to be a Christ-centered place where we learn what it means to live together as a community of Jesus's disciples— with all the joys, challenges, tensions, and growth entailed. As we engage differences, experience conflict, and resolve grievances, we do so with a view toward reconciliation, restoration, and building up the body of Christ. We value direct, face-to-face communication as we engage conflict.<sup>1</sup>

#### I. POLICY

Union Presbyterian Seminary is committed to and strives to create an educational and work environment free of discrimination and harassment. Each individual has the right to study and work in a professional atmosphere that promotes equal opportunities and prohibits unlawful discriminatory practices, including harassment.

Therefore, UPSem expects that all relationships among persons in the educational setting and the workplace will be business-like and free of bias, prejudice, and harassment. The Seminary complies with the requirements of numerous state and federal laws in the administration of its mission and programs. Some of the state and federal laws applicable to issues of discrimination, harassment, and sexual violence include Title VI and Title VII of the 1964 Civil Rights Act; Title IX of the 1972 Education Amendments; the Violence Against Women's Act (VAWA); the Americans with Disabilities Act (ADA) and the ADA Amendments Act (ADAAA); Section 503 and 504 of the Rehabilitation Act; and the Age Discrimination of Employment Act (ADEA).

Union Presbyterian Seminary does not discriminate on the basis of race, color, ancestry, age, gender, gender identity or expression, marital status, civil union status, military status, national origin, religious affiliation (except as religion may be a bona fide qualification), disability, sexual or affectual orientation, a typical hereditary cellular or blood trait of an individual, or any other characteristic protected by law. The Seminary is committed to equal employment opportunity under the law. Discrimination or harassment by an employee, student, visitor, or vendor will not be tolerated.

In adopting these policies and procedures, the Seminary seeks to ensure that all members of its community, including visitors, have the right to learn and work in the safest possible community and environment, and to be free from all forms of harassment, discrimination and misconduct, including sex discrimination, sexual harassment, hostile work and learning environment, sexual violence, and gender-based harassment. All members of the Seminary

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<sup>1</sup> This excerpt is taken from the purpose statement of the Community Grievance and Discipline Policy.

community and visitors are expected to conduct themselves in a manner that does not infringe on the rights of others. The purpose of the Non-Discrimination and Anti-Harassment Policy is to provide clear guidance regarding the Seminary's internal systems of reporting, processing, and adjudicating complaints of discrimination and harassment.

UPSem encourages reporting of all perceived incidents of discrimination or harassment. It is the policy of UPSem to promptly and thoroughly investigate such reports. UPSem prohibits retaliation against any individual who, in good faith, reports discrimination or harassment or participates in an investigation of such reports.

A. Scope of Policy/Jurisdiction

This policy applies to all Seminary employees, students, family members, visitors, vendors, and any other individuals who participate in the Seminary's programs or activities or who are otherwise on campus. It applies at all times, and in all places, to those with any connection to the Seminary. At all times, the Seminary, in its sole discretion, may amend or revise this policy, and the practices and procedures included herein, as it deems appropriate.

B. Seminary Resources

For more information on this policy or to have a conversation on whether an incident is a potential violation of this policy, contact the Title VI/Title IX Coordinator:

- Coordinator-Rev. Lisa McLennan, Dean of Students and VP of Administration for CLT, F105, 980.636.1669 [lisa.mclennan@upsem.edu](mailto:lisa.mclennan@upsem.edu) or
- Deputy Coordinator-Dr. Shawn Oliver, VP for Strategy and Institutional Effectiveness [shawn.oliver@upsem.edu](mailto:shawn.oliver@upsem.edu)

For a confidential conversation that is not considered an official complaint or report, contact Rev. Mairi Renwick, Richmond Chaplain ([mairi.renwick@upsem.edu](mailto:mairi.renwick@upsem.edu)) or Shea Watts, Charlotte Chaplain ([shea.watts@upsem.edu](mailto:shea.watts@upsem.edu))

C. Emergency Contacts

If you are the victim of sexual assault or violence, or for immediate response to any serious, life-threatening incident or for medical attention:

- Richmond Campus:
  - a. Richmond Police (911) for emergencies; (311) or (804.646.5100) for non-emergencies
  - b. Security - contracted through RMC Events (804.499.8577) from 5 p.m. to 12 a.m. Vice President of Finance and Administration (804.278.4235)
  - c. Facilities Office (804.278.4218) from 8 a.m. to 4:30 p.m.
  - d. After Hours Assistant (804.317.7555) from 4:30 p.m. to 8 a.m.
- Charlotte Campus:
  - a. Charlotte-Mecklenburg Police Department (911) for emergencies
  - b. (311) for non-emergency crime reporting
  - c. Vice President of Administration & Dean of Students Charlotte Campus (980.636.1669)

#### D. Academic Freedom

Union Presbyterian Seminary adheres to the principles and traditions of academic freedom as described in the Seminary's academic freedom policy. When an alleged violation of this Nondiscrimination and Anti-Harassment Policy potentially overlaps with concepts of academic freedom, a determination regarding whether the alleged conduct is protected by academic freedom will also be referred to the Academic Dean who will communicate with the assigned Title VI/Title IX Coordinator regarding this issue as the claim proceeds under this policy.

## II. KEY DEFINITIONS

*Discrimination* – Discrimination is defined as an adverse employment- or education-related action or decision that is based on or motivated by an individual's sex, race, color, creed, religion, ethnicity, national origin, gender, age, disability, sexual orientation, gender identity, marital status, pregnancy or veteran status or any other characteristics protected by law.

*Gender Identity* means "each person's deeply felt internal and individual experience of gender, which may or may not correspond with sex assigned at birth, including the person's sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other experiences of gender, including dress, speech and mannerism."

*Gender Expression* refers to all of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech pattern and social interactions. Social or cultural norms can vary widely and some characteristics that may be accepted as masculine, feminine or neutral in one culture may not be assessed similarly in another.

*Genetic Information* includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder, or condition of an individual's family members (i.e., an individual's family medical history). Family medical history is included in the definition of genetic information because it is often used to determine whether someone has an increased risk of getting a disease, disorder, or condition in the future.

*Civil Status* "means being single, married, separated, divorced, widowed, in a civil partnership within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Acts 2010 or being a former civil partner in a civil partnership that has ended by death or been dissolved or being or having been a cohabitant or qualified cohabitant within the meaning of Section 172 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010."

*Other Covered Veteran* means a veteran who served in active duty during a war or in a campaign or expedition for which a campaign badge has been authorized; veterans who, while serving in active duty in the Armed Forces, participated in a United States military action for which an Armed Forces service medal was awarded pursuant to Executive Order No. 12985 (61 Fed. Reg. 1209); and recently separated veterans.

*Harassment* – Unwelcomed or unsolicited behavior directed at an individual or group of people based on or motivated by race, color, creed, religion, ethnicity, national origin, gender, age, disability, sexual orientation, gender identity, marital status, pregnancy, or veteran status or any other characteristics protected by law. The behavior must be sufficiently severe, persistent



or pervasive that it could reasonably be expected to create an intimidating, hostile or offensive working or learning environment. Harassment includes sexual harassment and harassment based on sexual, gender-based, or racial stereotyping.

*Racial Prejudice* – A preconceived negative judgment about the characteristics or behavior of a racial group, or about the character of an individual, based on that person's membership in a racial group. A racial prejudice may be held by anyone.

*Racial Discrimination* – Any action against a person or group based on racial prejudice. Such actions may include, but are not limited to, failure to admit, hire, or promote on the basis of race; spoken or unwritten insults and racial slurs; and nonverbal gestures that convey or reflect racial prejudice (especially when such behavior has been met with clear rebuke). Racial discrimination may be practiced by anyone.

*Gender Discrimination* – Discrimination or harassment based upon one's gender (sex); unfair treatment, attitudes, or behaviors towards an individual based upon their gender (sex); gender identity discrimination as covered by Title VII; sexism, sexist attitudes, and sex stereotyping; and disproportionate athletic programs or activities offered to all genders in relationship to the school's enrollment. Examples of gender discrimination include:

- Gender-based bullying
- Derogatory or sexist remarks
- Gender discrimination in an activity, program, office, or classroom

*Sex-Based Misconduct* – One or more acts of sex discrimination, sexual harassment, sexual violence, or gender-based harassment. Sex-Based Misconduct includes sexual abuse of minors or vulnerable adults with substantial functional or mental impairment.

*Sex Discrimination* – Treating a person differently because of the person's sex in the terms and conditions of educational programs, activities, and/or employment. Example: A professor requires all male students in a class to do an extra assignment that is not required of other students.

*Sexual Harassment* – Uninvited and unwelcome gender or sex-based verbal or physical conduct that is sufficiently severe, persistent, or pervasive that it is used as the basis for unlawful discriminatory practice or such conduct that has the purpose or effect of creating an intimidating, hostile, or offensive environment for employees and/or students.

The harassment can be verbal or physical conduct of a sexual nature (such as sexual advances or requests for sexual favors) and sufficiently serious that it unreasonably interferes with or limits a person's ability to participate in or benefit from the Seminary's educational programs, activities, and/or employment. Sexual harassment may be based on a power differential, the creation of a hostile environment, or retaliation.

Sexual harassment can take many forms, occurs in a variety of circumstances, and may be directed at an individual or group of individuals. It is not the intention of the harasser but the conduct itself and the impact on the recipient that determines what constitutes harassment. The impact of harassment can result in the recipient feeling discomfort or humiliation and/or may adversely affect the recipient's academic or job performance, undermine academic or job security or prospects, or create a threatening or intimidating work or learning environment. It can also provoke aggressive, retaliatory attitudes and actions. Certain behavior will be, by its nature or severity, unwelcome even on a single occasion, such as sexual assault.

Sexual Harassment also includes harassment of a sexual nature directed at LGBTQIA+ persons that is sufficiently serious to limit or deny the ability to participate in or benefit from the Seminary's educational and employment programs. Likewise, sexual harassment can occur where Claimant and Respondent both identify with the same gender.

Social interaction involving mutually acceptable behavior should be distinguished from harassment. However, it should be borne in mind that what is initially acceptable to some may be offensive to others, and what is acceptable between persons A and B may not be acceptable to person C. The key element to sexual harassment is that it is conduct that is unwanted, unreasonable, and offensive to the recipient. Where harassment is unintended, but still has the effect of violating the dignity or creating a hostile environment for the recipient, the conduct would be considered as harassment only after consideration of all the circumstances, which will include the perception of the recipient.

Examples of sexual harassment include, but are not limited to:

- A professor insists that a student have sex with the professor in exchange for a good grade.
- A supervisor touches an employee in a sexual manner and/or insists that an employee has sex in exchange for a promotion.
- A student repeatedly sends sexually oriented jokes, and ignores requests to stop, resulting in the recipient avoiding the sender on campus and in the residence hall in which they both live.
- A staff member repeatedly touches and makes sexually suggestive remarks to a student while the two are waiting at a stop for the school's shuttle bus, causing the student to walk long distances instead of taking the shuttle bus.
- Rape and/or other acts of sexual violence.
- Sexual abuse of a minor or vulnerable adult with a substantial functional or mental impairment.

In addition to the above, verbal expression or physical conduct need not be overtly sexual to constitute sexual harassment. Examples of sexually harassing behaviors include, but are not limited to:

- Lewd or sexually suggestive comments.
- Vulgar language or jokes of a sexual nature.
- Slurs, verbal or graphic expressions, or physical conduct relating to an individual's sex.
- Inappropriate or improper email communication.
- Any public or unwelcome private display of sexually explicit pictures, greeting cards, articles, books, magazines, photographs, videos, devices, toys or cartoons in the absence of a valid educational purpose.
- Unwanted touching that communicates a sense of dominance.
- Repeated, unwanted or unwelcome texting about or verbally complimenting another's appearance.

*Hostile Work and/or Learning Environment* – A situation may constitute a hostile work and/or learning environment if:

- The behavior is discriminatory against gender, race, religion, age, orientation, disability, or nation of origin.

- A reasonable person would find the work or learning environment hostile or abusive.
- A reasonable person's desire or ability to work or learn has been affected.
- The institution has failed to investigate and address a reported issue.
- The institution fails to intervene and adequately address a known hostile behavior.

Being teased or excluded by a colleague is rude, unprofessional, and in certain circumstances could possibly warrant a firing or disciplinary offense. Such conduct is not necessarily "hostile" under this policy, however, and a determination of whether such conduct violates this policy is made only after investigation and analysis.

*"A person with a disability"* – Any person who: (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities; (2) has a record of such impairment; (3) is regarded as having such an impairment; or (4) is otherwise deemed disabled under applicable federal or state law.

*Age Discrimination* – Actions prohibited by the Age Discrimination in Employment Act of 1967, which protects individuals who are 40 years of age or older from employment discrimination based on age, and also to the Age Discrimination Act of 1975, which prohibits discrimination based on age in education programs or activities.

*Clery Act* – The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act") is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. 668.46. The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses. Statistics are reported for Clery Act crimes that occur (1) on campus, (2) on public property within or immediately adjacent to the campus, and (3) in or on non-campus buildings or property that the Seminary institution owns or controls.

*Complainant* – The student, employee, family member, or other third party who suffers harassment and/or discrimination including discrimination on the basis of age, ethnicity, race, color, gender, sexual orientation, disability, military status, national or ethnic origin, or on the basis of sexual orientation or gender identity or expression by the conduct of another; sex discrimination, sexual harassment, sexual violence, sexual exploitation, gender-based harassment, or stalking by the conduct of another; and pursues a charge or charges against Respondent under this policy.

*Respondent* – The Respondent is the alleged offender/accused individual; a person alleged to have engaged in any of the conduct prohibited by this policy.

*Consent* – Consent is clear, knowing, and voluntary. Consent is active, not passive; silence, in and of itself, cannot be interpreted as consent. Consent to any one form of sexual activity, a previous relationship, and/or prior consent does not imply consent to any other form or instance of sexual activity.

*Determination Panel or Hearing Panel* – The Determination Panel and Hearing Panel are appointed by the Co-Coordinator, with input from the Director of Human Resources and the Academic Dean. Each member of the Determination Panel and Hearing Panel receives training on these policies, best practices in adjudications, bias, trauma-informed practices, and myths

and biases of dating/domestic violence, sexual assault, and sexual harassment.

*Preponderance of the Evidence Standard* - The standard of proof which the fact-finder applies to determine whether a claim or fact has been proven under this policy. The preponderance standard is met when the party offering a claim or fact proves to the satisfaction of the fact-finder that the claim or fact to be proven is “more likely than not” to have occurred. Put another way, the preponderance standard is met when the party offering the claim or fact convinces the fact-finder that there is a greater than 50% chance that the claim or fact is true.

#### Definitions Applied under the Title IX Regulations

A claim filed pursuant to this policy may also be considered as one that implicates Title IX of the Education Amendments of 1972 (“Title IX”). The following definitions are listed separately to indicate that cases meeting the definitions and jurisdictional elements below will be considered as alleged violations of Title IX. Whether a case is determined to be a Title IX violation does not suggest that a case is more or less important, but instead a reflection of federal regulations that apply only to a specifically identified set of cases. Harassment cases that do not fit within the parameters of Title IX may still be handled through the provisions of this Nondiscrimination and Anti-Harassment Policy.

*Sexual Harassment as Defined under Title IX* – Title IX Sexual Harassment is defined broadly to include any of three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect:

1. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, *and* objectively offensive that it effectively denies a person equal access to the educational institution’s education program or activity; or
2. An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., *quid pro quo*); or,
3. Sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

*Sexual Assault without Consent* – The following definitions also apply to instances where the victim is incapable of giving consent because of the victim’s age or because of the victim’s temporary or permanent mental or physical incapacity. These include: (1) rape (except statutory rape), defined as the carnal knowledge of a person, without the consent of the victim; (2) sodomy, defined as oral or anal sexual intercourse with another person, without the consent of the victim; (3) sexual assault with an object, defined as to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim; *and* (4) fondling, defined as the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim.

*Sexual Assault (Clery Act Definition)* – Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault includes: (1) rape, defined as penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of a person of any gender. Attempts or assaults to commit rape, per this definition, are also included; (2) fondling, defined as touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim; (3) incest, defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; *and*

(4) statutory rape, defined as sexual intercourse with a person who is under the age of consent (18 years old).

*Dating Violence* – Violence, because of sex, committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim; *and* (2) where the existence of such a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

*Domestic Violence* – Felony or misdemeanor crimes of violence committed, because of sex, by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated as a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of New Jersey.

*Stalking* – Engaging in a course of conduct, because of sex, directed at a specific person that would cause a reasonable person to experience either: (1) fear for one's safety or the safety of others; *or* (2) suffer substantial emotional distress.

*Education Program or Activity* – The Title IX statute applies to persons within the United States with respect to education programs or activities that receive Federal financial assistance. Schools must respond when sexual harassment occurs in the school's education program or activity, against a person in the United States. The Title IX statute and existing regulations contain broad definitions of a school's "program or activity," and the Department of Education will continue to look to these definitions for the scope of a school's education program or activity.

An "educational program or activity" includes locations, events, or circumstances over which the Seminary exercises substantial control over both the Respondent to a complaint and the context in which the sexual harassment occurred, and, includes any building owned or controlled by a student organization that is officially recognized by the Seminary.

### **III. STEP 1 – REPORTING A COMPLAINT**

There are three main steps in the process of attending to a claim of harassment or discrimination. These include: Step 1 - Reporting a Complaint, Step 2 - Addressing the Complaint, and Step 3 - Resolution through an Informal or Formal Resolution Process. Appendix A provides a flowchart to help visualize the procedures for addressing potential discrimination and/or harassment at UPSem.

The following provides a description of the first step of reporting a complaint.

#### **A. Avenues for Reporting a Complaint or Discussing an Incident**

A claim of harassment or discrimination may be reported through a variety of avenues. A claim may be reported to a "reporting outlet" listed below who receives official complaints. In addition, an employee, teaching assistant, preceptor, student deacon, or field education site supervisor who is a "responsible referral" will also report the claim to one of the Co-Coordinators if it is shared with them.

Individuals who become aware of a claim of harassment or discrimination also have the option to speak with a "confidential resource" about the incident. Any report to a

“confidential resource” will be held in confidence as stated below.

1. *Reporting Outlets* – Claims of harassment, discrimination and/or other violations of this policy against members of the Seminary community should be promptly made to one or more of the following that apply, and when necessary, immediately made. Prompt action will be taken upon this official report.

Title VI/Title IX Co-Coordinators<sup>2</sup>

- Ms. Michelle J Walker, VP for Community Life and Dean of Students, Richmond Campus, Watts 100, 804.278.4252, [michelle.walker@upsem.edu](mailto:michelle.walker@upsem.edu)
- Rev. Lisa McLennan, VP of Administration and Dean of Students, Charlotte Campus, [lisa.mclennan@upsem.edu](mailto:lisa.mclennan@upsem.edu)

Employees, students, and others may report a complaint in person to either of the Co-Coordinators.

2. *Responsible Referrals* – These individuals are required to contact one of the Title VI/Title IX Co-Coordinators if they are told or learn about sexual harassment, discrimination, or sexual assault.
  - All Vice Presidents and Deans;
  - All Deputy Title IX Coordinators;
  - All Human Resources staff;
  - All non-student employees serving in a supervisory role (including, for purposes of clarity, all employees who supervise activities or programs that involve direct contact with students, such as advisors to recognized student organizations); and
  - All contracted Seminary Security staff.
3. *Confidential Resource* – These individuals keep discussions confidential and are not required to report incidents to the Co-Coordinators. Conversations with these individuals are not considered a complaint.
  - Mairi Renwick, Richmond Chaplain, Watts Hall, Room 103 804.278.4222, [mairi.renwick@upsem.edu](mailto:mairi.renwick@upsem.edu)
  - Sally Herlong, Charlotte Chaplain, Thomas W. Currie III Academic Hall, Room F103, 980.636.1672, [sally.herlong@upsem.edu](mailto:sally.herlong@upsem.edu)

Except as otherwise required by law, an individual who serves as a “confidential resource” may not report to the Seminary any identifying information about behavior that may implicate the Seminary’s policies against harassment and discrimination without the consent of the individual who supplied the information in question. Sharing with law enforcement or Child Protective Services, however, is required to address an imminent risk of harm to the safety of the community at large, the individual sharing the information, or another member of the community; or, when the information involves potential child abuse, elder abuse, or the abuse of a disabled person.

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<sup>2</sup> The Title VI/Title IX Co-Coordinators are appointed by the Seminary President. Other persons and/or contractors who are needed for various roles in this process will be appointed by the Co-Coordinators.

## B. Methods of Reporting

Any member of the Seminary community may report an incident or allegation of discrimination, sex discrimination, or sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute discrimination, sex discrimination or sexual harassment), through a variety of methods. Individuals may report a claim using the [Discrimination or Harassment Form](#) or by email, phone, or in person, and submit the report form, written report, or verbal report through the following:

- Electronically using the [Discrimination or Harassment Form](#)
- By mail or in person – Title VI/Title IX Office, Union Presbyterian Seminary, 3401 Brook Road, Richmond VA 23227 or 5141 Sharon Road, Charlotte NC 28210
- By telephone – Ms. Walker at 804.278.4252 or Rev. McLennan at 980.636.1669
- By e-mail – [michelle.walker@upsem.edu](mailto:michelle.walker@upsem.edu) or [lisa.mclennan@upsem.edu](mailto:lisa.mclennan@upsem.edu)

A complaint may be filed concerning harassment, discrimination, or retaliation in the treatment of employees, students, family members, visitors, or vendors. The Seminary expects that all complaints will be filed in good faith, as the act of filing a complaint that is not in good faith is, in and of itself, a violation of this policy.

The complaint should be made as soon after the alleged act as possible so as to assist with a prompt and equitable investigation. While the Seminary will take all complaints of violations of this policy seriously, its ability to pursue the complaint to conclusion may be significantly hindered by the passage of time. In the event of sexual assault, a delay in reporting the incident to the police can significantly impact the ability to prosecute a crime. In addition, for complaints filed against anyone who is no longer a member of the Seminary community, the Co-Coordinators have the authority to determine whether to proceed, or not to proceed, with an investigation of such a claim.

The Seminary believes it is important to be proactive in taking reasonable steps to identify and prevent incidents of discrimination and harassment. If an individual in a supervisory capacity has direct knowledge of an incident of discrimination or harassment on the part of a member of the Seminary community, that supervisor is required to bring the matter to the attention of one of the Co-Coordinators. If, after such notice is given, it appears to the assigned Co-Coordinator that a potential violation of this policy may exist, that individual may serve as the Complainant in such matter and pursue the matter through this policy.

## C. Privacy and Confidentiality when Submitting a Complaint

All activities under these procedures will be conducted with due regard for any legitimate privacy and reputational interests of those involved.

While the Seminary will take all reasonable steps to protect anonymity and confidentiality, it cannot, and does not, guarantee that all claims and details of such claims will be kept completely confidential. Accordingly, while the information shared will be treated as confidentially as possible, the Co-Coordinator(s) at times may need to consult with other administrators and will, at times, need to take action in the interest of safety.

It is typically expected, however, that any materials and information prepared or acquired under these procedures will be shared only with those who have a legitimate need to know. Disclosure of such information may also be made if it is permitted by law and the Co-

Coordinators determine in their judgment: (1) that such disclosure is necessary to protect the health, safety, or well-being of members of the Union Presbyterian Seminary community; *or* (2) that such disclosure advances the interests of those involved in the process and/or the Seminary and outweighs the interest in confidentiality.

According to the [Office of Civil Rights of the Department of Education](#), when reporting sexual harassment or discrimination or sexual assault, the Seminary cannot omit personally identifiable information (the name of the victim, the name of the accused individual, and other identifying details about witnesses, location, etc.).

Upon receipt of a complaint, one of the Co-Coordinators will reach out to the complainant to conduct an Intake Interview (*see section IV.A below*). Subsequent to an initial report, campus officials may need additional information in order to fulfill the Seminary's obligations under Title VI and Title IX. In taking these subsequent actions, the Seminary will always be guided by the goals of empowering the alleged victim and allowing that person to retain as much control over the process as possible.

#### Filing with Law Enforcement

Any Complainant has the right to report and the right to decline to report the matter to local law enforcement if the conduct is potentially criminal in nature. The Seminary's obligation to respond to a complaint will not change depending upon whether or not the matter has been reported to law enforcement, but it may briefly delay the timing of an investigation if a law enforcement agency requests that the Seminary delay its process for a reasonable amount of time to allow it to gather evidence of criminal conduct. The Seminary will provide the Complainant with assistance in filing a report, if needed. Neither law enforcement's determination whether or not to prosecute a Respondent, nor the outcome of any criminal prosecution, are determinative of whether a violation of this policy has occurred. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

#### D. Multiple Complaints

The Co-Coordinator, either upon personally receiving a complaint or upon receipt of a report from a responsible referral regarding the resolution of a complaint, keeps a record of any and all such complaints. Upon the receipt of a new complaint, the Co-Coordinator reviews the record of filed complaints to determine if there are any previous complaints under these policies that have been filed against the Respondent. In the event that there have been one or more similar complaints filed against the Respondent, the Co-Coordinator determines whether the Respondent should be subject to an interim action, which may include, without limitation, restrictions placed upon the Respondent's campus activities or a temporary campus ban while the investigation is completed. The Co-Coordinator has the sole authority to determine and impose such interim action.

In the event the Co-Coordinator imposes interim action against the Respondent, the Respondent may appeal and seek to modify or overturn such interim action by delivering a written appeal to either the Seminary's Appeals Officer, President Jacqueline Lapsley at [jacqueline.lapsley@upsem.edu](mailto:jacqueline.lapsley@upsem.edu) or the designated Deputy Appeals Officer as appointed by the Seminary President. A copy of the appeal will also be filed with the Co-Coordinator who imposed the interim action. The Respondent's written appeal must be delivered within one (1) business day of issuance of the interim action. While the appeal is pending, the interim action will remain in place, in force, and in effect.



Within two (2) business days of receipt of a written appeal from the Respondent, the Appeals Officer or the designated Deputy Appeals Officer will, in their sole discretion, issue a decision on the appeal that either affirms the interim action, modifies the interim action, or revokes the interim action. The person deciding the appeal may modify, or revoke, the interim action only in cases of: (i) manifest injustice *or* (ii) substantial conflict of interest on the part of the Co-Coordinator. In the absence of manifest injustice or substantial conflict of interest, the interim action imposed by the Co-Coordinator will be affirmed by the Appeals Officer or designated Deputy Appeals Officer. The decision of the Appeals Officer or designated Deputy Appeals Officer of any appeal of interim action will be final, and may not be further appealed.

#### **IV. STEP 2 – ADDRESSING THE COMPLAINT**

After a person has reported a complaint of harassment or discrimination, Step 2 in the process is addressing the complaint. The Seminary will actively and expeditiously respond to any allegation of discrimination or harassment in accordance with this policy.

The Seminary offers several options for those seeking relief under this policy. These include the Informal and Formal Resolution Processes described herein. The various aspects involved in addressing a complaint include the Intake Interview, the role of an advisor and/or support person, determination of the type of potential violation, request for confidentiality or no further action, interim supportive measures, and notice to the Respondent.

##### **A. Intake Interview**

The Intake Interview is the first aspect of addressing a complaint. One of the Co- Coordinators will typically conduct the initial meeting or Intake Interview. However, if the Co- Coordinators are unavailable or there is a conflict of interest, a trained Intake Officer will be designated. Upon learning of a Complaint, one of the Co- Coordinators or a designated Intake Officer will ask to meet with the Complainant. Alternatively, a Complainant may request a meeting with one of these individuals. The Complainant may be accompanied by an advisor and/or a support person (see below). During this meeting, the Complainant should be prepared to generally discuss the circumstances and information upon which the complaint is based. During this meeting, the Co-Coordinator or designated Intake Officer will discuss the nature of the complaint, the date(s) of the conduct at issue, the location at which the incident(s) occurred, and will gather other general information sufficient to determine whether the information presented, if true, would be a violation of this policy. This is not intended to be a full interview during which all details of the matter will be reviewed. During the Intake Interview, the Complainant will receive information regarding their rights, resources, and options, and will discuss potential interim remedial or protective measures.

If the complaint contains an allegation meeting all of the jurisdictional elements of this policy and the Complainant indicates that she or he desires to move forward with an investigation, the Complainant will sign the complaint. If the Complainant does not want to proceed at this juncture, the Complainant will so advise the Co-Coordinator, who will then have the option, but will not be required, to pursue the complaint individually. In the event the Co-Coordinator decides not to individually pursue the complaint, the matter will be closed. In the event that the Complainant wishes to proceed, however, the Complainant will then sign the complaint, and the Co-Coordinator will, within three (3) business days, notify the Respondent of the allegation and commence the investigation process.

## B. Advisors and Support Persons

Discussing the availability and role of potential advisors or support persons is the second aspect involved in addressing the complaint. Although the Co-Coordiators are available to assist the Complainant and Respondent in navigating the policy, the Co-Coordiators remain neutral in relation to the case. To provide additional guidance and support, both Complainants and Respondents may have up to two persons (one advisor and one support person) of their choosing to accompany them to any meeting, interview, or proceeding related to the Informal or Formal Resolution process. This includes the initial Intake Interview. Neither the advisor nor the support person can also be a witness in the same matter. The roles of the advisor and support person are set out as follows.

*Advisor* – An advisor chosen by a Complainant or Respondent in any case of potential discrimination or harassment will provide assistance in navigating the Informal or Formal Resolution Process by providing guidance on process and procedures. The Seminary will provide both parties with the names of at least two trained advisors who understand the Seminary's policy and procedures. The advisor may accompany the Complainant or Respondent to any and all portions of the grievance process. For all cases, the advisor may serve as a guide through the process by explaining the process to the complainant or respondent, answering questions, accompanying the person during the Intake Interview and other aspects of the investigation, and asking questions on behalf of the person as needed (i.e., raising questions in the Intake Interview, in conversations with the Co-Coordinator, and possibly with members of the Determination Panel or Hearing Panel as discussed below).

Although optional for non-Title IX cases, an advisor is required for the Complainant and Respondent for all Title IX cases that proceed through the Formal Resolution Process, which would involve a Hearing Panel. A Complainant or Respondent may make use of an advisor provided and trained by the Seminary or may select an advisor of their own choosing. For any Complainant or Respondent who does not have an advisor at the Title IX hearing, one will be provided, at no charge, for the purpose of cross-examination of the other party or witness. Since a hearing is required for Title IX cases that proceed through the Formal Resolution Process and an advisor has a specific role at the hearing, reasonable attempts will be made to schedule proceedings consistent with an advisor's availability. However, the process will not be delayed to schedule the Title IX hearing at the convenience of the advisor. The Co-Coordiators have the discretion to remove the advisor from the hearing if the advisor interferes with the proceedings.

*Support Person* – A Complainant or Respondent may choose to have a support person who provides emotional support during the course of an Informal or Formal Resolution Process. The support person can be a friend. A support person may not represent, advocate, or speak on behalf of a Complainant or Respondent, and may not disrupt or impede any resolution proceeding.

## C. Determination of the Type of Violation

While issues of discrimination and harassment are all appropriately addressed through this policy, with regard to issues of sexual harassment a determination must also be made regarding whether the complaint is one that asserts a potential violation of Title IX. Because a complaint must meet strict criteria in order to be deemed a Title IX complaint, it is necessary to gather more information at this stage. Schools are required by law to handle

Title IX cases in specific ways. During the Intake Interview, the Co-Coordinator or designated Intake Officer will assist the Complainant in determining whether the incident is a Title IX complaint or another violation of this policy. Title IX determinations are made based on the nature of the complaint, the location of the incident, and the status of the Complainant and Respondent.

A complaint is a potential Title IX violation when the location and status of the Complainant and Respondent meet the following criteria:

*Location* – To qualify as a Title IX case, the incident must have occurred on the Seminary's campus, within the United States, or the incident must have occurred during one of the Seminary's programs or activities, such as part of a field trip or field education within the United States. Incidents that occur elsewhere such as Seminary-sponsored international trips are not Title IX cases, but may still proceed under the anti-harassment provisions set forth in this policy.

*Status* – To qualify as a Title IX case, the Complainant must be a student (whether applicant, admitted, or currently enrolled) or employee (applicant, hired but not yet working, or employed). The Respondent must be a student (whether applicant, admitted, or currently enrolled) or employee (applicant, hired but not yet working, or employed).

*Nature of Complaint* – Title IX cases involve claims related to one of the following three criteria:

- A complaint of Dating Violence, Domestic Violence, Stalking, or Sexual Assault as defined above; *or*
- A complaint of sexual harassment in which the harassment was so severe and pervasive and objectively offensive that it denied the Complainant equal access to an educational program or activity, or denied the employee the ability to continue their work at Union Presbyterian Seminary; OR
- A complaint of *Quid Pro Quo* sexual harassment by an employee against a student.

If the criteria for location, status, and nature of the complaint are all met, the complaint proceeds as a Title IX case. The Title IX case may proceed through the Informal or Formal Resolution Process as described later in this policy.

If these criteria for a Title IX case are not met, the complaint will proceed either through the Informal or Formal Resolution Process set forth herein.

#### D. Requests for Confidentiality or No Further Action

While making a complaint, the Complainant may request confidentiality and that no further action be taken by the Seminary. When a Complainant requests that the Seminary not use their name as part of any investigation, or that the Seminary not take any further action, the Seminary will generally try to honor those requests. However, there are certain instances in which the Seminary has a broader obligation to the community and may need to override an individual's request for confidentiality or a request that the Seminary not investigate a matter or take any further action. Because such requests could impact the Seminary's ability to appropriately address and resolve the behavior in question, the Seminary will weigh these requests very carefully.

The Co-Coordinator will evaluate the request for confidentiality or that an

investigation/discipline not occur by considering a range of factors including, but not limited to, whether:

- There have been similar past complaints about the same individual and the severity of the conduct alleged.
- The alleged Respondent has a history of violence or the allegation involves an act of physical violence.
- The alleged Respondent threatened further or future violence.
- The misconduct was alleged to have been committed by multiple perpetrators.
- The alleged Respondent holds a position of power over the alleged victim or others.
- The alleged victim is a minor.
- The Seminary possesses no other means to obtain relevant evidence.

The presence of one or more of these factors may lead the Seminary to commence an investigation. If so, the Seminary will inform the Complainant and Respondent in writing prior to proceeding and will, to the extent possible, share information only with the individuals responsible for handling the Seminary's response and others involved in the investigation.

Should the Complainant ask that their identity not be disclosed to the Respondent as part of an Informal Resolution Process, the Co-Coordinator will work with the Complainant to determine whether other solutions (such as targeted training) would resolve the Complainant's concerns. The Seminary cannot guarantee, however, confidentiality in all circumstances.

#### E. Interim Supportive Measures

In evaluating a complaint, the Co-Coordinator may determine that either or both Complainant and Respondent is entitled to reasonable interim supportive measures (See Appendix B). The Seminary reserves the absolute right to take whatever interim measures it deems necessary to protect the rights and personal safety of its community members. During the Intake Interview, the Co-Coordinator or designated Intake Officer may offer interim supportive measures to the Complainant that are designed to restore or preserve equal access to the Seminary's educational programs or activities and work environment and will consider the Complainant's wishes with respect to these measures. These measures may be available with, or without, the filing of a written complaint. Interim supportive measures available in all cases may include: counseling; extensions of deadlines or other course-related adjustments; modifications of work, class, or dining schedules; campus escort services; mutual no-contact directives; changes in work or housing locations; leaves of absence; increased security; or monitoring of certain areas of the campus.

*Note:* Any interim supportive measures put in place will be kept confidential, except to the extent that doing so impairs the Seminary's ability to provide the supportive measures. For example, in order to effectuate a housing change, staff in the Housing Office will be informed of the need to assist with a housing change as directed by the Co-Coordinator, but will not be provided with any of the details of any complaint.

#### F. Notice to Respondent

Upon the filing of a Complaint, written notice will be provided to the Respondent. Such

notice will include the following information:

- The specific allegation and the specific conduct that is alleged to have occurred.
- The identity of the Complainant.
- The date and location (if known) of the conduct that is alleged to have occurred.
- A copy of this policy, which contains the process that will be followed, including an explanation that each party has the right to inspect and review all evidence prior to the completion of the investigation.
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the process below, there is a determination of responsibility.
- An explanation that each party may be accompanied by an advisor of their choice or a trained advisor provided by the Seminary and/or a support person.
- The date and time of the initial meeting with the Co-Coordinator, with a minimum of seven (7) business days' notice.
- The name and contact information of the investigator that will be assigned to the claim (if determination has been made to proceed with a Formal Resolution Process) (the "Investigator").
- Information regarding interim supportive measures, which are available equally to the Respondent and to the Complainant.

The decision to proceed with an investigation is not a determination that the Respondent has engaged in the alleged conduct. Any Respondent is presumed not responsible for the conduct that is the subject of the investigation, unless and until a decision of responsibility by a Preponderance of the Evidence Standard has been made upon the completion of the adjudication process.

## **V. STEP 3 – RESOLUTION THROUGH INFORMAL OR FORMAL PROCESS**

After the complaint of discrimination or harassment has been reported and processed, a determination of how the claim will be resolved will be made. Within three (3) business days of the Intake Interview, a determination as to whether, and how, to proceed with the complaint will be identified and shared with the Complainant. The choice as to the manner in which to proceed under this policy is generally at the discretion of the Complainant. Because the circumstances of every claim are unique, the Seminary believes that the Complainant is in the best position to decide whether the Informal or Formal Resolution Process works best for the person. However, in cases involving use of a weapon, predation, allegations of violence, where there are multiple victims, or when there have been previous reports of similar misconduct by the Respondent, the Co-Coordinator has the authority to determine that an Informal Resolution Process is not appropriate, and then refer the matter for immediate investigation.

In circumstances where the facts do not suggest a potential violation of this policy, the Co-Coordinator will provide the Complainant, in writing, notice that the matter may proceed to an Informal Resolution Process or else will be dismissed. In those instances in which the allegations concern a potential violation of a different policy, the Co-Coordinator will refer the matter directly to the appropriate administrator for further handling as may be appropriate.

A case that does suggest a potential violation of this Nondiscrimination and Anti-Harassment Policy may proceed by either the Informal or Formal route. An Informal Resolution Process will be used at the request of the Complainant with agreement from the Respondent and support of the Co-Coordinator. If either party prefers the formal route, however, the case will be referred to the Formal Resolution Process. As previously stated, the Co-Coordinator may insist on the Formal Resolution Process because of certain circumstances.

The Informal and Formal Resolution Processes are summarized as follows:

1. Informal Resolution Process – An option for all claims of discrimination or harassment that are violations of this policy; appropriate for discrimination or harassment issues that are not violations of this policy but may not be in keeping with the Seminary's values. However, the Co-Coordinators may insist on the Formal Resolution Process for certain cases.
2. Formal Resolution Process with Two Paths – Appropriate for discrimination and harassment issues that are violations of Title VI or Title IX; required for all *Quid Pro Quo* cases when the employee is the Respondent and the student is the Complainant.
  - a. Determination Panel – Nondiscrimination and Anti-Harassment Procedure for Non-Title IX cases
  - b. Hearing Panel – Anti-Harassment Procedure for Formal Title IX cases

#### A. Informal Resolution Process

A complaint of harassment or discrimination may proceed through an Informal Resolution Process. The Seminary encourages informal resolution of conflict when the parties desire to resolve the situation cooperatively and whenever such resolutions can be effected fairly through conversation between the Complainant and Respondent.

The Informal Resolution Process is an option for most claims of discrimination or harassment made pursuant to this policy. In addition, the Informal Resolution Process may be an appropriate avenue to address situations that fail to honor the aspirations of the Seminary's Community Grievance and Discipline Policy which values direct, face-to-face communication as we engage conflict.<sup>3</sup>

Through the Informal Resolution Process, participants can learn how to engage with conflict and others in a productive manner. Successful informal conflict resolutions can help people to communicate more clearly, negotiate effectively, develop and evaluate solutions, or resolve conflicts. When participants control and shape their outcomes in structured mediations, they are more likely to be satisfied with the process and the outcome. In this Informal Resolution Process, the parties will have trained mediators available to assist in facilitating conversation between parties.

One of the Co-Coordinators or a designated person will serve as the Intake Officer. At the point of the Intake Interview, the Intake Officer will gather information about the case and discuss the Informal and Formal Resolution Processes, as appropriate, with the Complainant. The Intake Officer will then review the complaint to determine whether the case may proceed through the Informal Resolution Process. The Intake Officer will notify the Complainant if it is appropriate to proceed with the Informal Resolution Process. An attempt

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<sup>3</sup> Excerpt from the Community Grievance and Discipline Policy, pg. 1.

to informally resolve a complaint is not required before an individual may use formal procedures. In addition, some cases will not be deemed appropriate for informal resolution.

This Informal Resolution Process may be used by Seminary employees, students, family members, vendors, and any other individuals who participate in the Seminary's programs or activities or who are otherwise on campus. At any time, either party may request that the Informal Resolution Process end, and that the matter be referred for a formal investigation.

Disciplinary outcomes are not assigned in an Informal Resolution Process, though the parties may agree to appropriate remedies or other courses of action which may be documented and become binding upon the parties. Resolution of a complaint through the Informal Resolution Process means that there will not be any formal finding(s) by the Seminary that a policy was violated. If the Complainant wants a definitive finding on whether the alleged misconduct constitutes a violation of policy, the Informal Resolution Process is not appropriate.

There are three main stages in the Informal Resolution Process:

- Stage 1 – Selection of the Type of Informal Resolution
- Stage 2 – Agreement on the Informal Resolution Process (and mediator, if applicable)
- Stage 3 – Reaching a Resolution

#### *1. Stage 1 – Selection of the Type of Informal Resolution*

The first stage in the Informal Resolution Process is the selection of the type of informal resolution. During the Intake Interview or shortly thereafter, the Complainant who has chosen the Informal Resolution Process discusses various options with the Intake Officer. Two suggested approaches for Informal Resolution include: Direct Approach and Mediation.

- a. Direct Approach – With this method, the Complainant directly approaches the person who is believed to have violated a UPSem policy in an attempt to resolve the problem. This may be done either in person or in writing. If the Complainant chooses to write a letter or a memo, the person must state the facts as they see them, share concerns, and identify what, in their view, should happen next. If the Direct Approach is in person, the Complainant, either alone or with their advisor and/or support person, may meet with the Respondent (and the Respondent's advisor and/or support person if applicable) to discuss the situation, identify the behavior in question, be clear that the specific behavior must cease, and reach a resolution on how to move forward. Either party may reach out to an advisor who can assist in preparing for this conversation. The Co-Coordinator or designated Intake Officer will also be available to assist as needed. The Co-Coordinator or designated Intake Officer will not serve as an advocate for any party but will serve in an impartial role as a resource for this conversation.
- b. Mediation – With this method, a mediator helps the parties find their own resolution. Both parties must agree to mediation. The mediator may coach the parties on conflict resolution, serve as an intermediary between the parties, and/or bring the Complainant and Respondent together to attempt

to resolve the problem. The Complainant, either alone or with their advisor and/or support person, may meet with the Respondent (and the Respondent's advisor and/or support person if applicable) to discuss the situation, identify the behavior in question, clear up misunderstandings, determine the underlying interests or concerns, find areas of agreement and ultimately, to incorporate those areas of agreement into a resolution.

Advisors can provide guidance and help both the Complainant and Respondent prepare for this meeting. The Co-Coordinator will also be available to assist as needed.

The Complainant can choose from a pool of mediators provided by the Seminary. The pool includes a limited number of trained volunteers from the community: employees and students. The mediator will facilitate the conversation and process and will help the parties discuss the problem and explore solutions. The mediator is a neutral party serving to help people communicate clearly, negotiate effectively, and reach a voluntary, negotiated resolution of a charge of harassment or discrimination. Mediators do not give legal advice, take sides, impose solutions, or make decisions about resolutions.

- c. Other Options – In addition to the two suggested approaches, the parties may propose additional informal resolution processes.

## 2. *Stage 2 – Agreement on the Informal Resolution Process (and mediator, if applicable)*

After the Complainant has decided how to proceed, the Respondent will be informed through one of two means:

- The Complainant may choose to inform the Respondent of the filing and invite them into a conversation with or without a mediator to settle their dispute. The Complainant can use email to notify the Respondent, if desired.
- The Complainant may also request that the Intake Officer notify the Respondent of the complaint that has been filed and the process for the conversation.

Both parties must agree to proceed via the Informal Resolution Process. If both parties do not agree to the Informal Resolution Process, the dispute will proceed through the Formal Resolution Process.

If a mediator has been selected, the Complainant or Intake Officer must notify the Respondent of the identity of the mediator. Both parties must agree to use the identified mediator. If there is a conflict with the mediator as identified by either parties or the mediator, the parties must choose a different mediator that both agree upon.

Upon agreement to participate in the Informal Resolution Process, the parties must agree on a day and time for their mediation. The timetable for this meeting is based on the availability of all parties, but it is to be scheduled within two weeks from the time the Intake Officer receives the complaint. The Informal Resolution Process should not take more than thirty (30) calendar days to resolve.



### 3. Stage 3 – Reaching a Resolution

Once an agreement or resolution is reached that is satisfactory for both parties, the agreement should be written and signed between the parties, copied, and filed with the appropriate offices, as follows:

- Director of Human Resources (disputes involving administration, staff, other employees, visitors, vendors, etc.)
- Dean of Students (disputes involving students, family members, etc.)
- Academic Dean (disputes involving faculty, teaching assistants, field education site supervisors, etc.)

The Title VI and Title IX Office maintains records of all Informal Resolution Agreements involving complaints of protected class harassment or discrimination. Any breach of the agreement by either party can serve as grounds to create a new complaint. If the parties are unable to resolve their conflict through the Informal Resolution Process, the parties have the option of engaging the Formal Resolution Process.

#### B. Formal Resolution Process – Investigation and Resolution by Determination Panel or Hearing Panel

Rather than proceed through the Informal Resolution Process as described above, a case may proceed through a Formal Resolution Process. A case may also start in the Informal Resolution Process and be moved to the Formal Resolution Process.

A Complainant with a claim of discrimination and harassment that is a violation of this policy may choose the Formal Resolution Process. The Co-Coordinator or designated Intake Officer may insist on the Formal Resolution Process to address reports of violent conduct of any kind (i.e., cases of sexual violence) or where a Respondent appears to present a threat to the Seminary community. Allegations of *Quid Pro Quo* harassment of a student by an employee may only be handled through the Formal Resolution Process.

The Formal Resolution Process may proceed through one of two paths: A Determination Panel for non-Title IX cases or a Hearing Panel for Title IX cases. The Hearing Panel is required for all cases that qualify as Title IX violations and proceed through the Formal Resolution Process. Other cases of alleged harassment or discrimination that proceed through the Formal Resolution Process will be addressed by the Determination Panel.

There are three main stages in the Formal Resolution Process:

- Stage 1 – Investigation
  - a. Interview and Fact Gathering
  - b. Evidence Review
  - c. Investigation Report
- Stage 2 – Decision to Continue or Dismiss
- Stage 3 – Resolution by Determination Panel (non-Title IX) or Hearing Panel (Title IX)

Stages 1 and 2 involve the investigation and decision of whether to proceed, and are the same for all formal cases. The Formal Resolution Process diverges at Stage 3, the resolution stage, depending on the type of violation.

## *1. Stage 1 – Investigation*

The first stage in the Formal Resolution Process is the Investigation. Following the Intake Interview and the determination that the matter will proceed to an investigation, the Co-Coordinator will assign the complaint to an Investigator. Any assigned Investigator will be trained in the application of this policy, trauma-informed interviewing practices, and the proper application of due process and fundamental fairness.

The Investigation process, up to evidence review, is generally expected to take thirty (30) calendar days, which may be extended for good cause by the Co-Coordinator. Both parties will be notified, in writing, of any extension granted and the reason for the extension. The three elements of an investigation include interview and fact gathering, evidence review, and investigation report.

### *a. Interview and Fact Gathering*

Each party will be provided an opportunity to offer relevant witnesses and evidence. The Investigator will consider all relevant evidence. The Investigator has the authority to determine the relevance of any evidence offered or gathered. The Seminary will not restrict the ability of the parties to discuss the allegations or gather evidence.

The Investigator will interview all parties and relevant witnesses, and gather relevant documentary evidence provided by the parties and any identified witnesses. The Complainant and Respondent may have an advisor present during the interview process. Interviews may be conducted in person or via video conference. Witnesses may also have an advisor present during the investigation interview. The advisor may be present during interviews as long as they do not, in the sole judgment of the investigator, interfere with the interview and investigation.

The Investigator also prepares a written summary of each interview. Within five (5) business days of the interview, the Investigator will share the written interview summary with the interviewee.

Throughout all stages of this process, questions and evidence about the Complainant's prior sexual behavior are not relevant and will not be asked, unless such questions and evidence about the Complainant's prior sexual behavior are offered: (a) in order to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or (b) 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 privacy of a party's medical, psychological, and similar treatment records will be protected. The Seminary cannot access or use such records unless the Seminary obtains the party's voluntary, written consent to do so.

### *b. Evidence Review*

At the conclusion of all interviews and evidence gathering, the Investigator will

provide each party with a “Summary of Evidence Report” (listing or inventory of the evidence), and the opportunity to review all of the evidence gathered during the investigation that is directly related to the allegation(s) at issue.

Following delivery of the Summary of Evidence Report, each party will have ten (10) business days during which it may provide further evidence or submit a written request to the Investigator for additional investigation, such as a request for interviews with new and different witnesses, or a request that the Investigator conduct follow-up interview(s) with existing witnesses to clarify or provide additional information. Each party may also, at its discretion, offer written, relevant questions to the Investigator to pose to witnesses or to the other party.

Upon receipt of each party’s further evidence or request for additional evidence, the Investigator will determine if any further investigation is needed. The Investigator, in its sole discretion, will take into account any new evidence provided, pose questions to parties or witnesses as appropriate, interview new witnesses, and accept new relevant evidence. If any of the questions provided are excluded by the Investigator as not relevant, or not likely to lead to relevant information, the Investigator will explain to the party who requested the questions its decision to exclude the question as not relevant.

If new relevant evidence is provided by either party, or gathered by the Investigator, the newly gathered evidence (including answers to clarifying questions) will be made available for review by each party as part of the Investigation Report.

#### *Investigation Report*

The Investigator then prepares a written Investigation Report summarizing all of the relevant evidence gathered and presented in the Summary of Evidence Report along with all investigative steps taken to date. Each party will be provided with a copy of the written report and will have ten (10) business days to provide a written response. Upon receipt of any response(s), the Investigator completes the Investigation Report, which will include as an attachment all relevant evidence gathered during the investigation, as well as all interview notes and interview summaries, showing the original (as sent to each interviewee for review) and the revised version, after corrections or additions by each interviewee.

## *2. Stage 2 – Decision to Continue or Dismiss*

Following the investigation, the Co-Coordinator will review the final Investigation Report, with attachments. The Co-Coordinator may require that the Investigator conduct additional investigation. Once the Investigation Report is final and accepted by the Co-Coordinator, the report and all attachments will be presented to each party.

Following delivery of the report, the Co-Coordinator will decide whether the case should continue to determination by a panel or should be dismissed. In addition, at this juncture the Co-Coordinator may, in his or her discretion, also dismiss a complaint if the Complainant informs the Co-Coordinator in writing that the Complainant desires to withdraw the complaint or allegation, if the Respondent is no longer enrolled or

employed by the Seminary, or if specific circumstances prevent the Seminary from gathering sufficient evidence to reach a determination. In the event of dismissal at this point in time, the Co-Coordinator will give the parties written notice of dismissal and the reasons for the dismissal.

In addition, at any time prior to the commencement of a Determination Panel or Hearing Panel, any case proceeding under this policy will be dismissed if it is determined that the conduct at issue does not meet the jurisdictional requirements of this policy. In Title IX cases, the Seminary must dismiss allegations of conduct that do not meet the Title IX definition of sexual harassment or did not occur in the Seminary's education program or activity against a person in the United States. If the conduct is not a violation of Title VI or Title IX but nonetheless does not support the Seminary's values, the case may be redirected to the Informal Resolution Process. If the alleged conduct would, if true, support a finding that another Seminary policy has been violated, the Seminary may recommend the case be moved or transfer the case to the appropriate office or committee for further handling under the appropriate policy.

### 3. *Stage 3 – Resolution by Determination Panel or Hearing Panel*

The Formal Resolution Process for Stages 1 and 2 are the same for all cases. Here at Stage 3, the process may diverge into one of two paths depending on the type of case. After the investigation and a decision to continue with a Formal Resolution Process, non-Title IX cases will proceed to a Determination Panel. Title IX cases will proceed to a Hearing Panel.

#### *a. Determination Panel (non-Title IX violations)*

Within three (3) business days of receipt of the final written Investigation Report for any non-Title IX case, the Co-Coordinator will appoint a three-member Determination Panel from a group of trained members of the UPSem community.

The Complainant and the Respondent are each provided written notification of the names of the persons serving on the Panel. Within three (3) business days of receipt of the names of the panel members, either party should inform the Co-Coordinator (in writing) of any conflicts of interest in regard to the selected members proposed to be assigned to the Determination Panel. If a conflict of interest is raised regarding any of the individuals assigned to the Determination Panel, the Co-Coordinator will consider the nature of the conflict and determine if different individuals should be assigned to the Determination Panel.

The Determination Panel will review the Investigation Report and make a determination based on a Preponderance of the Evidence Standard as to whether or not the Respondent is responsible for violating the policy by having engaged in some or all of the reported conduct. The Determination Panel may not change any of the underlying factual findings of the Investigator. However, the Determination Panel has the authority to accept the Investigation Report without seeking additional investigation, or to ask the Investigator to conduct additional investigation on specific points. The Determination Panel also has the authority, in its discretion, to meet with the Complainant and the Respondent, separately. However, this is not an opportunity for either party to provide additional evidence, and any new evidence provided at this stage will not be considered,

unless it can be clearly demonstrated that such information was not reasonably known to, or available to, the parties at the time of the investigation. Should new evidence be presented, the Determination Panel has the authority to send the matter back for further, limited investigation.

The Determination Panel will then convene and apply a Preponderance of the Evidence Standard to determine whether the factual findings support a determination that the policy was violated.

If the Determination Panel finds that there is no policy violation, the Panel will inform both parties, in writing, of its decision.

If the Panel determines that the policy has been violated, the Panel includes its determination and any recommended remedies and sanctions in a written report, including its rationale.

The Panel's written report will be sent to the Co-Coordinator and to the appropriate administrator for consideration. Administrators who receive these written reports are determined based on the category of the Respondent:

- Complaints filed against a student or family member – The written report will be sent to the Co-Coordinator.
- Complaints filed against administration, staff, other employees, visitors, vendors, or other third parties – The written report will be sent to the Co-Coordinator and the Human Resources Director.
- Complaints filed against faculty, adjuncts, teaching assistants, or field education site supervisors – The written report will be sent to the Co-Coordinator and to the Academic Dean.

The administrator may not overturn the decision of the Determination Panel regarding whether a policy violation has occurred. However, the administrator may choose to accept the Determination Panel's recommendation for a remedy or sanction or issue a different remedy or sanction. Any prior misconduct or disciplinary matters relating to the Respondent may be considered in making this determination. At a minimum, any remedy or sanction must be reasonably calculated to end harassment and prevent its recurrence. The determination will then be sent in writing to both parties.

After the decision on the remedy or sanction has been made, the Co-Coordinator will, as necessary, take appropriate action to ensure that the Seminary comes into compliance with Title VI, Title IX, and the goals of this policy in a manner that is prompt and equitable to the involved parties. For example, the Co-Coordinator may assure that appropriate changes to housing, academic programs, or working conditions are implemented. While the action taken by the Co-Coordinator may impact third parties, such action is not intended to be punitive (or constitute disciplinary penalty) with respect to these third parties.

*b. Hearing Panel (Title IX violations)*

The U.S. Department of Education requires a hearing process for Title IX violations that proceed through the Formal Resolution Process. After the investigation process is complete and it is determined that the case meets the Title IX definition of sexual harassment, the case will proceed to a Hearing Panel. Each party will be provided with a Notice of Hearing, which will include information regarding the date of the hearing, the names of the three members of the Hearing Panel, and any deadlines for submission of evidence, names of witnesses, or questions to be reviewed by the Hearing Panel to ensure relevance. The hearing will be scheduled no less than ten (10) business days from the date of the Notice of Hearing.

Within three (3) business days of receipt of the Notice of Hearing, either party may object to any member of the Hearing Panel, on the basis of an actual bias or conflict of interest. Any objection must be made in writing and sent to the Co-Coordinator. Should the Co-Coordinator determine that there is an actual bias or conflict of interest, the Co-Coordinator will remove the particular Hearing Officer and appoint another.

Each party is entitled to one advisor at the hearing. The role of the advisor is to ask questions of the other party and of witnesses. The Complainant and Respondent are not permitted to ask questions directly. Only the advisor asks the questions. If either party does not have an advisor at the time of the hearing, a trained advisor will be provided by the Seminary.

Hearings may be in person or via videoconferencing. Prior to the hearing, the Hearing Panel will have received instruction regarding the operation of any audio-visual equipment for the hearing. Each hearing will be recorded. No other individual is permitted to record while the hearing is taking place. The recording is the property of the Seminary but may be available for listening by appropriate parties by contacting the Co-Coordinator.

The Complainant, Respondent, and the Hearing Panel all have the right to call witnesses. Witnesses must have information relevant to the incident. No party will be permitted to call as a witness anyone who was not interviewed by the Investigator as part of the Seminary's investigation. Witnesses are not permitted to have advisors at the hearing. Each party submits the names of witnesses they would like to call no less than five (5) business days in advance of the hearing.

The Hearing Panel has the authority to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing. Any such limitation will be communicated to the parties no later than three (3) business days before the hearing.

The hearing is not the appropriate time for either party to provide additional evidence, and any new evidence provided at this stage will not be considered unless it can be clearly demonstrated that such information was not reasonably known to, or available to, the parties at the time of the investigation. Should new evidence be presented at the hearing, and the Hearing Panel determines that it will allow it to be presented, the Hearing Panel has the authority to suspend the

hearing and send the matter back for further, limited investigation with regard to the new evidence.

The hearing starts with an overview of the hearing process from the Hearing Panel, which is as follows: The Hearing Panel will pose questions to the Complainant. The Respondent's advisor will then pose questions to the Complainant. Next, the Hearing Panel will pose any additional questions it has. If the Respondent's advisor has any follow-up questions for the Complainant, the advisor will then ask those questions. The same process will then be followed for questions posed to the Respondent from the Hearing Panel, followed by questions from the Complainant's advisor to the Respondent. This process will then be followed for any witnesses who are to be interviewed.

The Hearing Panel may, in its sole discretion and by providing a brief rationale, refuse to allow questions that seek information that the Panel determines is not relevant under this policy. If either party does not appear for the Hearing, their advisor will be present for the purpose of asking questions of the other party, or of witnesses.

At the conclusion of the hearing the Hearing Panel will convene and apply a Preponderance of the Evidence Standard to determine whether the factual findings support a determination that the policy was violated.

The Hearing Panel will then prepare a written report. To the extent that credibility of the evidence needs to be made, it will not be based on a person's status as Complainant, Respondent, or witness. The Hearing Panel's report will be provided to the parties within five (5) business days after the hearing.

The Hearing Panel's report will include the allegations, description of all procedural steps, findings of fact, conclusion of application of facts to the policy, rationale for each conclusion, recommended remedies and sanctions, and procedure for appeal. The written decision will not be redacted, and will be sent simultaneously to each party.

## **VI. REMEDIES AND SANCTIONS**

Not all violations of this policy will be deemed to be equally serious offenses, and the Seminary reserves the right to impose different remedies and sanctions depending, without limitation, on the severity of the offense and/or offender history. See Appendix B for a non-exhaustive list of potential remedies and sanctions. At all times, the goal of any remedy or sanction is to end the harassment, prevent its recurrence, and remedy the harm.

When there is a finding of responsibility, the recommended remedies or sanctions are designed to restore or preserve equal access to the Seminary's education program or activity or work environment. Some examples are, but not limited to, individualized supportive measures and counseling. The Co-Coordinator will be responsible for communicating the remedies and/or sanctions to the appropriate parties, and will make sure that the implementation of the remedies is executed in a timely manner. The Seminary reserves the right, in its sole discretion, to modify any remedy or sanction that is recommended by the Determination Panel or Hearing Panel. Any modification of a remedy or sanction may be made only by the Seminary's President.

## **VII. FALSE ALLEGATIONS**

A false accusation of harassment or discrimination that is unreasonably made also constitutes misconduct under these policies, and any such claim is subject to the provisions set forth in this policy. A false accusation does not mean one in which the evidence ultimately does not prove the claim, but rather one in which the allegation brought forth is knowingly false and/or made in bad faith. Each party and every witness are expected to provide truthful information to the Investigator, Determination Panel or Hearing Panel, and Appeals Officer. Knowing failure to provide truthful information is sanctionable conduct under this and other Seminary policies.

## **VIII. APPEALS**

A written appeal may be filed by either party involved in the Formal Resolution Process. Within ten (10) business days of the date of receipt of the decision of either the Determination Panel or the Hearing Panel, either party may appeal such decision in writing. The Seminary's President will act as the Appeals Officer, unless otherwise designated by the Title IX Co-Coordinators.

Written appeals may be sent to the Seminary's Appeals Officer, Dr. Jacqueline Lapsley, President, at [jacqueline.lapsley@upsem.edu](mailto:jacqueline.lapsley@upsem.edu), or the designated Deputy Appeals Officer as appointed by the Seminary President. A copy of the appeal will also be filed with the Co-Coordinator.

Within one (1) business day of receipt of a written appeal, the non-appealing party will be notified, in writing, that an appeal has been filed, and the non-appealing will be provided ten (10) business days to respond to the appeal, if they wish. This statement should explain why the Appellant's basis for an appeal is improper and/or why the Hearing Board's decision should stand. The Title IX Coordinator (or their designee) will promptly provide the Appellee's statement to the Appellant.

Appeals are limited, and may only be based on the following grounds:

- A procedural error occurred that significantly impacted the outcome of the investigation or hearing. A description of the error and its impact on the outcome of the case must be included in the written appeal; *or*
- Title VI/Title IX Co-Coordinators or other related personnel had a conflict of interest or bias that affected the outcome of the matter.

Any party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agrees with the appeal. The appeals process only involves the review of written documents. No additional hearing is held, and no additional evidence will be accepted. At the sole choice and option of the Appeals Officer, a meeting between the parties and the Appeals Officer may be held to discuss the basis of the appeal.

Within three (3) business days of receipt of the Hearing Panel's report at the conclusion of the hearing, either party may object to the assigned Appeals Officer on the basis of an actual bias or a perceived conflict of interest. Any objection is to be in writing, and sent to the Co-Coordinator. Should the Co-Coordinator determine that there is an actual bias or a conflict of interest, the Co-Coordinator will remove the Appeals Officer and appoint another.

Within thirty (30) calendar days of the receipt of the appeal (or as soon as is reasonably practicable), the Appeals Officer will make a determination that (a) the decision of the Hearing Board should stand, or (b) the decision of the Hearing Board should be modified and/or overturned. In either case, the Appeals Officer should issue a written explanation of their



reasoning in reaching a decision. The Appeals Officer should provide his or her decision concurrently to the Complainant, the Respondent, and the Title IX Coordinator. The findings of the Appeals Officer are final, and there is no further appeal to any other Seminary personnel or entity.

## **IX. RETALIATION**

The Seminary prohibits retaliation against any individual who pursues a claim under this policy. Important issues related to retaliation include the following items.

- Charging an individual with code of conduct violations that do not involve sexual harassment, but arise out of the same facts or circumstances as a report or complaint of discrimination or sexual harassment, for the purpose of interfering with any right or privilege secured by Title VI or Title IX constitutes retaliation.
- The Seminary will take every precaution to protect the Complainant and any witnesses from retaliatory action by the Respondent. The Respondent will be instructed not to retaliate against the Complainant in any way or against any other person connected to the complaint as that action may result in a separate disciplinary action.
- The Seminary must keep confidential the identity of Complainants, Respondents, and witnesses, except as may be permitted by [FERPA](#), as required by law, or as necessary to carry out a proceeding.
- Complaints alleging retaliation may be filed with one of the co-coordinators.
- The exercise of rights protected under the First Amendment does not constitute retaliation.
- Charging an individual with a code of conduct violation for making a materially false statement in bad faith during a Title VI or Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

## **X. RECORD RETENTION**

The permanent records of the Title VI/Title IX Co-Coordinators and the appropriate panel will be maintained by the Co-Coordinator for a minimum period of seven years from when the case is closed, and will include, without limitation, all documents related to the investigation and/or resolution of a particular claim. These records may be kept in paper or digital form, at the sole discretion of the Co-Coordinator.

## **XI. ADDITIONAL CONSIDERATIONS**

### **A. Emergency Removal Provisions**

In an emergency, where the health or physical well-being of a member of the Seminary community or the well-being of the Seminary as an institution is threatened, any individual with knowledge of a situation involving harassment or discrimination should promptly inform the VP for Finance and Administration. The Seminary is authorized to take any immediate steps as may be necessary and appropriate under the circumstances to ensure the well-being of the Seminary community and the Seminary as an institution.

If the Seminary determines that the conduct, as alleged, poses a safety risk to one or more students or employees, or to the Seminary's educational or work environment, the Seminary may instruct that the Respondent be suspended, on an interim basis, from the Seminary, from residence halls, offices, or from specific programs or activities. Any such

assessment will be made on a case-by-case basis, based on an individualized safety and risk analysis. If the Seminary determines that an immediate physical threat to the health or safety of students, employees, or others justifies removal, then a Respondent may be suspended on an interim basis. The decision to do so will be provided to the Respondent in writing.

The Respondent has an opportunity to appeal the decision immediately following the removal. Any appeal should be directed to the President, who will decide the appeal at their sole discretion. The decision to place any Respondent on an interim suspension will not be considered as evidence that any determination has been made regarding potential responsibility.

**B. Consolidation of Cases**

In the event that the allegations under this policy involve allegations of a violation of a separate policy, whether Seminary Handbook, Faculty Manual, or Employee Handbook, the Seminary has the right, within its sole discretion, to consolidate those other allegations within one investigation and/or hearing. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this policy.

**C. Transfer of Cases, Sharing of Information**

For any case brought under this policy, should the case be dismissed and then transferred to another office, the Seminary has the right to transfer all communications and information gathered to any other Seminary administrator who will be reviewing and/or handling the case.

**D. No Conflict of Interest or Bias**

Any individual carrying out this policy will be free from actual bias or conflict of interest that would impact the handling of this matter. Should one of the Co-Coordinator have a conflict of interest, the other will take the role of Co-Coordinator for that case for purposes of carrying out the handling and finalization of the matter at issue. Should any Investigator have a conflict of interest, the Investigator is to notify the Co-Coordinator upon discovery of the conflict.

Each party may object, in advance, to the Co-Coordinator, designated Intake Officer, Investigator, member of the Determination Panel or Hearing Panel, or Appeals Officer on the grounds of an actual bias or conflict of interest. If either of the parties objects, they must notify the Co-Coordinator, in which case the Co-Coordinator will evaluate whether the objection is substantiated. The party raising the objection will be notified in writing of the findings within two (2) business days. If it is determined that an actual bias or conflict of interest exists, the person who was the subject of the objection will be removed and replaced.

**E. Requests for Delays and Extensions of Time**

The Co-Coordinator, in their sole discretion, may extend any deadlines within this policy for good cause shown and documented. The Complainant and Respondent will be notified in writing of any extension, the reasons for it, and projected new timelines.

F. Indemnification

Members of the Seminary community who hold formal responsibilities for the enforcement of these policies will, to the extent permitted by law, be defended legally by the Seminary for all actions taken by them in good faith, even if mistaken, in seeking to enforce these policies.

G. Relation to Other Policies, Rules, etc.

These policies are designed to provide definitions and procedures for handling cases of harassment and discrimination, including sexual discrimination, sexual harassment and/or sexual misconduct. If a conflict should arise between the provisions of these policies and other Seminary procedures, rules, regulations, or terms or conditions of employment, the provisions of these policies will govern and control in cases of discrimination and harassment, including sexual discrimination, sexual harassment, and/or sexual misconduct.

**XII. COMMUNICATION, EDUCATION, AND POLICY REVIEW**

A. Communication

This policy will be communicated to all Seminary employees, students, and vendors on an annual basis. The Co-Coordinators, working with the appropriate offices, will arrange for the policy to be made accessible and available through manners deemed appropriate and effective (website, email, campus marketing, etc.).

B. Education and Training

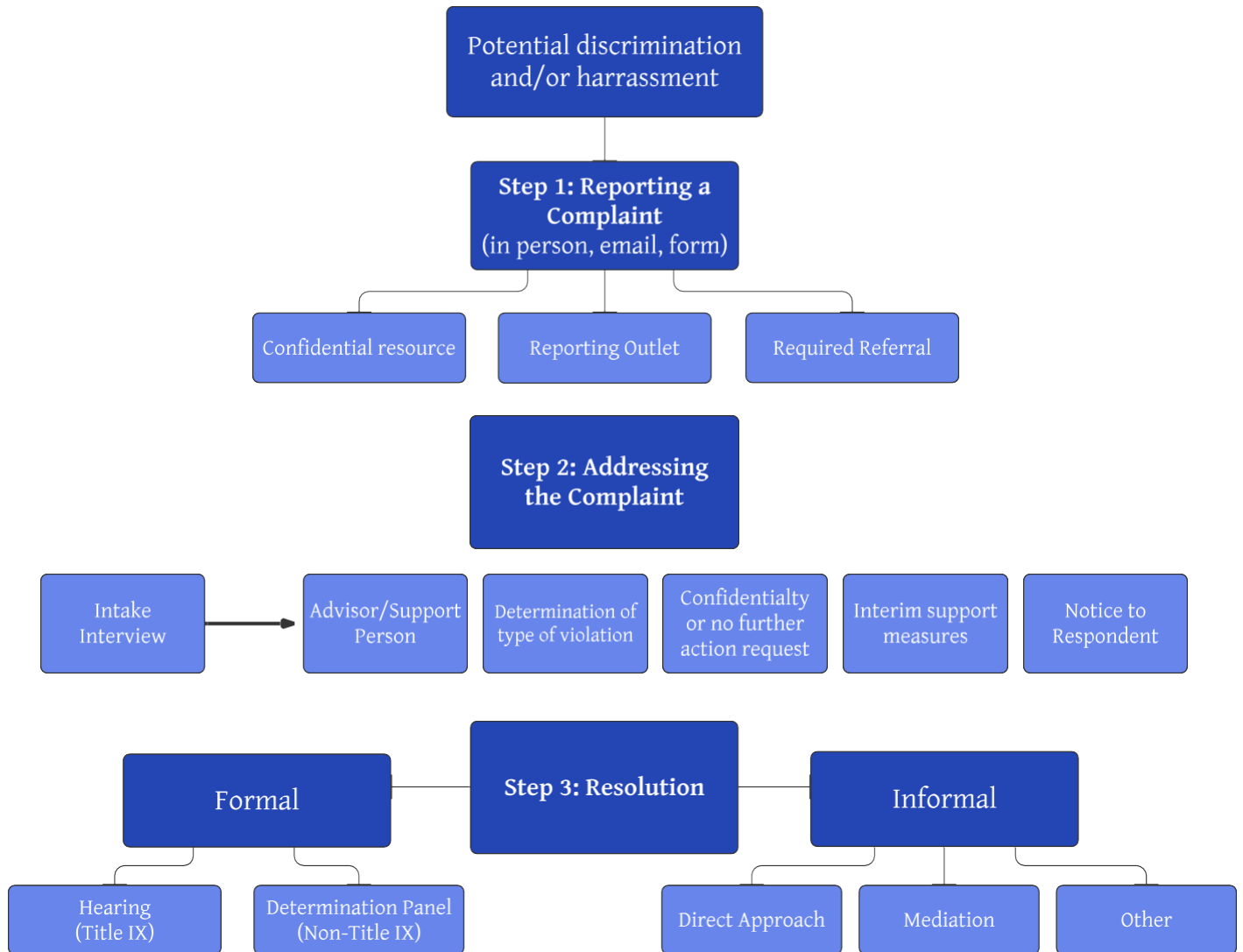
UPSem will review this policy with Seminary employees, students, and vendors. Training regarding issues of discrimination and harassment will be part of the comprehensive training plan on Seminary policies and ethos. Employees will receive refresher training every three years.

C. Policy Review, Approval, and Amendments

This policy will be reviewed on an annual basis by the Co-Coordinators or designees to determine if modifications or updates are necessary, and the Seminary reserves the right, in its sole discretion, to modify and/or amend this policy at any time, as it deems appropriate. A more comprehensive review will occur every three years. An appointed group will make recommendations for changes or amendments to the policy to the President. To the extent authorized by the Board of Trustees, the President may then either approve the recommended amendments and put them into effect or reject them. The Board of Trustees reserves to itself the right, on its own initiative, to repeal, amend, or replace these policies at any time if, in its judgment, the interests of the Seminary so require.

## APPENDIX A: Nondiscrimination and Anti-Harassment Policy and Procedures Flowchart

### Nondiscrimination and Anti-Harassment Policy and Procedures Flowchart



## **APPENDIX B**

### **Supportive Measures/Remedies/Sanctions**

#### **Non-Discrimination and Anti-Harassment Policy Union Presbyterian Seminary**

Violation of the Non-Discrimination and Anti-Harassment (Title VI and Title IX) Policy and Procedures may result in the use of one or more of the supportive measures, remedies, or sanctions listed below. The items identified in the lists below are not exhaustive or mandatory. Supportive measures are available to the Complainant and Respondent. Remedies are available to the Complainant and the Seminary community. Sanctions only apply to the Respondent.

#### **1. Supportive Measures (Complainant and Respondent)**

Supportive measures are often referred to as “interim measures” though the two terms are not completely interchangeable. They ensure that the Complainant and Respondent continue to receive equal access to the institution’s education programs without unreasonably burdening the other party. For example, the Respondent may ask to extend a project deadline that overlaps with a hearing or the Complainant may request a different residence to avoid contact with the Respondent. Supportive measures can be used from the receipt of the complaint to the determination of a final outcome, and even thereafter.

Supportive measures available may include, but are not limited to:

- Counseling
- Extensions of deadlines or other course-related/work-related adjustments
- Modifications of work or class schedules
- Arranging to withdraw from or take an incomplete in a class without penalty
- Campus escort services
- Mutual or one-way no-contact directives
- Changes in work or housing locations
- Dissolution of a campus housing contract and offering a pro-rated refund
- Leaves of absence
- Increased security and monitoring of certain areas of the campus

#### **2. Remedies (Complainant and Seminary Community)**

If after determination of the final outcome the Respondent is found responsible for discrimination or harassment, the Seminary will impose a remedy or remedies as needed to eliminate the harm to the Complainant and the Seminary community and to prevent recurrence.

Remedies for the Complainant may include, but are not limited to:

- An escort between classes and activities
- Removal from classes and activities shared with the Respondent
- Removal from a shared residence hall
- Academic support services such as tutoring
- Counseling services
- Providing extra time to complete, retake, or withdraw from a class without an academic or financial penalty

Remedies for the broader Seminary community may include, but are not limited to:

- Providing targeted training for a group of students or employees, if the discrimination or harassment created a hostile environment for a particular group, residence location, etc.
- Training or retraining employees on the school's responsibilities to address allegations of discrimination or harassment and how to conduct appropriate investigations
- Developing educational materials to distribute to members of the Seminary community
- Conducting bystander intervention and discrimination or harassment prevention programs
- Revising the Seminary's policies on discrimination and harassment

### **3. Sanctions (Respondent)**

If a Respondent is found responsible for a policy violation, the final outcome will include sanctions. Disciplinary sanctions vary depend on the magnitude of the violation. In certain limited situations, the Seminary may impose a sanction but suspend or postpone its actual implementation. Failure to comply with the sanction(s) imposed by the Seminary may result in further disciplinary action. Sanctions are based on general principles of fair treatment.

While attempting to be consistent in its disciplinary decisions, the Seminary also seeks to be fair and sensitive to the facts and circumstances of each individual case.

Factors considered when determining a sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the decision-maker(s)

Sanctions will be implemented as soon as feasible, either upon the decision of the claim, the outcome of any appeal, or the expiration of the window to appeal without an appeal being requested. The sanctions described below are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by the Seminary's administration.

#### **A. Student Sanctions**

Sanctions for a student who has engaged in harassment, discrimination, and/or retaliation include, but are not limited to:

- **Required Counseling or Educational Activity** – Reading/writing/project assignment designed to help the student understand why the behavior was inappropriate, drug or alcohol assessment/treatment, required counseling sessions, or other discretionary sanctions as deemed appropriate.

- **No Contact Directive** – The Seminary may impose a “no contact” directive in appropriate cases. Generally, “no contact” is defined as having no direct or indirect contact with another individual at any time. This includes, but is not limited to, communication that is written, verbal, or physical. Written communication is understood to include all electronic means of communication; including, but not limited to, email, instant messaging, and text messaging. Verbal communication is understood to include phone calls and voice mail messages. A “no contact” directive may include additional restrictions and terms such as dining hours that differ from the Complainant. Students found responsible for violation of the no contact directive may face sanctions that result in immediate removal from campus, suspension, or dismissal.
- **Loss of Privileges** – Such loss may include, but is not limited to, financial assistance and eligibility to use specific Seminary facilities or services.
- **Warning** – Oral or written notice to the student that the student is violating or has violated the Nondiscrimination and Anti-Harassment Policy and that continuation or repetition of misconduct may result in a more severe sanction. The purpose of the warning is to remind the student of their responsibility and to set guidelines for acceptable behavioral changes required to satisfactorily address the concern. This action is only appropriate in cases that are relatively minor.
- **Disciplinary Probation** – Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found in violation of the Nondiscrimination and Anti-Harassment Policy or other policy violations. Probation may also result in the loss of privileges at the discretion of the Seminary.
- **Suspension** – Suspension is a temporary, involuntary separation of the student from the Seminary for a definite period of time, after which the student is eligible to return without re-applying through the Office of Admissions, unless the student is absent for two or more academic years, which does require re-application and readmission by the office of admission, as is the case for all students. Conditions for readmission may be specified.
- **Dismissal** – Dismissal is the permanent separation of the student from the Seminary. The student is dismissed from the Seminary and is permanently ineligible to re-enroll at the Seminary at any time in the future. When students are suspended or dismissed for disciplinary reasons, there will be no refund of tuition or housing for the semester and all financial assistance for subsequent semesters will be reviewed and is subject to cancellation.
- **Restitution** – Compensation for loss, damage or injury. Failure to pay such charges may result in additional sanctions (including, but not limited to, denial of re-enrollment or refusal to release official transcripts and records).
- **Dismissal from Seminary Housing** – Loss of privilege to live in Seminary housing. Any student dismissed from Seminary housing prior to the end of the contractual period may be responsible for any remaining monetary charges, and become ineligible for reimbursement for any charges already paid.

- **Housing Relocation or Housing Separation** – Students may be assigned to a different residential space on campus if they violate policy or demonstrate an inability to continue living in their current community or room. The student may also be separated from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for readmission to the housing facility may be specified.
- **Revocation of Admission** – Applicants and admitted students are expected to abide by the same code of conduct as the Seminary's students and are covered by the same code of conduct. The Seminary reserves the right to revoke admission to admitted or deposited students for fraud, misrepresentation, violation of Seminary standards, or for other serious violations committed by a student prior to enrolling at the Seminary.
- **Withholding and/or Revocation of Degree** – The Seminary reserves the right to withhold or revoke a degree awarded from the Seminary for sexual assault and other violations of sexual misconduct.
- **Withholding Diploma/Transcript** – The Seminary may withhold a student's diploma for a specified period of time. The student may also be denied participation in commencement exercises while charges are pending or as a sanction. In addition, the Seminary may withhold a student's transcript if the student has judicial charges pending or the student was found responsible for violating policy.

## **B. Employee Sanctions**

Sanctions for an employee who has engaged in harassment, discrimination, and/or retaliation include, but are not limited to:

- **Performance Improvement/Management Process** – The employee will be required to meet established performance goals and measures to address and improve behavior. The employee may be asked to report verbally or in writing on a more regular basis to their supervisor.
- **Required Counseling/Training** – The employee will be required to complete training to help the employee understand why their behavior was inappropriate. The training is designed to correspond to the severity and nature of the violation and to clarify the impact of that behavior on members of the Seminary community.
- **Verbal Reprimand** – The purpose of a verbal warning is to remind the employee of their responsibility and to set guidelines for acceptable behavioral changes required to satisfactorily address the concern. This action is only appropriate in cases that are relatively minor.
- **Written Letter of Reprimand** – A written letter of reprimand is used to identify and describe the continuing problem and to restate the essentials of desired performance or behavior and the employee's obligation to meet it.



- **No Contact Directive** – The Seminary may impose a “no contact” directive in appropriate cases. Generally, “no contact” is defined as having no direct or indirect contact with another individual at any time. This includes, but is not limited to, communication that is written, verbal, or physical. Written communication is understood to include all electronic means of communication; including, but not limited to, email, instant messaging, and text messaging. Verbal communication is understood to include phone calls and voice mail messages. A “no contact” directive may include additional restrictions and terms. Employees found responsible for violation of the no contact directive may face sanctions that result in immediate removal from campus, suspension, or termination.
- **Financial Sanction** – The employee may not be eligible to receive an annual raise and/or bonus when applicable. Restrictions might also be placed on professional development funds, or a travel ban for professional work may be instituted.
- **Loss of Oversight or Supervisory Responsibility** – The employee may be removed from a supervisory role or no longer be allowed to supervise certain employees or areas.
- **Unpaid Leave of Absence** – The employee may be asked to take an unpaid leave of absence from the Seminary for a period of time.
- **Suspension with or without Pay** – The employee may be suspended with or without pay while the Seminary conducts an investigation into the alleged violation of misconduct.
- **Termination in accordance with the Employee Handbook and/or Faculty Manual** – Termination of employment may be an appropriate sanction for serious policy violations.

#### **C. Sanctions for Visitors, Field Education Site Supervisors, Other Third-Parties**

Sanctions for a visitor, field education site supervisor, or other third party who has engaged in harassment, discrimination, and/or retaliation include, but are not limited to:

- **Not Welcome on Campus Letter** – A letter may be provided to any visitor or third party who violates the Nondiscrimination and Anti-Harassment Policy to indicate that they are no longer welcome on the Seminary campus.
- **Termination of Contracts** – The Seminary may terminate contracts with companies or services based on a violation of this policy.
- **Removal from List of Approved Field Education Sites** – A violation of this policy by a field education site supervisor or failure of the site supervisor or representative to appropriately address issues may be grounds for removing the site from the list of approved field education sites.