

## **Schilling-Douglas School of Hair Design Title IX Policy**

This policy is only applicable to alleged incidents of sex discrimination (including sex-based harassment and retaliation) that occur on or after August 1, 2024. For alleged incidents of sex discrimination or sexual harassment occurring prior to August 1, 2024, please see the School's Title IX policy named Title IX Policy 2020 on the student resources page of the school's website.

This Policy applies to Schilling-Douglas School of Hair Design's education program and activities, circumstances where the School has disciplinary authority, and to misconduct occurring within any building owned or controlled by a School-recognized student organization. This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to the School's education program or activities.

The School reserves the right to make changes to this policy as necessary, and once those changes are posted online, they are in effect. If government laws or regulations change or court decisions alter the requirements in a way that impacts this policy, this policy will be construed to comply with the most recent government laws, regulations, or court holdings.

### **Statement of Non-Discrimination**

Schilling-Douglas School of Hair Design (the "School") is committed to providing a work and educational environment free of unlawful discrimination, harassment and retaliation. The School does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment. Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Sex-based harassment is a form of sex discrimination.

Inquiries about Title IX may be referred to the School's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both. The School's Title IX Coordinator is Tara Price, 211 Louviers Drive, shoppes at Louviers, Newark, DE 19711, (302)737-5100 ext. 111, tara@schillingdouglas.edu.

The School's nondiscrimination policy and grievance procedures can be found on the Student Resources page of the school's website, <https://schillingdouglas.edu/student-resources/>.

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to the School's Title IX Policy.

### **Title IX Coordinator**

Title IX compliance requires the School to respond promptly and effectively when the School has knowledge of conduct that reasonably may constitute sex discrimination. The Title IX Coordinator coordinates School's efforts to comply with its Title IX responsibilities.

**Title IX Coordinator:** Tara Price, 211 Louviers Drive, shoppes at Louviers, Newark, DE 19711, (302)737-5100 ext. 111, tara@schillingdouglas.edu.

Any person can report sex discrimination in person, by mail, telephone, or e-mail, using the contact information listed above for the Title IX Coordinator. A report can be made at any time, including during non-business hours. However, responses to reports made outside of business hours, including during weekends and holidays, may be delayed in response.

### **Key Definitions**

*Clery Act* means the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (20 U.S.C. Section 1092(f); 34 C.F.R. Part 668.46). In accordance with the Clery Act, the School publishes required crime statistics and policy statements on or before October 1 of each year.

*Complainant* means:

- A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the School's education program or activity at the time of the alleged sex discrimination.

*Complaint* means an oral or written request to the School that objectively can be understood as a request for the School to investigate and make a determination about alleged conduct under Title IX. The following people have the right to make a complaint:

- A Complainant
- A parent, guardian or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- The School's Title IX Coordinator.

Note that a person is entitled to make a Complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint.

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- Any School student or employee; or
- Any person other than a student or employee who was participating or attempting to participate in the School's education program or activity at the time of the alleged sex discrimination.

*Confidential employee* means an employee in one of the following categories: (1) confidentiality bestowed by law or professional ethics, such as lawyers, medical professionals, clergy, and mental health counselors; (2) designated as a confidential resource by the School for purposes of providing support and resources to the complainant; and (3) conducting human subjects research

(as approved). For the employees in category (1), they must be in a confidential relationship with the person reporting, such that they are within the scope of their licensure, professional ethics, or confidential role at the time of receiving the notice.

*Consent:* Delaware defines consent as words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. However, there are several circumstances where consent cannot be freely given.

*Disciplinary Sanction* means consequences imposed on a respondent following a determination under Title IX that the respondent violated the School's prohibition on sex discrimination.

*Education program or activity* includes locations, events, or circumstances in which the School exercises substantial control over both the respondent and the context in which the conduct occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the School.

*Party* means a complainant or respondent.

*Relevant* means related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

*Respondent* means a person who is alleged to have violated the School's Title IX policy. The requirements related to a respondent apply only to sex discrimination complaints alleging that a person violated the School's prohibition on sex discrimination. When a sex discrimination complaint alleges that a School policy or practice discriminates on the basis of sex, the School is not considered a respondent.

*Retaliation* means adverse action including intimidation, threats, coercion, or discrimination against any person by the School, a student, or an employee or other person authorized by the School to provide aid, benefit, or service under an educational program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

*Sex-Based Harassment* is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

- *Quid Pro Quo Harassment:* An employee, agent, or other person authorized by the School to provide an aid, benefit, or service under the School's education program or activity explicitly or implicitly conditioning the provision of such an aid, benefit or service on a person's participation in unwelcome sexual conduct.

- *Hostile Environment Harassment*: Unwelcome sex-based conduct that, based on the totality of circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the School’s education program or activity. Whether a Hostile Environment has been created is a fact-specific inquiry that includes consideration of the following:
  - The degree to which the conduct affected the complainant’s ability to access the education program or activity;
  - The type, frequency, and duration of the conduct;
  - The parties’ ages, roles within the education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  - The location of the conduct and the context in which the conduct occurred; and
  - Other sex-based harassment in the education program or activity.
  
- *Specific Sexual Violence Offenses*
  - *Sexual Assault* meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
  - *Dating Violence* meaning violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.
  - *Domestic Violence* meaning felony or misdemeanor crimes committed by a person who: (A) is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the School, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shares a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
  - *Stalking* meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person’s safety or the safety of others; or (B) suffer substantial emotional distress.

\* Please note: In accordance with the Violence Against Women Reauthorization Act (“VAWA”), state definitions for Sexual Assault, Dating Violence, Domestic Violence, Stalking and Consent are contained in the School’s Annual Security Report. Reported VAWA crime statistics are based on the definitions above.

*Supportive measures* means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- Restore or preserve that party's access to the education program or activity, including measures that are designed to protect the safety of the parties or the educational environment; or
- Provide support during the School's grievance procedures or during an informal resolution process.

### **Procedure for Reporting**

If you believe that you have experienced or witnessed sex discrimination (including sex-based harassment or retaliation), the School encourages you to notify the Title IX Coordinator, or another responsible employee as soon as possible after the incident. A report may be made to either or both the police and the Title IX Coordinator.

The criminal process is separate from the School's Title IX Grievance Procedure. Resources for reporting to local law enforcement can be found in the School's Annual Campus Safety in Security Report located at <https://schillingdouglas.edu/student-resources/>.

A report provides notice to the School of an allegation or concern about sex discrimination and provides an opportunity for the Title IX Coordinator to provide information, resources, and supportive measures. A complaint provides notice to the School that the complainant would like to initiate an investigation. A complainant or individual may initially make a report and may decide at a later time to make a complaint.

A School employee who either has authority to institute corrective measures on behalf of the School or has responsibility for administrative leadership, teaching, or advising are considered mandatory reporters and are expected to promptly report all known details of actual or suspected sex discrimination to the Title IX Coordinator. All other employees are expected to provide the Title IX Coordinator's contact information to the individual making the report or promptly report all known details of actual or suspected sex discrimination to the Title IX Coordinator.

Mandatory reporting may be suspended during a public awareness event. A Title IX Coordinator is not obligated to act in response to information provided by a person during a public event to raise awareness about sex discrimination or sex-based harassment that is on campus or through an online platform sponsored by the School, unless the information indicates an imminent and serious threat to the health or safety of a complainant, any students, employees, or other persons.

An individual who seeks completely confidential assistance may do so by speaking with professionals who have legally protected confidentiality. Confidential reporting resources, such as pastoral or professional counselors do not generate reports to the Title IX Coordinator. The School does not employ confidential employees. Local crisis, mental health and victim resource hotline information is available found in the School's Annual Campus Safety in Security Report located at <https://schillingdouglas.edu/student-resources/>. Information shared with confidential resources will not be shared with the School (including the Title IX Coordinator) or anyone else without express, written permission of the individual seeking services unless required by law or court order.

### **Supportive Measures**

The School will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the education program or activity or provide support during the School's Title IX Grievance Procedures or during the informal resolution process.

Supportive measures may include, but are not limited to: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures, in collaboration with other campus resources as deemed necessary. The parties are provided with a timely opportunity (within two business days) to seek modification or reversal of the School's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request should be made in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the Title IX regulatory definition of supportive measures.

Victims of sexual violence offenses will also be provided with written notification about existing counseling, health and/or mental health services, victim advocacy, legal assistance, visa and immigration assistance, safety planning, timely warnings, student financial aid and other services available to victims within the School and in the community.

The School will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the School's ability to provide those supportive measures.

### **Online Misconduct**

Although the School may not control websites, social media or other online platforms through which communication that violates the School's policy are made, the School will address reported communications. Online manifestations of the behavior prohibited in this policy are also potential violations of School policy if the communications have an effect on the education program and activity or when they involve the use of School networks, technology or equipment.

## **GRIEVANCE PROCEDURES**

The School has adopted grievance procedures that provide for the prompt and equitable resolution of complaints of sex discrimination (including sex-based harassment and retaliation) made by students, employees, or other individuals who are participating or attempting to participate in the education program or activity, or by the Title IX Coordinator.

These grievance procedures apply to all complaints of sex discrimination. As indicated within this policy, additional grievance procedures apply to sex-based harassment complaints involving student complainants or student respondents.

When a party is both a student and an employee, the School will make a fact-specific inquiry, including whether the party's primary relationship with the School is to receive an education and whether the alleged sex-based harassment occurred while the party was performing employment-related work.

The School will treat complainants and respondents equitably. The School requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

The School presumes that the respondent is not responsible for the alleged conduct until a determination is made at the conclusion of its Grievance Procedures.

#### Timeframe

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

Investigations are normally completed within 60 business days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors. The School may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement or the absence of parties and/or witnesses.

The School may consolidate complaints where allegations arise out of the same facts or circumstances.

#### Title IX Coordinator Initiated Complaint

The Title IX Coordinator has ultimate discretion as to whether a complaint is initiated. If a complainant does not wish to file a complaint (or withdraws any or all of the allegations), the Title IX Coordinator will offer supportive measures and determine whether to initiate a complaint. The Title IX Coordinator will determine if there is a serious and imminent threat to someone's safety or if the School cannot ensure equal access without initiating a complaint. The Title IX Coordinator considers the following factors:

- The complainant's request not to proceed with initiation of a complaint;
- The complainant's reasonable safety concerns regarding initiation of a complaint;
- The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from

campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;

- The age and relationship of the parties, including whether the respondent is an employee;
- The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred;
- Whether the School can end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures; and
- Any other factors deemed relevant by the Title IX Coordinator.

The Title IX Coordinator will notify the complainant prior to initiating the complaint and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures

#### Notice of Investigation and Allegations

Upon initiation of the School's Title IX grievance procedures, the School will notify the parties in writing of the following:

- The School's Title IX grievance procedures and any informal resolution process;
- A meaningful summary of the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence;
- The name(s) of the investigator(s), along with the process an individual can follow to assert a conflict of interest concern against the assigned investigator(s);
- A statement informing the parties that knowingly making false statements, including knowingly submitting false information is prohibited; and
- Detail on how a party may request disability accommodations or other support assistance during the Grievance Procedure.

If, in the course of an investigation, the School decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the School will notify the parties of the additional allegations.

If the complaint is a student sex-based harassment complaint, the School will notify the parties in writing of the following with sufficient time for the parties to prepare before any initial interview:

- The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the Grievance Procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;



- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence. If the School provides access to an investigative report: The parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any party; and
- The School's Conduct/Disciplinary Policy prohibits knowingly making false statements or knowingly submitting false information during the grievance procedures.

### Dismissal of a Complaint

The School may dismiss a complaint at any point within the grievance process if one or more of the following grounds are met:

- The School is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the School's education program or activity and is not employed by the School;
- The complainant voluntarily withdraws any or all of the allegations in the complaint (withdrawal must be in writing if a sex-based harassment complaint), the Title IX Coordinator declines to initiate a complaint, and the School determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- The School determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the School will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the School will promptly notify the complainant in writing of the dismissal and the rationale for dismissal. If the dismissal occurs after the respondent has been notified of the allegations, the School will notify the parties simultaneously in writing of the dismissal.

The dismissal decision is appealable by any party. If the dismissal is appealed, the School will follow the procedures outlined in the *Appeals* section.

### Advisor

An advisor is an individual who serves to assist a party in a complaint of sex-based harassment and is allowed to attend any meeting related to the grievance procedures. A student can choose an advisor of their choice, who may be but is not required to be an attorney. The School cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney but the other party does not or cannot afford an attorney, the School is not obligated to provide an attorney to advise that party. If one party is a student, and the other party is not they will have the same right to an advisor.

The School may establish restrictions regarding the extent to which the advisor may participate in these Grievance Procedures, as long as the restrictions apply equally to the parties. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so. The parties are expected to ask and respond to questions on their own behalf.

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

### Informal Resolution

In lieu of resolving a complaint through the School's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. The School will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, state or local law. The School will obtain voluntary, written confirmation that all parties wish to resolve the matter through informal resolution. Before the initiation of an informal resolution process, the School will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume formal grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume formal grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information the School will maintain and whether and how the School could disclose such information for use in Title IX formal grievance procedures if such procedures are initiated or resumed.

### Investigation

The School will provide for adequate, reliable, and impartial investigation of complaints. The burden is on School—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether a violation occurred.

For sex-based harassment complaints, the School will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate. The School will also provide the parties with the same opportunities, if any, to have other people than the advisor of the parties' choice present during any meeting or proceeding.

The School will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The School will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The School will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- The School will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the School provides a description of the evidence, the School will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
- The School will provide a reasonable opportunity (7 business days) to respond to the evidence or the accurate description of the evidence; and
- The School will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the formal grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

For sex-based harassment complaints, the School will provide each party and their advisor, if any, an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence. If the School provides access to an investigative report, it will further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party. The School will provide a reasonable opportunity (7 business days) to review and respond to the evidence or the investigative report. The School will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information.

#### *Interview Recording*

Investigators will create a record of all interviews pertaining to the Grievance Procedure. The parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

#### *Questioning the Parties and Witnesses*

The School will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations. To the extent credibility is in dispute and relevant to one or more of the allegations, the decisionmaker may meet individually with the parties and witnesses to question them in order to assess their credibility. These meetings will be recorded, and the recording or transcript will be shared with the Parties.

For sex-based harassment complaints, the decisionmaker will question parties and witnesses to adequately address a party's or witnesses' credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment. The School's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility will:

- Allow the investigator or decisionmaker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

*Procedures for the decisionmaker to evaluate the questions and limitations on questions*

For sex-based harassment complaints, the decisionmaker will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing will not be permitted. The decisionmaker will give a party an opportunity to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

*Refusal to respond to questions and inferences based on refusal to respond to questions*

The decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions

*Evidence*

The School will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by the School to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the School obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove

that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

### Determination

If the decisionmaker is not the investigator, the decisionmaker will review the investigative report and all relevant evidence to make a finding and determine sanctions, if applicable. In accordance with the procedure above, the decisionmaker can ask the parties or any witnesses additional relevant questions through individual meetings. To the extent credibility is in dispute and relevant to one or more of the allegations, the questions asked by the decisionmaker may explore credibility. Typically, within 3 business days of the last individual meetings, the recordings or transcript will be provided to the parties for review. The parties will then have 3 business days to review these recordings or transcripts and pose any follow-up questions. The decisionmaker will review the proposed questions to determine relevance and permissibility. If deemed necessary, the decisionmaker will meet with the parties or witnesses for whom there are relevant, non-duplicative follow-up questions. These follow-up meetings will also be recorded and the parties will receive the recordings or transcripts. This is the final round of questioning, unless the decisionmaker determines that an additional round is necessary.

Any new, relevant evidence and information obtained will be added to the investigative report. The School will provide a reasonable opportunity (7 business days) to review and respond to the evidence or the final investigative report.

The decisionmaker's determination process typically takes 15 business days. However, the timeframe may vary based on a number of factors. The parties will be notified of any delays. The Following the investigation, the decisionmaker will evaluate the investigative report and all relevant and not otherwise impermissible evidence. The School will then:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination/sex-based harassment occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination/sex-based harassment occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination/sex-based harassment occurred.
- Notify the parties in writing of the determination including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable.
- For sex-based harassment determinations, the School will notify the parties in writing of the determination whether sex discrimination occurred under Title IX including:
  - A description of the alleged sex-based harassment;

- Information about the policies and procedures that the School used to evaluate the allegations;
- The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
- When the decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions the School will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the School to the complainant, and, to the extent appropriate, other students identified by the School to be experiencing the effects of the sex-based harassment; and
- The School's procedures and permissible bases for the complainant and respondent to appeal.
- Not impose discipline on a respondent unless there is a determination at the conclusion of the Title IX grievance procedures that the respondent engaged in prohibited conduct.
- If there is a determination that a violation occurred, the Title IX Coordinator will, as appropriate:
  - Coordinate the provision and implementation of remedies to a complainant and other people the School identifies as having had equal access to the education program or activity limited or denied;
  - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
  - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the School's education program or activity.
- Comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
- Not discipline a party, witness, or others participating in the Title IX formal grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

The determination regarding responsibility becomes final either on the date that the School provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

Disciplinary Sanctions and Remedies:

Disciplinary sanctions against the Respondent will not be imposed before completion of the School's Grievance Procedure. Following a determination of responsibility, appropriate corrective action will be taken, and the School will take steps to prevent recurrence. Disciplinary sanctions taken will be determined on a case-by-case basis. For disciplinary action to be issued under this policy, the respondent must be a School employee or student at the time of the alleged incident.

Factors considered when determining disciplinary sanctions may include but are not limited to:

- Nature, severity of, and circumstances surrounding the violations(s);
- Respondent's disciplinary history;
- Previous allegations or allegations involving similar conduct;
- Need for disciplinary action to bring an end/prevent future reoccurrence of the violation;
- Need for disciplinary action to remedy the effects on the Complainant and the School community;
- Impact on the parties;
- Any other information deemed relevant by the decisionmaker.

Disciplinary sanctions for student-related claims may include, but are not limited to: additional training; restriction on contact; warning; suspension; or termination. Disciplinary sanctions will be placed in a student's permanent academic file.

Any employee determined by the School to be responsible for a violation of the School's policy will be subject to appropriate disciplinary sanctions, up to and including termination. Disciplinary sanctions will be placed in an employee's permanent personnel file. Employees are also subject to processes and discipline determined by the Business Office. The HR process is separate and apart from the Title IX process and not constrained by the outcome of the Title IX process.

Remedies are provided to a Complainant whenever a Respondent is found responsible. Remedies are implemented by the Title IX Coordinator and may be disciplinary and punitive. Student Remedies are designed to maintain the Complainant's equal access to education. Remedies will be determined on a case-by-case basis and may include supportive measures.

### Appeals

The School will offer an appeal from a dismissal of a complaint or determination whether sex-based harassment occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

When a complaint is dismissed, the School will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the education program or activity.

If a party appeals a dismissal or determination whether sex-based harassment occurred, the School will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Communicate to the parties in writing that the School will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

An appeal must be submitted in writing within seven (7) business days. Any additional procedures or bases for appeal the School offers will be equally available to all parties.

### **Retaliation Prohibited**

The School prohibits retaliation, including peer retaliation. If the School has information about conduct that reasonably may constitute retaliation under Title IX, the Title IX Coordinator will contact the reporting party or party experiencing the retaliation. Upon receiving a complaint alleging retaliation, the School will initiate its grievance procedures utilized for other forms of sex discrimination.

### **Training**

The following individuals must receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX and annually thereafter. This training is in addition to other state-required sexual harassment prevention and education. These individuals include:

(1) *All employees.* All employees must be trained on the School's obligation to address sex discrimination in its education program or activity; the scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment; and; all applicable notification and information requirements for the formal Grievance Procedure

(2) *Investigators, decisionmakers, and other persons who are responsible for implementing the grievance procedures or have the authority to modify or terminate supportive measures.* In addition to the training requirements as an employee, all aforementioned individuals must be trained on the School's obligations in the Grievance Procedure; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias and; the meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the aforementioned formal grievance procedures.



(3) *Facilitators of informal resolution process.* In addition to the training requirements as an employee, all facilitators of an informal resolution process must be trained on the rules and practices associated with the informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.

(4) *Title IX Coordinator and designees.* In addition to the training requirements as an employee, and Grievance Procedure participant, and informal resolution officer, the Title IX Coordinator and any designees section must be trained on their specific responsibilities; the recordkeeping system; and any other training necessary to coordinate the School's compliance with Title IX.

## **Emergency Removal**

The School can remove a respondent entirely or partially from the education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations justifies removal. The School will provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

When an emergency removal is imposed, the affected student will be notified of the action, which will include a written rationale, and the option to appeal the emergency removal within two (2) business days of the notification. Upon receipt of an appeal, the Title IX Coordinator will meet with the student (and their advisor, if desired) as soon as reasonably possible thereafter to allow them to demonstrate why the removal/action should not be implemented or should be modified. When this meeting is not requested within two (2) business days, objections to the emergency removal will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed.

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

When the respondent is an employee (or student employee) accused in the course of their employment, Human Resources provisions for interim action, including leave, are typically applicable instead of the above emergency removal process.

## **Federal Timely Warning Obligations**

The School must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the School community. The School will ensure that a complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

## **Impartiality and Conflicts of Interest**

Any Title IX personnel materially involved in the Grievance Procedure may neither have or demonstrate a conflict of interest or bias for a party generally, or for a specific complainant or respondent.

At any time, the parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another individual will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with Victor David, 211 Louviers Drive, Shoppes at Louviers, Newark, DE 19711, (302)7375100 ext. 101, victor@schillingdouglas.edu.

### **Confidentiality/Privacy**

The School makes every effort to preserve the parties' privacy. The School will keep confidential the identity of the complainant, respondent, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out the Title IX Grievance Procedure.

The School will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the formal grievance procedures. The parties cannot engage in retaliation, including against witnesses.

The School will not disclose personally identifiable information obtained in the course of compliance with this policy, except in the following circumstances: (1) If there is prior written consent from a person with the legal right to consent to the disclosure; (2) When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue; (3) To carry out the purpose of the policy including action taken to address conduct that reasonably may constitute sex discrimination under Title IX; (4) As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or (5) To the extent such disclosures are not otherwise in conflict with Title IX or this part, when required by State or local law or when permitted under FERPA, [20 U.S.C. 1232g](#), or its implementing regulations, [34 CFR part 99](#).

The parties and their advisors are prohibited from disclosing information obtained by the School through the Grievance Process, to the extent that information is the work product of the School (meaning it has been produced, compiled, or written by the School for purposes of its investigation and resolution of a complaint), without authorization. It is also a violation to publicly disclose School work product that contains a party or witness's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

### **Recordkeeping**

For at least seven (7) years following the conclusion of the Grievance Procedure, the School will maintain records of:

- 1) Each investigation and resolution, including any determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation.
- 2) Any disciplinary sanctions imposed on the respondent.
- 3) Any supportive measures provided to the parties and any remedies provided to the complainant or the community designed to restore or preserve equal access to the education program or activity.
- 4) Any appeal and the result therefrom.
- 5) Any informal resolution and the result therefrom.
- 6) All materials used to provide training to the Title IX Coordinator and designees, investigators, decisionmakers, appeal decisionmakers, informal resolution facilitators, and any person who is responsible for implementing the School Grievance Procedures or who has the authority to modify or terminate supportive measures. The School will make these training materials available for review upon request.
- 7) All materials used to train all employees consistent with the requirements in the Title IX Regulations.

### **Disability Accommodations**

Qualified students, employees or others with a disability needing reasonable accommodations should contact the Title IX Coordinator, who will work with School's ADA/Section 504 Coordinator as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

### **Parenting and Pregnant Students**

The School does not discriminate in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions. The School does not engage in prohibited discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity. The School ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.

When a student, or a person who has a legal right to act on behalf of the student, informs any employee of the School of the student's pregnancy or related conditions, unless the employee reasonably believes that the Title IX Coordinator has been notified, the employee promptly provides that person with the Title IX Coordinator's contact information and informs that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to education programs or activities.

The School does not require supporting documentation unless the documentation is necessary and reasonable for the School to determine the reasonable modifications for the qualifying student.

### *Reasonable Modifications*

The School ensures that reasonable modifications to the policies, practices, or procedures will be provided as necessary to prevent sex discrimination and ensure equal access to the education programs or activities. Each reasonable modification is based on the student's individualized needs. In determining what modifications are required under this paragraph, the School will consult with the student. If a modification would fundamentally alter the nature of its education program or activity, the Title IX Coordinator must demonstrate it is not a reasonable modification.

A student has discretion to accept or decline each reasonable modification offered. Reasonable modifications may include, but are not limited to:

- Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom;
- Intermittent absences to attend medical appointments;
- Access to online or homebound education;
- Changes in schedule or course sequence;
- Extensions of time for coursework and rescheduling of tests and examinations;
- Allowing a student to sit or stand, or carry or keep water nearby;
- Counseling;
- Changes in physical space or supplies (for example, access to a larger desk or a footrest);
- Elevator access; or other changes to policies, practices, or procedures.

### *Voluntary Leave*

Pregnant students are allowed to voluntarily access any separate and comparable portion of the education program or activity. Students may also voluntarily take a leave of absence from the School educational program or activity to cover, at minimum, the period of time deemed medically necessary by student's licensed healthcare provider. To the extent that a student qualifies for leave under the School's leave of absence policy, that allows a greater period of time than the medically necessary period, a student is permitted to take voluntary leave under that policy instead of the parenting and pregnant policy if the student so chooses. When the student returns to the School, the student will be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the leave began.

### *Lactation Space*

The School ensures parenting students can access a lactation space that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed. To request information on the lactation space available, contact Tara Price, Title IX Coordinator].

### **Additional Information**

Students and employees may contact the Title IX Coordinator with any questions related to this policy. Concerns about the School's application of this policy and compliance with Title IX may

also be addressed to U.S. Department of Education Office for Civil Rights (“OCR”) at 400 Maryland Ave, SW Washington, D.C. 20202-1100, (800) 421-3481, <http://www.ed.gov/ocr>. For complaints involving employee-on-employee conduct, the Equal Employment Opportunity Commission or other appropriate state or federal enforcement agency can be contacted.