

Title IX Sexual Harassment Procedures

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I. Purpose

- A. Bryant University (“Bryant or the “University”) is subject to Title IX of the Education Amendments of 1972 (“Title IX”), which states that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” *See* 20 U.S.C. § 1681(a).
- B. The United States Department of Education’s Office for Civil Rights has promulgated Title IX regulations, specifying how recipients of Federal financial assistance must respond to allegations of sexual harassment consistent with Title IX’s prohibition against sexual discrimination. *See* 34 Code of Federal Regulations, Part 106.
- C. Bryant adopts these procedures to ensure its Title IX compliance, including the offering of supportive measures and the implementation of a fair and equitable grievance process to investigate and adjudicate complaints of alleged Title IX sexual harassment.
- D. Bryant’s Title IX procedures should be read in conjunction with the University’s Sexual Misconduct Policy, which further states the University’s prohibitions against sexual and gender-based harassment and discrimination, delineates reporting options and obligations, and details supportive resources available on and off-campus.

II. Application

- A. Bryant’s Title IX procedures govern its response to alleged sexual harassment, as defined by Title IX, against a person in the United States and within Bryant’s education program or activity. They apply to all Bryant community members, including all students (undergraduate and graduate) and all employees (including full-time and part-time). In certain situations, these procedures may apply to other individuals, such as contractors, visitors, volunteers, and/or other third parties.
- B. While the University has collective bargaining agreements and/or employment contracts with employees, Bryant obligations under Title IX are prescribed by federal

law and the University must comply with the requirements of the Title IX regulations including its grievance process.

- C. If any matter is dismissed under these procedures as outside of Title IX's scope, then, in Bryant's discretion, the University has the authority to address and adjudicate such alleged conduct under any other applicable code, policy, procedure, or rule (collectively "University Rules"). Other University Rules include the policies and procedures prescribed within Bryant's Code of Student Conduct or Employee Handbook or under the terms of a collective bargaining agreement. Incidents that are not covered by Title IX will be referred to other University departments as appropriate (e.g., Student Affairs, Human Resources, etc.).
- D. Bryant may apply and enforce any of its other University Rules concurrently with these Title IX procedures, when a matter raises alleged conduct both covered by and outside of Title IX. Also, to the extent that any alleged conduct falling outside of Title IX is discovered during the course of an investigation of alleged Title IX sexual harassment, Bryant has the authority to investigate and adjudicate such non-Title IX allegations under other University Rules.
- E. These procedures apply equally to all persons regardless of sex, sexual orientation, gender identity, gender expression or other protected classes covered by federal or state law. Individuals who wish to file a complaint against Bryant regarding its Title IX compliance may contact the Department of Education's Office for Civil Rights using the contact information provided in the University's Sexual Misconduct Policy or available at <https://www2.ed.gov/about/offices/list/ocr/complaintprocess.html>.

III. The Title IX Coordinators

- A. Bryant's Title IX Coordinators are responsible for coordinating the University's Title IX compliance and implementation of these procedures.
- B. The names and contact information of Bryant's Title IX Coordinators are:

For Student Respondent Cases:

Mailee Kue
Assistant Vice President of Student Affairs & Title IX Coordinator
Student Affairs – Bryant University
1150 Douglas Pike
Smithfield, RI 02917
mkue@bryant.edu

401-232-6448

For Employee Respondent Cases:

Meaghan Trayner
Associate Director of Human Resources & Title IX Coordinator
Human Resources Department – Bryant University
1150 Douglas Pike
Smithfield, RI 02917
mtrayner@bryant.edu
401-232-6015

- C. All references to the Title IX Coordinators herein includes their designees.

IV. Definitions

- A. **Title IX Sexual Harassment:** Title IX Sexual Harassment means conduct, on the basis of sex, that satisfies one or more of the following three categories: (1) Quid Pro Quo Sexual Harassment; (2) Hostile Environment Sexual Harassment; and/or (3) Sex- Based Crimes (Sexual Assault, Dating Violence, Domestic Violence, or Stalking).
1. **Quid Pro Quo Sexual Harassment** occurs when a Bryant employee conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.
 2. **Hostile Environment Sexual Harassment** occurs when unwelcome conduct is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Bryant's education program or activity.
 3. **Sex-Based Crimes** occur when conduct constitutes any one of the four offenses: **Sexual Assault** (20 U.S.C. § 1092(f)(6)(A)(v)), **Dating Violence** (20 U.S.C. § 12291(a)(10)), **Domestic Violence** (34 U.S.C. § 12291(a)(8)), and **Stalking** (34 U.S.C. § 12291(a)(30)).
 - a. **Sexual Assault** is a sexual act directed against another person, by force, threat of force, coercion, or without consent, including instances where the person is incapable of giving consent. Sexual Assault includes the offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape.
 - i. **Rape:** The carnal knowledge of a person, without consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or

- permanent mental or physical incapacity.
- ii. **Sodomy:** Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
 - iii. **Sexual Assault with an Object:** 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, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
 - iv. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without consent of the victim, including instances where the victim is incapable of giving consent because of his/her age, or because of his/her temporary or permanent mental or physical incapacity.
 - v. **Incest:** Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - vi. **Statutory Rape:** Non-forcible sexual intercourse with a person who is under the age of statutory age of consent (age 16 in Rhode Island).
- b. **Dating Violence:** Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. The existence of the relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.
- c. **Domestic Violence:** Domestic violence includes felony or misdemeanor crimes of violence committed 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 to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by another person against an adult or youth victim who is protected from that person's acts under the domestic or

family violence laws of the jurisdiction. All forms of domestic violence prohibited by Rhode Island law are also included.

- d. **Stalking:** Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear for their own safety or the safety of others or suffer substantial emotional distress. Course of conduct means two or more instances including but not limited to unwelcome acts in which an individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish. Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or similar devices or forms of contact are used.

- B. **Consent:** The definitions of **Consent** and the related definitions of **Incapacitation, Coercion, Force, and Intimidation**, as stated in Bryant's Sexual Misconduct Policy, are incorporated into this policy.

- C. **Education Program or Activity:** Under Title IX, Bryant's education program or activity includes locations, events or circumstances over which the University exercised substantial control over both the accused individual and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

- D. **Formal Complaint:** A Formal Complaint is a document filed by a Complainant or signed by one of the Title IX Coordinators alleging Title IX Sexual Harassment against a Respondent and requesting that the University investigate the claim. At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in Bryant's education program or activity. A Formal Complaint may be filed with one of the Title IX Coordinators in person, by mail, or by electronic mail. The Formal Complaint must include the Complainant's physical or digital signature, or should otherwise indicate an intent to file.

- E. **Complainant:** The Complainant is an individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.

- F. **Respondent:** The Respondent is an individual who has been reported to be the alleged perpetrator of conduct that could constitute Title IX Sexual Harassment.

- G. **Supportive Measures:** Supportive Measures are non-disciplinary, non-punitive individualized services and accommodations offered, as appropriate and reasonably

available, and without fee or charge, that are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening another party, including measures designed to protect the safety of persons impacted by a report or the University's community, or to deter sexual harassment.

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

Bryant's Title IX Coordinators are responsible for coordinating the effective implementation of Supportive Measures. Supportive Measures will be offered and provided equitably to the Complainant and Respondent, as circumstances reasonably permit. Bryant will maintain as confidential any Supportive Measures provided to the Complainant and Respondent, to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures.

V. The University's Response to a Report

- A. Upon Bryant's notice of a report alleging sexual harassment, the Title IX Coordinator shall promptly contact the Complainant to discuss the availability of Supportive Measures, inform the Complainant of the availability of Supportive Measures without or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint.
- B. Bryant reserves the right to remove a Respondent on an emergency basis, provided that it undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies an emergency removal, and provides the Respondent with written notice of its decision and reasons for the action. In the case of an emergency removal of a student, the Respondent shall have the right to file an appeal within five (5) business days after the action, by submitting a written explanation to the Vice President of Student Affairs & Dean of Students (or the Vice President's designee). In the case of an emergency removal of an employee, the Respondent shall have a right to file an appeal within five (5) business days after the action, by submitting a written explanation to the Vice President of Human Resources (or the Vice President's designee). Within five (5) business days after Bryant's receipt of the appeal, the Vice President or the designee shall issue a written determination regarding the appeal.

VI. The Filing of a Formal Complaint to Start the Grievance Process

- A. A Formal Complaint is required in order for the University to conduct an investigation. The filing of a Formal Complaint starts the University's Title IX grievance process.
- B. If a Complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine that the filing of a Formal Complaint is justified for the protection of individuals or Bryant's community. If the Title IX Coordinator signs a Formal Complaint, the Coordinator shall inform the Complainant in writing, and the Complainant need not participate in the process further but will receive notices issued under the process.
- C. Bryant may consolidate Formal Complaints as to alleged Title IX Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other (cross-complaints), where the allegations arise out of the same facts or circumstances.

VII. Administrative Leave Option (Employee Respondent)

- A. During the pendency of a grievance process, Bryant has the right to place a non-student Respondent (an employee) on administrative leave status.
- B. The placement of an employee on administrative leave shall be undertaken as consistent with any other applicable University employment policies and/or agreements.

VIII. The Written Notice of Allegations

- A. Within five (5) business days after the filing of a Formal Complaint, the Title IX Coordinator will provide the following written notice to parties who are known:
 - 1. A description of Bryant's Title IX grievance process, as well the option for an informal resolution process (if applicable).
 - 2. The alleged sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved, if known, the conduct allegedly constituting the sexual harassment; and the date and location of the alleged incident(s), if known.

3. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
 4. Information regarding the parties' right to an advisor (*See Section IX below*).
 5. A statement that the parties may inspect and review evidence during the investigation (*See Section XVI below*).
 6. A statement that Bryant prohibits knowingly making false statements or knowingly submitting false information in bad faith during the grievance process, indicating that individuals who engage in such conduct are subject to disciplinary actions under University Rules.
- B. If, during the course of an investigation, Bryant decides to investigate additional allegations about the Complainant or Respondent that were not included in a prior notice, Bryant will notify the parties regarding the investigation of such additional allegations. The parties will be provided sufficient time to review the additional allegations before any initial interview to address them.

IX. The Right to an Advisor of Choice

- A. The Complainant and the Respondent are entitled to be accompanied to any meeting, interview or hearing by an advisor of their choice, who may be, but is not required to be an attorney. The University may not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting, interview or hearing, subject to the below-stated requirements.
- B. The following requirements apply to the advisor's role:
1. During any meeting and/or investigation interview, advisors may not speak for or on behalf of the Complainant or Respondent. While an advisor cannot speak for or on behalf of the Complainant or Respondent, time will be reasonably granted for the advisor and the party to confer, if requested, by the University official or investigator conducting the meeting or interview.
 2. During the live hearing held in the grievance process (addressed below in Section XVII), the Complainant and Respondent must have an advisor present at the hearing. If the Complainant or Respondent does not have an advisor present during the hearing, the University will provide one free of charge. Bryant will have sole discretion to select the advisor it provides. The advisor Bryant provides may be, but is not required to be, an attorney.

3. At the live hearing, the advisor will conduct the questioning of the other party and witnesses on the Complainant's or Respondent's behalf. Specifically, as addressed below in Section XVII, the advisor may ask relevant questions, including those challenging the credibility of the other party and witnesses. The advisor can provide support and consultation to an advisee, but cannot actively participate in the hearing beyond asking questions.
4. The University expects that an advisor will act in a respectful manner and reserves the right to remove an advisor who fails to respect the expected decorum of any meeting, interview or hearing. Should an advisor be excluded from a Title IX hearing, the party will be able to choose a new advisor, or one will be provided by the University at a hearing.

X. Dismissal of Formal Complaint or Admission of Responsibility

- A. After a Formal Complaint is filed, the Title IX Coordinator will review its allegations to determine whether the alleged incident falls within Title IX's definitional and jurisdictional scope.
- B. As stated below, in certain instances, Bryant, acting through the Title IX Coordinator, must dismiss the Formal Complaint. In other instances, the Title IX Coordinator has the discretion to dismiss the Formal Complaint.
- C. The dismissal of a Formal Complaint does not preclude Bryant from taking action regarding the allegations under another provision of its applicable University Rules, including but not limited to the Code of Student Conduct or the Employee Handbook, or under an applicable collective bargaining agreement.
- D. Bryant **must** dismiss a Formal Complaint in the following instances:
 1. Upon the filing of the Formal Complaint, the Complainant was not participating or attempting to participate in Bryant's education program or activity.
 2. The alleged conduct, if proved, would not meet the definition of Title IX Sexual Harassment.
 3. The alleged incident did not occur in Bryant's education program or activity; or
 4. The alleged incident did not occur against a person in the United States.
- E. Bryant **may** dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing:

1. The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any of its allegations;
 2. The Respondent is no longer enrolled or employed at Bryant; or
 3. Specific circumstances prevent Bryant from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.
- F. Upon Bryant's decision to dismiss a Formal Complaint or any allegation therein from the Title IX grievance process, the Title IX Coordinator will promptly send written notice of the dismissal to the Complainant and the Respondent.
- G. A party may appeal the dismissal of the Formal Complaint through the appeal process stated below in Section XVIII.
- H. Admission of Responsibility: At any point during the grievance process, a Respondent may choose to voluntarily admit responsibility for alleged violation(s) and execute a written waiver, at which point Bryant will determine the appropriate remedies to the Complainant and sanctions to be assigned to the Respondent, and the grievance process will be terminated if such admission resolves the allegations in the Formal Complaint. A Respondent should only make this choice after carefully considering the rights afforded under the grievance process and in consultation with an advisor.

XI. The Option for an Informal Resolution

- A. Bryant offers parties the option to participate in an informal resolution process, as an alternative to a full investigation and hearing to resolve the allegations raised in a Formal Complaint. The informal resolution process uses mediation or other forms of dispute resolution with the goal that the parties arrive at a voluntary and mutually agreed-upon outcome.
- B. An informal resolution process is not permitted to resolve any allegations that a Bryant employee sexually harassed a student.
- C. The following requirements apply to the informal resolution process:
1. A Formal Complaint must have been filed.
 2. The parties must voluntarily consent in writing to the informal resolution process.
 3. The Title IX Coordinator must agree that the matter is one suitable and appropriate for an informal resolution process.

4. Any person designated to facilitate the informal resolution process shall not have any conflict of interest or bias for or against complainants and respondents generally or the Complainant and Respondent who are the parties.
 5. At any point prior to reaching an agreement through the informal resolution process, the parties have the right to withdraw from the process and elect Bryant's formal grievance process with respect to the Formal Complaint. Withdrawal from the informal resolution process must be in writing.
- D. Prior to the commencement of an informal resolution process, the Title IX Coordinator will provide the parties with a written notice disclosing (1) the allegations and (2) the requirements of the informal resolution process, including the circumstances under which it prevents the parties from resuming a Formal Complaint arising from the same allegations.
 - E. The informal resolution process will be completed within thirty (30) business days after its initiation, unless extended by voluntary written agreement of the parties and approved by the Title IX Coordinator.
 - F. An informal resolution agreement is reached when both parties independently and voluntarily come to a written, signed agreement on the terms, which have been accepted and approved by the Title IX Coordinator. The agreement is final, and the Formal Complaint is considered resolved and closed. A matter may be reopened only upon a party's showing and Bryant's agreement that the other party engaged in a material misrepresentation or fraudulent conduct that directly impacted the informal resolution process or agreed-upon terms.
 - G. There is no right to appeal a matter resolved by an informal resolution process.

XII. The Grievance Process – Basic Requirements

- A. Bryant will treat the Complainant and Respondent equitably by providing remedies to a Complainant where a determination of responsibility for Title IX Sexual Harassment has been made against the Respondent, and by following the grievance process stated herein before imposing any disciplinary sanctions or other actions that are not Supportive Measures against the Respondent.
- B. There will be an objective evaluation of relevant, reasonably available evidence – including inculpatory and exculpatory evidence. Credibility determinations will not be made based upon a person's status as a Complainant, Respondent or witness.

- C. The Title IX Coordinator, investigator(s), decision-maker(s), and appeals officer shall not have any conflict of interest or bias for or against complainants and respondents generally or the Complainant and Respondent who are the parties.
- D. Before a determination is regarding responsibility is made at the conclusion of the grievance process, the Respondent is presumed to be not responsible for the alleged conduct.

XIII. Time Periods

- A. The University strives to implement a prompt and equitable grievance process. Time frames stated in this policy may be extended for “good cause,” which includes, but is not limited to (1) law enforcement authorities are conducting a criminal investigation and gathering evidence regarding the incident, and they have formally requested the University to delay or stay its investigation; (2) additional time is necessary to ensure the integrity and completeness of the investigation; (3) in order to reasonably accommodate the availability of material witnesses; (4) in order to account for final examination periods, University breaks, holidays or vacations; (5) in order to pursue good-faith efforts to reach an informal resolution; (6) in order to account for the need for language assistance or accommodation of disabilities; or (7) in order to account for other reasonable circumstances reviewed and approved by the Title IX Coordinator. In the event of an extension of time, The Title IX Coordinator will notify the parties in writing and state the reasons.
- B. If a party has good cause and seeks an extension, the party shall direct the request to the Title IX Coordinator’s attention, who has the discretion to grant or deny the request in whole or in part. If an extension is given to one party, the same extension will be given to the other party.

XIV. Standard of Evidence

- A. Under Bryant’s Title IX grievance process, the standard of evidence to determine responsibility is the preponderance of the evidence standard (“more likely than not”).

XV. Evidentiary Rules (Applicable to the Investigation and Live Hearing)

- A. Bryant, not the parties, has the burden of proof and burden of gathering evidence to reach a determination regarding responsibility. Evidence may include, but is not limited to, witness testimony, physical evidence (such as texts or social media posts) or documentary evidence (such as results of a forensic examination or other medical records, if any protections of privilege have been voluntarily waived).

- B. Relevant evidence is evidence tending to prove a material fact is more probable or less probable than it would be without the evidence. A material fact is a fact that directly relates to an element of a claim of sexual harassment.

- C. Privileged Information
 - 1. Bryant will not seek the disclosure of or otherwise permit questions regarding information protected under a legally recognized privileged. However, the holder of the privilege may execute a written waiver allowing the disclosure and use of the information during an investigation or a live hearing.

 - 2. In gathering evidence, Bryant cannot access, consider, disclose or otherwise use a party's records that are maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional, which are maintained in connection with the provision of treatment to the party, unless the University obtains the party's voluntary, written consent to do so.

- D. Sexual Predisposition/Prior Sexual Behavior Evidence Restrictions
 - 1. Questions about or evidence of a Complainant's sexual history is only considered relevant for the purposes of an investigative report or questioning in a live hearing if:
 - a. Such questions or evidence about the Complainant's prior sexual history are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or

 - b. Such questions or evidence concern specific incidents of the Complainant's prior sexual history with respect to the Respondent and are offered to prove consent.

 - 2. Questions or evidence about a Complainant's sexual predisposition or prior sexual behavior that do not meet either of these two limited exceptions are excluded from investigative reports and live hearings, and are deemed to be irrelevant.

XVI. The Investigation

- A. When the Title IX Coordinator determines that the allegations in the Formal Complaint are subject to Title IX and do not require dismissal or if the Title IX Coordinator requires more information to make such a determination, the Title IX Coordinator shall appoint a trained and impartial investigator to investigate the allegations in the Formal Complaint.

- B. After the parties have received notice of the allegations, Bryant will begin its investigation. The investigator will make reasonable efforts to complete the investigative report within sixty (60) business days. This timeline may vary depending on the scope of the allegations stated in the Formal Complaint, the amount of evidence to be considered, the number of persons to be interviewed, whether the parties have agreed to participate in an informal resolution process, and any other additional relevant factors. If the investigation requires additional time for its completion, the parties and their advisors will be given notice.
- C. The parties shall have equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- D. Bryant does not restrict the ability of a party to discuss the allegations under investigation in order to gather and present relevant evidence. Bryant encourages the parties to respect privacy concerns and limit disclosures only to the extent reasonably necessary to gather and present relevant evidence.
- E. The investigator will prepare a preliminary report based upon the relevant evidence. Upon the completion of the preliminary report, the parties and their advisors, if applicable, will be notified in writing of the opportunity to inspect and review the preliminary report and the evidence obtained as part of the investigation that is directly related to the allegations in the Formal Complaint, including any evidence that the investigator did not rely upon in the preliminary report. This exchange of the evidence is designed to permit each party to respond to the evidence prior to the conclusion of the investigation. Each party will be given ten (10) business days to submit a written response, which the investigator will consider prior to the completion of the investigative report.
- F. After the consideration of the party's responses, the investigator will complete the final investigative report.
- G. At least ten (10) business days prior to the live hearing (*see* Section XVII below), the Title IX Coordinator will send a copy of the investigator's final report to each party and their advisors, if applicable, for their review and written response.
- H. Based upon the final investigative report, the Title IX Coordinator will evaluate whether the Formal Complaint should be dismissed under the grounds for a mandatory or permissive dismissal set forth above in Section X or must proceed to the live hearing.

XVII. The Live Hearing

A. The Decision-Maker

1. Bryant has the discretion to have a single hearing officer or a three-person panel preside as the decision-maker at the live hearing. All persons serving as a decision-maker will be trained to preside at a live hearing and adjudicate allegations raised in a Formal Complaint, consistent with the requirements of Bryant's grievance process. If a panel presides, one panelist shall be designated as the Chair, and the three panelists will deliberate and decide collectively based upon a majority vote. No panelist may abstain from voting. A decision-maker may not be the Title IX Coordinator or any designee, the investigator, or any person who may have helped to facilitate an attempt at an informal resolution.
2. A party may challenge the assignment of a hearing officer or panelist solely for reasons of bias or conflict of interest. Bryant will notify the parties of the identity of the hearing officer or panelists, and the parties must submit to the Title IX Coordinator any written objection within three (3) business days thereafter. A party's failure to timely object shall be deemed a waiver of the right to challenge the assignment of a hearing officer or panelist. Bryant has the sole discretion to determine whether a hearing officer or panelist should be recused and replaced for reasons of bias or conflict of interest.

B. Pre-hearing Conference

1. The hearing officer or the Chair of the panel will hold a pre-hearing conference with the parties and their advisors (whether separately or together as deemed appropriate) to discuss the hearing procedures, order of evidence, the witnesses who will testify, and any evidentiary or procedural matters requiring attention to ensure the efficiency and fairness of the live hearing.

C. General Rules

1. The evidentiary rules stated in Section XV apply during the live hearing. All person(s) presiding as the hearing officer or a panelist shall have been trained on issues of relevance of questions and evidence, including when questions about the Complainant's sexual predisposition or prior sexual behavior are not relevant.
2. The Title IX Coordinator will select the hearing date based upon the availability of the hearing officer or panelists, and will consider the parties' academic and/or work schedules as reasonably practicable.

3. Live hearings may be conducted with the decision-maker and any or all other participants physically present in the same geographic location or any or all participants may appear at the live hearing remotely, with technology enabling participants simultaneously to see and hear each other. At the request of either party, Bryant will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker and parties to simultaneously see and hear the party or witness answering questions.
4. All participants, including the parties, advisors, and witnesses must behave in an appropriate, civil, respectful, non-abusive, and courteous manner throughout the live hearing. Inappropriate, uncivil, disrespectful, abusive or disruptive behavior could lead to the person's removal from the hearing.
5. The only persons permitted to attend the live hearing are the parties, their advisors, the witnesses, and designated University personnel. The witnesses are only to be in attendance during the time in which they are offering information or answering questions. Otherwise, the witnesses must wait in a designated room (or virtual room) until reached for their testimony.
6. The hearing is not a formal judicial proceeding. The hearing officer or Chair of the panel has the discretion to modify the hearing procedures, when reasonable cause exists to do so.

D. Recording

1. There will be an audio recording created of the hearing that can be made available to the parties for inspection and review upon written request. Unless otherwise approved by Bryant, no other recording (or transcription) will be made or permitted.

E. Advisors

1. Each party **must** have an advisor at the live hearing. If a party does not have an advisor at the hearing, Bryant will provide an advisor to the party free of charge. Before the hearing, the party should notify the Title IX Coordinator as promptly as possible of the need to have an advisor appointed.
2. The advisor's participation in the live hearing is restricted to conducting cross-examination on a party's behalf.

F. Opening/Closing Statements

1. At the outset of the live hearing, each party (not the party's advisor) will be permitted to make an opening statement that summarizes the relevant facts and evidence in support of the party's position with respect to the allegations raised in the Formal Complaint and the contents of the investigative report. The Complainant will proceed first, followed by the Respondent. The hearing officer or Chair of the panel will set a reasonable and appropriate time limit for each opening statement (with ten (10) minutes deemed to be the reasonable standard and each party afforded the same amount of time). As part of the opening statement, each party must also identify their witnesses who will testify during the live hearing.
2. At the conclusion of the witness testimony, each party (not the party's advisor) will be permitted to make a closing statement that summarizes the relevant facts and the evidence presented during the hearing. The Complainant will proceed first, followed by the Respondent. The hearing officer or panel Chair will set a reasonable and appropriate time limit for each closing statement (with fifteen (15) minutes deemed to be the reasonable standard and each party afforded the same amount of time).

G. Questioning of Witnesses

1. The hearing officer or panelists may pose questions to each party and witness testifying at the live hearing. Such questioning will occur before questioning by the advisors.
2. After the questioning of a party or witness by the hearing officer or panel, each party's advisor will be permitted to ask the testifying party or witness relevant questions and follow-up questions, including those challenging credibility. The advisors must engage with a party or witness in a respectful and non-aggressive manner. Follow-up questions should not be duplicative of previously asked questions, and should focus only on narrow grounds requiring clarification.
3. The hearing officer or the panel Chair will make evidentiary and relevance determinations regarding each of the advisor's questions. Before a party or witness may answer a question, the hearing officer or panel Chair **must first** determine whether the question is relevant and permitted. The hearing officer or panel Chair will explain any decision to exclude or prohibit the question in whole or in part.
4. The hearing process does not allow the Complainant, Respondent or their advisors to challenge the evidentiary and relevance determinations regarding a question posed by an advisor. Challenges to evidentiary determinations may be addressed through the appeals process.

5. If a party or witness does not participate in questioning at the live hearing, the hearing officer or the panel must not rely on any statement of that party or witness in reaching a determination regarding responsibility. The hearing officer or panel may not draw an inference of responsibility based upon a party's or witness' absence from the live hearing or refusal to answer questions.

H. Deliberations and Determination

1. After the live hearing is complete, the hearing officer or panel will evaluate the evidence collected during the investigation (including inculpatory and exculpatory evidence), together with the testimonial and other evidence received during the live hearing, and ensure that credibility determinations will not be made based solely upon a person's status as a Complainant, Respondent, or witness.
2. The hearing officer or panel will resolve factual disputes using the preponderance of the evidence standard and reach a determination whether Title IX Sexual Harassment occurred and/or whether Respondent is responsible for the charges.

I. Determination of Sanctions

1. In the event that a student Respondent is determined to be responsible for any charges, the hearing officer or panel will, prior to issuing a written decision, consult with the Associate Dean of Students & Director of Community Standards or the Associate Dean's designee to determine any discipline to be imposed upon the Respondent.
2. In the event that an employee Respondent is determined to be responsible for any charges, the hearing officer or panel will, prior to issuing a written decision, consult with the Provost or a designee (in faculty cases) or an appropriate Human Resources Department administrator (depending on the non-faculty employee's status) for a review and determination of sanctions that comport with applicable personnel policies and collective bargaining agreements.

J. Written Decision

1. After reaching a determination and consulting with appropriate University officials, as referenced above, the hearing officer or panel will prepare a written decision that will include:
 - a. The allegations that constitute sexual harassment;

- b. A summary of the procedural steps taken from the receipt of the Formal Complaint through the determination, including notifications to the parties, interviews with the parties and witnesses, site visits, methods used to gather evidence, and hearings held;
 - c. Findings of fact supporting the decision;
 - d. Conclusions applying the facts to the applicable code of conduct or policy provisions;
 - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to Bryant’s education program or activity will be provided to the Complainant; and
 - f. The procedures and grounds for the Complainant and Respondent to appeal.
2. Bryant will strive to have the written decision issued within twenty (20) business days after the conclusion of the live hearing, but the time to issue the written decision will vary based upon the complexity of the specific case.
 3. The written decision will be provided to the parties simultaneously.
 4. A determination regarding responsibility becomes final on either the date on which all appeals have been decided or, if no timely appeal is filed, the date on which the appeal period has expired.

XVIII. Appeals

- A. Either party may appeal the determination regarding responsibility, or a dismissal of a Formal Complaint, on one or more of the following grounds:
 1. A procedural irregularity affected the outcome;
 2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that would affect the outcome of the matter; or
 3. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the Complainant or Respondent that affected the outcome of the matter.

- B. Appeals must be submitted in writing to the Title IX Coordinator within five (5) business days after Bryant's issuance of the written adjudication or the dismissal of the Formal Complaint, unless the appeals period is mutually extended for both parties and for good cause. The party must specifically state the grounds and support for the appeal. An untimely filed appeal will be rejected.
- C. The Title IX Coordinator shall direct an appeal to the attention of the Vice President of Student Affairs & Dean of Students in student Respondent cases, the Provost in faculty Respondent cases, and the Vice President for Human Resources in non-faculty employee Respondent cases. Each of these appeal officers may appoint a designee to determine the appeals filed in the grievance process.
- D. The Title IX Coordinator will ensure that the appeals procedures are implemented equally for both parties.
- E. Upon a party's filing of an appeal, the Title IX Coordinator shall promptly inform the other party and allow that party to submit a response within five (5) business days thereafter. Upon the submission of the response or the expiration of the response period, the appeal shall be deemed ready for review and determination by the appeal officer.
- F. The appeal officer will issue a written decision within fourteen (14) business days thereafter, describing the result and its rationale.
- G. The written decision shall be provided simultaneously to the parties. No further review is permitted.

XIX. Range of Sanctions

- A. For students, possible disciplinary sanctions shall be consistent with and within the range prescribed in the Student Code of Conduct. Such sanctions range from a warning, probation, residence hall suspension or eviction, suspension, expulsion, revocation of admission or degree, and withholding of a degree. More than one of the Code's sanctions may be imposed for any single violation.
- B. For employees (faculty and non-faculty), the range of appropriate disciplinary and/or corrective action shall be in accordance with provisions stated in applicable personnel policies and collective bargaining agreements. Actions may range from warnings, changes in responsibilities, suspension with or without pay, to termination of employment, depending on the magnitude and specifics of the infraction.

XX. Title IX Retaliation Prohibited

- A. Neither Bryant nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this policy.
- B. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of sexual harassment, for the purpose or interfering with any right or privilege secured by Title IX or this policy, constitutes retaliation.
- C. The University must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted under federal or Rhode Island state law, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

XXI. Recordkeeping

- A. Consistent with the Title IX regulations, Bryant will maintain the following records for a period of seven (7) years:
 - 1. Each sexual harassment investigation, including any determination regarding responsibility, and any audio or audiovisual recording or transcript of the live hearing, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to Bryant's education program or activity.
 - 2. Any appeal filed in the grievance process.
 - 3. Any informal resolution efforts and the results of the process.
 - 4. All materials used to train its Title IX Coordinators, investigators, decision-makers, and facilitators of informal resolution processes Bryant will make its training materials publicly available on its website.
 - 5. Any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of sexual harassment.

- B. Bryant will document the basis for its conclusion that it met its Title IX obligations, and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity. If the University does not provide a Complainant with Supportive Measures, then the University must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

XXII. Policy Revision

- A. Bryant reserves the right to amend this policy and/or its procedures in its sole discretion at any time, provided that any such amendment is consistent with the University's Title IX obligations.