



New Jersey Institute of Technology

Effective Date: 9/25/22

University Policies

Sponsoring Functional Area: Dean of Students and Campus Life

Title: Title IX Sexual Harassment Policy (INTERIM)

TABLE OF CONTENTS

I.	INTRODUCTION	2
II.	SCOPE	3
III.	DEFINITIONS	4
IV.	PRIVACY AND CONFIDENTIALITY	8
V.	EMPLOYEE REPORTING REQUIREMENTS	8
VI.	REPORTING PROHIBITED CONDUCT	9
A.	GENERAL REPORTING RIGHTS AND OPTIONS	9
B.	REPORTING CONSIDERATIONS	11
1.	TIMEFRAME FOR REPORTING	11
2.	OBLIGATION TO PROVIDE TRUTHFUL INFORMATION	11
3.	REPORTS INVOLVING MINORS	12
4.	PRESERVATION OF EVIDENCE	12
VII.	INITIAL ASSESSMENT	12
A.	INTAKE AND OUTREACH	12
B.	OVERVIEW OF INITIAL ASSESSMENT	13
C.	SUPPORTIVE MEASURES	13
D.	SCOPE AND MANNER OF RESOLUTION	14
E.	EMERGENCY REMOVAL	15
VIII.	FORMAL COMPLAINT	15
A.	CONSOLIDATION OF FORMAL COMPLAINTS	16
B.	FORMAL COMPLAINT FILED BY A TITLE IX COORDINATOR	16
IX.	RESOLUTION PROCESS	17
A.	ADVISOR OF CHOICE	17
B.	RECEIPT OF A FORMAL COMPLAINT	17
C.	INFORMAL RESOLUTION	18
D.	FORMAL RESOLUTION	19
1.	INVESTIGATION	19
a.	APPOINTMENT OF INVESTIGATOR	19



b.	INFORMATION GATHERING	19
c.	EVIDENCE REVIEW	20
2.	RELEVANCE	20
3.	INVESTIGATION REPORT	21
4.	ACCEPTANCE OF RESPONSIBILITY	21
5.	LIVE HEARING	21
a.	APPOINTMENT OF HEARING OFFICER	21
b.	NOTICE OF HEARING	21
c.	CHALLENGE OF HEARING OFFICER	21
d.	STATEMENTS	22
e.	HEARING FORMAT	22
f.	DETERMINATION REGARDING RESPONSIBILITY	22
g.	DETERMINATION REGARDING SANCTIONS	23
h.	WRITTEN DETERMINATION OF OUTCOME	23
6.	APPEAL	23
X.	ADDITIONAL CONSIDERATIONS	24
A.	RECORD KEEPING	24
B.	TRAINING	25

This Title IX Sexual Harassment Policy (INTERIM) replaces and supersedes the Sexual Misconduct Policy for Students (last updated March 2015 and August 2020) in order to comply with the U.S. Department of Education’s newly-promulgated regulations, which revised the legal requirements under Title IX. This interim policy reflects NJIT’s good faith efforts to implement the regulations, to synthesize those regulations with other Federal law, including the Clery Act, and with state law. NJIT will continue to review this interim policy after its effective date, and NJIT may further modify this interim policy prior to its finalization.

I. INTRODUCTION

New Jersey Institute of Technology (NJIT) is an institution of higher education and a community dedicated to learning and the advancement of knowledge. NJIT expects and requires the behavior of its students, faculty, staff, officials, vendors, visitors and anyone else with a direct link to NJIT to comply with its high standards of scholarship and conduct. NJIT is committed to protecting the university community, the rights of its members, and to cultivating and sustaining a positive living and learning environment free from discrimination and harassment for all students and employees. Thus, NJIT does not discriminate on the basis of sex or gender in its educational programs and activities and does not tolerate discrimination or harassment on the basis of sex or gender. The requirement not to discriminate on the basis of sex extends to admissions and employment at NJIT.



The U.S. Department of Education’s Office for Civil Rights (OCR) emphasizes the importance of providing all students with an educational environment free from discrimination. Sexual harassment of students interferes with students’ rights to receive an education free from discrimination and, in some instances, may be a crime. Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations, prohibit discrimination on the basis of sex and/or gender in educational programs or activities operated by recipients of Federal financial assistance. In addition, NJIT is committed to compliance with other corresponding legislation, including the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA), Title VII of the Civil Rights Act of 1964 and other applicable law.

NJIT prohibits sexual harassment, sexual assault, domestic violence, dating violence, and stalking. NJIT also prohibits retaliation against any person who, in good faith, reports or makes a Formal Complaint of sexual misconduct or interpersonal violence or who testifies, assists, or participates or refuses to participate in any manner in an investigation or resolution process under this policy. NJIT is committed to responding to all reports of misconduct. Individuals who are found responsible for engaging in Prohibited Conduct (defined in Clause III.F below) in violation of this policy are subject to sanction by NJIT, up to and including expulsion from NJIT and termination of employment.

NJIT has designated a Title IX Coordinator to oversee the implementation of this policy and to ensure compliance with federal and state laws and regulations. The Title IX Coordinator is:

Kristie Damell, Ed.D.
Associate Dean of Students and Title IX Coordinator
255 Campus Center
Newark, NJ 07102
kdamell@njit.edu
(973) 596-3466

Concerns about NJIT’s application of this policy may be addressed to the Title IX Coordinator or the Office for Civil Rights at:

Office for Civil Rights
New York Office
U.S. Department of Education
32 Old Slip, 26th Floor
New York, NY 10005-2500
Telephone: (646) 428-3800
Facsimile: (646) 428-3843
[Email: OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)

II. SCOPE

This policy applies to conduct committed by a NJIT student, employee, or third party vendor or visitor when the Prohibited Conduct occurs within a NJIT education program or activity.



A NJIT education program or activity is covered by this policy when Prohibited Conduct occurs at 1) locations, events, or circumstances over which NJIT exercises substantial control over both the Respondent and the context in which the conduct occurs; and 2) any building owned or controlled by a student organization that is officially recognized by NJIT. The Title IX regulations, which direct NJIT's response to reports of Prohibited Conduct, do not draw a line between on-campus, off-campus, or online conduct, provided the conduct occurred within a NJIT education program or activity in the United States.

Through its other policies and procedures, NJIT will also address reports of misconduct that occurs beyond the Title IX regulations, including misconduct that occurs outside the United States, but still within a NJIT education program or activity. Under certain circumstances, NJIT will address reports of misconduct that occur outside of a NJIT education program or activity but have continuing effects in the education program or activity, or that fall within the scope of conduct otherwise regulated by NJIT. Examples include NJIT-affiliated study abroad programs, or off-campus conduct between two NJIT students that would otherwise violate NJIT policy.

Third party vendors and visitors are both protected by and subject to this policy, subject to its jurisdiction and applicable law. A third party may report potential policy violations committed by a member of the NJIT community. NJIT will take appropriate steps to respond to the report of Prohibited Conduct, consistent with the authority granted by NJIT's jurisdiction and authority, if any, over the Respondent. A third party who is accused of violating NJIT policy may be permanently barred from areas and/or activities controlled by NJIT or be subject to other restrictions for failing to comply with this policy; notwithstanding, a third party may not be granted the full rights and processes afforded to the NJIT community members provided in the provisions of this policy.

Where reported misconduct involves the potential violation of both this policy and another NJIT policy (e.g., the Code of Student Conduct or the Anti-Discrimination and Anti-Discriminatory Harassment Policy), NJIT may at its discretion choose to investigate other potential misconduct under the procedures set forth in this policy, instead of the procedures ordinarily used to address potential violations of such other NJIT policies, so long as doing so does or would not unduly delay a prompt, equitable resolution of the report.

III. DEFINITIONS

A. A Complainant is an individual who is alleged to have experienced conduct that could constitute Prohibited Conduct.

B. A Respondent is an individual who is alleged to have committed conduct that could constitute Prohibited Conduct.

C. A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct by a Respondent and requesting that the allegation of Prohibited Conduct be investigated.



D. The Title IX Coordinator is responsible for the implementation of the Title IX program and for coordinating compliance with Title IX, the Clery Act, and this policy. The Title IX Coordinator is responsible for receiving and reviewing reports and Formal Complaints under this policy, implementing Supportive Measures, overseeing the resolution process (investigations, adjudications, and sanctioning); and ensuring appropriate education and training for students and employees.

E. Supportive Measures are non-disciplinary, non-punitive individualized services that may be offered free of charge to the Complainant or the Respondent before or after the filing of a Formal Complaint, or when no Formal Complaint is applied; Supportive Measures are designed to restore or preserve equal access to a party's education program or activity without unreasonably burdening the other party and may include measures like counseling, course-related or scheduling adjustments, changes in housing, leaves of absence and mutual restrictions on contact. This list is for illustrative purposes only and all Supportive Measures will be implemented subject to availability and as may be appropriate given the circumstances. Except as needed to provide the Supportive Measures, NJIT will maintain as confidential any Supportive Measures provided to the Complainant or Respondent.

F. Prohibited Conduct, for purposes of administering this policy includes conduct that the Title IX regulations define as "Sexual Harassment," which is conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditions the provision of an aid, benefit, or service of NJIT on an individual participating in unwelcome sexual conduct; or
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a NJIT education program or Activity; or
3. Prohibited Conduct also includes Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation, as defined below.

If the alleged conduct is not found to be Prohibited Conduct, the conduct may be considered misconduct for purposes of administering the Code of Student Conduct or other applicable NJIT policies and, accordingly, may be adjudicated thereunder.

Sexual Assault: Sexual assault is having or attempting to have sexual contact with another individual without consent or where the individual cannot consent because of age or temporary or permanent mental incapacity (see below for definition of consent and incapacitation).¹ Sexual contact includes:

- Sexual intercourse (anal, oral, or vaginal), including penetration with a body part (e.g., penis, finger, hand, or tongue) or an object, or requiring another to penetrate themselves with a body part or an object, however slight; or

¹ The statutory definition of sexual assault referenced by the Title IX regulations also includes having or attempting to have sexual contact between persons who are related to each other within the degrees where marriage is prohibited by law.

- Sexual touching of the private body parts, including, but not limited to, contact with the breasts, buttocks, groin, genitals, or other intimate part of an individual's body for the purpose of sexual gratification.

Dating Violence: includes any act of violence committed by a person:

- who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
- 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: includes any act of violence committed by a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of New Jersey and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over the Complainant, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who (1) is a current or former spouse or intimate partner of the Complainant, or person similarly situated to a spouse of the Complainant; (2) cohabiting with or has cohabitated with the Complainant as a spouse or intimate partner; (3) shares a child in common with the Complainant; or (4) commits acts against an adult or youth victim who is protected from those acts under the family or domestic violence laws of New Jersey².

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 other similar devices or forms of contact are used.

² This definition was revised in conformance with Violence Against Women Act Reauthorization Act of 2022 (VAWA).

Retaliation: includes words or acts, as described below, committed against an individual or group of individuals involved in a protected activity. Protected activity includes making a good faith report under this policy; filing an external complaint; or opposing in a reasonable manner and consistent with NJIT policy an action reasonably believed to constitute a violation of this policy. Retaliation also includes intimidation, threat, coercion or discrimination against an individual for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the individual has made a report or formal complaint of Prohibited Conduct, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding or adjudication meeting under this policy. Retaliation can take many forms, including, but not limited to, adverse action or violence, threats and intimidation that would discourage a reasonable person (under similar circumstances and with similar identities to the targeted individual or group) from engaging in protected activity.

G. Consent is a mutual and voluntary agreement to engage in sexual activity; consent must be informed and freely given. Consent once given may be withdrawn. If coercion, intimidation, threats and/or physical force are used, there is no consent. If an individual is mentally or physically incapacitated or impaired such that the individual cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this standard applies whether the incapacity is due to alcohol or drug ingestion, sleep, unconsciousness, or because of an intellectual or other disability that prevents the individual from having the capacity to give consent. Silence does not constitute consent. Past consent to sexual activities does not imply ongoing future consent; nor does consent to engage in one type of sexual activity imply consent for various other acts of sexual activity. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person.

H. Incapacitation: Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. An individual may be incapacitated as a result of the consumption of alcohol or drugs. When alcohol or drugs are involved, incapacitation is a state of intoxication or impairment that is so severe that it interferes with an individual's capacity to make informed and knowing decisions. The impairment must be significant enough to render an individual unable to understand the fact, nature, or extent of the sexual activity.

Consent cannot be obtained by taking advantage of an individual's incapacitation. An individual who is incapacitated is not capable of giving valid, effective consent as the individual cannot understand the fact, nature, or extent of the sexual activity. An incapacitated individual lacks the physical and mental capacity to make informed, reasonable judgements about whether or not to engage in sexual activity since the individual may not be able to understand where they are, whom they are with, how they got there, or what is happening.



IV. PRIVACY AND CONFIDENTIALITY

NJIT is committed to protecting the privacy of all individuals involved in a report of misconduct under this policy consistent with the need for a thorough review by NJIT of the allegation. Except as otherwise permitted by law, as required to conduct an investigation or hearing under this policy, or as required in a grievance, administrative or judicial proceeding, NJIT will not share the identity of any individual who has made a report or complaint of sexual harassment, including any individual who has made a report or filed a Formal Complaint of Prohibited Conduct, any Complainant, any individual who has been reported to be the perpetrator of sexual harassment, any Respondent, and any witness. NJIT will also maintain as confidential any Supportive Measures provided to the Complainant, to the extent that maintaining such confidentiality would not impair NJIT's ability to provide the Supportive Measures. All employees who are involved in NJIT's Title IX response, including the Title IX Coordinator, investigators and adjudicators, receive specific training and guidance about safeguarding private information, including the protections set forth in Title IX, the Clery Act and the Family Educational Rights and Privacy Act ("FERPA").

Privacy and confidentiality have distinct meanings under this policy. Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those individuals who "need to know" in order to assist in the active review, investigation or resolution of the report. While not bound by legal confidentiality, these individuals will be instructed by NJIT to exercise discretion and respect the privacy of all individuals involved in the process. As noted above, these individuals are also prohibited by Federal privacy laws from releasing personally identifying information.

Confidentiality refers to the statutory protections provided to individuals who disclose information in legally-protected or privileged relationships, including professional mental health counselors, medical professionals, rape crisis counselors, and ordained clergy (Confidential Resources). Information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the permission of the individual. Confidential Resources will not breach confidentiality unless special circumstances exist such as an imminent risk of harm to the individual or others or suspected abuse of a minor under the age of 18 or as otherwise permitted or required by law.

Individuals who wish to seek confidential assistance may do so by speaking with a Confidential Resource. On campus, Confidential Resources include the NJIT Center for Counseling and Psychological Services and the NJIT Student Health Services at St. Michael's Primary and Specialty Care Center.

Pursuant to the Clery Act, NJIT includes statistics about Clery Act crimes in its daily crime log and Annual Security Report and provides those statistics to the U.S. Department of Education; in all these instances, the information is reported in a manner that does not include personally identifying information about persons involved in an incident. If a report of misconduct discloses a serious or continuing threat to the campus community, NJIT will issue a timely notification to the community to protect the health and safety of the community as required by the Clery Act. The timely notification will not include any personally identifying information about the Complainant. NJIT may also share non-personally identifying information about reports received in aggregate



form, including data about outcomes and sanctions. At no time will NJIT release the name of the Complainant to the general public without the express consent of the Complainant or as otherwise permitted or required by law. All NJIT proceedings are conducted in compliance with the requirements of FERPA, the Clery Act (as amended by VAWA), Title IX, state and local law, and NJIT policy.

V. EMPLOYEE REPORTING REQUIREMENTS

Certain NJIT employees are required to immediately notify the Title IX Coordinator of any Prohibited Conduct that they witness or become aware of. Confidential Resources are not subject to this requirement; Confidential Resources include the NJIT Center for Counseling and Psychological Services and the NJIT Student Health Services at St. Michael's Primary and Specialty Care Center.

The employees required to report to the Title IX Coordinator any Prohibited Conduct that they witness or become aware of are: 1) all supervisory employees and 2) any employee whose position involves regular interactions with students. By way of example only, these student-interacting positions are:

- Academic advisors
- Coaches and other athletic staff who interact directly with students
- Dean of Students and Campus Life staff
- Graduate research assistants
- Instructional staff (faculty, lecturers, adjuncts, etc.)
- Public Safety
- Residence Life staff
- Resident Assistants

When making a report, the information that should be provided includes the names of the individuals involved and any information known about the date, time, location or nature of the Prohibited Conduct.

VI. REPORTING PROHIBITED CONDUCT

A. GENERAL REPORTING RIGHTS AND OPTIONS

NJIT encourages any individual who has experienced Prohibited Conduct to seek resources and support through NJIT or the community by contacting the below identified confidential and emergency resources:

- NJIT Center for Counseling and Psychological Services
Campbell Hall, Room 205
(973) 596-3414



- NJIT Student Health Services at St. Michael's Primary and Specialty Care Center
111 Central Avenue
University Heights
Newark NJ 07102
(973) 596-3621
- Rutgers University Behavioral Health Care Crisis Services
183 South Orange Avenue
Newark, New Jersey 07103
1-800-969-5300
- Essex County Rape Care Center
60 South Fullerton Ave Suite 109
Montclair, NJ 07042
(973) 746-0800 x310/307
- SAVE (Sexual Assault and Violence Education) of Essex County
1-877-733-CARE (2273)
- Domestic Violence Hotline
1-800-799-SAFE (7233)
- National Dating Abuse Hotline
1-866-331-9474 or Text: LOVEIS (77054)

The Complainant or any individual, including those who have witnessed Prohibited Conduct, may make the report to the Title IX Coordinator located on the second floor of the Campus Center, or to the NJIT Department of Public Safety. Information relating to the report will be considered private, as discussed in Section IV:

- Title IX Coordinator
Kristie Damell, Ed.D.
Associate Dean of Students and Title IX Coordinator
255 Campus Center
kdamell@njit.edu
(973) 596-3466
- NJIT Public Safety
(973) 596-3111
154 Summit Street

A Complainant has the option to report or decline to report the incident to the appropriate local law enforcement authorities and NJIT will assist the Complainant in contacting law enforcement if requested. A Complainant who wishes to report an incident to local law enforcement may seek assistance from the Title IX Coordinator or NJIT Public Safety.



Any person who wishes to report an incident of Prohibited Conduct, whether the incident occurred on or off campus, shall have the following rights and options:

- Go to court to file a domestic violence complaint requesting a restraining order against the Respondent, and/or an order directing the Respondent to leave the household, building, school, college or workplace; maintain a specified distance away; or otherwise prohibit contact.
- Sign a criminal complaint with law enforcement for threats, assault and battery, or other related offenses.
- Seek medical treatment; the NJIT Department of Public Safety and/or the Title IX Coordinator will arrange transportation to the nearest medical facility.

NJIT Public Safety: Summit Street
Non-Emergency: 973-596-3116
Emergency: 973-596-3111

- Request that law enforcement to remain at the scene until safety is secured.
- Request that law enforcement provide transportation to a safe place, such as a shelter, or a family or friend's residence.
- Receive a copy of the police incident report.
- Report Prohibited Conduct and request Supportive Measures from the Title IX Coordinator that may include counseling, course-related or scheduling adjustments, modifications of work or class schedules, campus escort services, increased security and monitoring of certain areas of campus, changes in housing, leaves of absence, mutual restrictions on contact, and other similar measures.

B. REPORTING CONSIDERATIONS

1. TIMEFRAME FOR REPORTING

Complainants and other individuals are encouraged to report Prohibited Conduct as soon as possible in order to maximize NJIT's ability to respond effectively. If the Respondent is no longer a student or employee, NJIT will still seek to provide reasonably available Supportive Measures, assist the Complainant in identifying external reporting options, and take steps to address any ongoing effects of the Prohibited Conduct in a NJIT education program or activity.

2. OBLIGATION TO PROVIDE TRUTHFUL INFORMATION

All NJIT community members are expected to provide truthful information in any report or proceeding under this policy. Submitting or providing false or misleading information in bad faith



or with a view to personal gain or intentional harm to another in connection with an allegation of misconduct is prohibited and subject to disciplinary action. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

3. REPORTS INVOLVING MINORS

Under New Jersey law, every person is a mandatory reporter of child abuse. Any member of the NJIT community who has reasonable cause to suspect abuse of a minor under the age of 18 should immediately report this information to the State Central Registry (SCR). If the child is in immediate danger, call 911 as well as 1-877 NJ ABUSE (1-877-652-2873). In addition, employees must make a report to the Title IX Coordinator or NJIT Public Safety.

4. PRESERVATION OF EVIDENCE

A Complainant is advised to seek immediate medical treatment and preserve physical evidence following an incident of Prohibited Conduct even if they have not decided whether they wish to pursue any campus or criminal action. This will help to ensure that a Complainant receives proper care and preserves their opportunity to support a disciplinary or criminal action at a later time.

VII. INITIAL ASSESSMENT

When the Title IX Coordinator receives a report alleging Prohibited Conduct, the Title IX Coordinator or Deputy Title IX Coordinator will seek to conduct an Initial Assessment. The Title IX Coordinator/Deputy Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures, inform the Complainant that Supportive Measures are available whether or not a Formal Complaint is filed, explain the process for filing a Formal Complaint and consider the Complainant's wishes with respect to Supportive Measures.

A. INTAKE AND OUTREACH

The Initial Assessment typically includes an initial intake meeting with the Complainant or person making the report to understand the nature and circumstances of the report and to provide the Complainant with information about resources, including local law enforcement resources as applicable, procedural options, Supportive Measures and an opportunity to discuss this policy. The Title IX Coordinator/Deputy Title IX Coordinator seeks to gather information to determine whether this policy applies to the report and, if so, whether an informal or formal resolution process, or the imposition of Supportive Measures only, is the appropriate response under this policy.

In addition to the intake meeting, NJIT will provide the Complainant with written information about resources, procedural options, and reasonably available Supportive Measures. This written information shall include a notification about the process for seeking disability-based accommodations, academic adjustments, and/or auxiliary aids under Section 504 of the Rehabilitation Act and/or the Americans with Disabilities Act.



B. OVERVIEW OF INITIAL ASSESSMENT

As part of the Initial Assessment of the facts, NJIT will:

- Promptly contact the Complainant to discuss the availability of Supportive Measures;
- Consider the Complainant's wishes with respect to Supportive Measures;
- Assess the nature and circumstances of the report;
- Address immediate physical safety & emotional well-being of the Complainant or other campus community members;
- Discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding;
- Notify the Complainant of the right to contact or decline to contact law enforcement and, if requested, assist them with notifying law enforcement;
- Notify the Complainant of the availability of medical and counseling resources to address physical and mental health concerns and to preserve evidence;
- Notify the Complainant of the importance of preservation of evidence;
- Enter the report into NJIT's Daily Crime Log, if required by the Clery Act;
- Assess the reported conduct for the need for a timely warning under the Clery Act;
- Provide the Complainant with information about on- and off-campus resources;
- Provide the Complainant with a copy of this policy and an explanation of the procedural options, including seeking Supportive Measures and the process for filing a Formal Complaint;
- Inform the Complainant that they may seek an advisor of their choosing to assist them throughout the investigation and resolution of the report, that the advisor may accompany them to any meeting or proceeding under this process, and that if the matter proceeds under the formal resolution process and either party does not have an advisor, NJIT will provide an advisor, without fee or charge, to conduct questioning on behalf of the party at the hearing;
- Assess for evidence of a pattern or other similar conduct by the Respondent; and
- Explain NJIT's policy prohibiting retaliation.

The Title IX Coordinator/Deputy Title IX Coordinator will conduct the Initial Assessment. They have the authority to include additional individuals or, based on considerations such as privacy, health and safety, and timeliness, to conduct an Initial Assessment independently or with a smaller group.³

C. SUPPORTIVE MEASURES

Supportive Measures are individualized support resources that are non-disciplinary, non-punitive, and are offered, as appropriate, as reasonably available, and without fee or charge to the parties. Supportive Measures are made available to the parties at any point in the process and regardless of whether a Formal Complaint is filed. Such measures are designed to restore or preserve equal

³ In the event any individual with a responsibility identified in this policy is a witness or has a conflict of interest that would compromise that individual's objectivity in discharging that responsibility, NJIT will appoint a designee.



access to a NJIT education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the NJIT community. Supportive Measures may include 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 will consider a number of factors in determining which Supportive Measures to implement, including the needs of the individual seeking Supportive Measures; the severity or pervasiveness of the alleged conduct; any continuing effects on the Complainant; whether the Complainant and the Respondent share the same residence hall, academic course(s), or job location(s); and whether judicial measures have been taken to protect the Complainant (e.g., protective orders). NJIT will work in good faith to implement the requirements of judicially issued protective orders and similar orders, to the extent that doing so is within its authority.

The Title IX Coordinator is responsible for ensuring the implementation of Supportive Measures and coordinating resources with the appropriate offices on campus. NJIT will maintain the confidentiality of any Supportive Measures provided under this policy to the extent practicable and will promptly address any violation of Supportive Measures.

D. SCOPE AND MANNER OF RESOLUTION

The Title IX Coordinator will consider the nature of the report, the safety of the individual and the campus community, and the Complainant's expressed preference for the manner of resolution in determining the appropriate course of action to achieve the goals of Title IX and this policy. During the Initial Assessment, a Complainant may request Supportive Measures only, or may file a Formal Complaint. Alternatively, as described below, the Title IX Coordinator may determine that it is appropriate to file a Formal Complaint even in the absence of a Formal Complaint filed by a Complainant. After the filing of a Formal Complaint, the Complainant may decide to seek informal resolution. A Complainant is always entitled to reasonably available Supportive Measures, regardless of whether a formal or informal resolution process is initiated. As part of the Initial Assessment, the Title IX Coordinator will be responsible for determining whether the reported conduct falls within the scope of this policy. If so, NJIT may move forward with a Formal Complaint process as described below. If not, NJIT may be required to dismiss any formal complaint received.

The Initial Assessment will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made, and NJIT has sufficient information to determine the appropriate course of action. NJIT will seek to complete the Initial Assessment as promptly as possible, typically within ten (10) business days. There may be circumstances, however, where the Initial Assessment takes longer based on the availability of the Complainant or other necessary information, the need to gather additional information, or other factors outside of NJIT's control. NJIT also understands that a Complainant may engage in delayed decision-making, which may impact the timing of the conclusion of the Initial Assessment.



At the conclusion of the Initial Assessment, the Complainant will receive a written notice of the determination about how NJIT will proceed. The Title IX Coordinator will document each report or request for assistance, including requests for Supportive Measures, as well as the response to any such report or request; and will review and retain copies of all reports generated as a result of any investigation. NJIT will maintain the records for a period of seven years. The records will be kept private to the extent required or permitted by law.

E. EMERGENCY REMOVAL

NJIT may remove a student Respondent on an emergency basis from NJIT's property or employment, education or research programs or activities. Before imposing an emergency removal, NJIT will undertake an individualized analysis of safety and risk for the campus community to determine whether the Respondent's presence in the program or activity poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct and justifies removal of the Respondent from the NJIT program or activity.

The Title IX Coordinator will promptly provide the Respondent with written notice of the removal and an opportunity to challenge the removal. That notice shall include a statement that the use of any information the Respondent chooses to provide may subsequently be used in implementation of any aspect of this policy or the resolution process, including the investigation and adjudication. The Respondent will have three business days to submit a written challenge to the safety and risk analysis to the Title IX Coordinator who will immediately review. The Title IX Coordinator will assign the matter to be reviewed by the Dean of Students and Campus Life (or his/her designee) or Vice President for Human Resources (or his/her designee) to evaluate the information in support of the individualized safety and risk analysis. The Respondent will have an opportunity to present relevant evidence challenging the safety and risk analysis. The Dean of Students and Campus Life (or his/her designee) or Vice President for Human Resources (or his/her designee) will submit a final decision in writing to the Respondent within five (5) days. The Title IX Coordinator will notify the Complainant and Respondent in writing of the outcome of the challenge.

VIII. FORMAL COMPLAINT

The Complainant may file a Formal Complaint with the Title IX Coordinator in person, by mail, e-mail, or other electronic means designated by the Title IX Coordinator. A Complainant may file a Formal Complaint if they are participating in or attempting to participate in a NJIT education program or activity at the time when the Formal Complaint is filed. Alternatively, the Title IX Coordinator may file a Formal Complaint on behalf of a Complainant. Upon receipt of a Formal Complaint, the Title IX Coordinator will evaluate the available information in the Formal Complaint and Initial Assessment to determine whether:

1. The conduct could, if proved, constitute a violation of Prohibited Conduct,
2. The conduct occurred within a NJIT education program or activity, and
3. The conduct occurred in the United States.

If all three of the conditions above are met, the Formal Complaint will proceed under the resolution process described below. If any of the three conditions above are not met, to comply with the Title



IX regulations, the Title IX Coordinator must dismiss the Formal Complaint and allow the parties to appeal the decision to dismiss the Formal Complaint. However, when a Formal Complaint is dismissed because either condition (2) or (3), or both, are not met, the matter may still proceed through a different resolution process. Where the conduct may not be considered Prohibited Conduct under this policy, the conduct may be considered misconduct for purposes of administering the Code of Student Conduct or other NJIT policy and, accordingly, may be adjudicated thereunder.

In addition to the required dismissal, certain circumstances may occur that allow NJIT the discretion to dismiss a Formal Complaint, including written notification to the Title IX Coordinator that the Complainant wishes to withdraw the Formal Complaint, the Respondent is no longer enrolled in NJIT, or specific circumstances prevent NJIT from gathering evidence sufficient to make a determination of responsibility for the disclosed conduct.

The Title IX Coordinator will notify the parties in writing when a Formal Complaint is dismissed. Any decisions regarding dismissal of a Formal Complaint under this section may be appealed to the Dean of Students and Campus Life (or his/her designee) or Vice President for Human Resources (or his/her designee) as outlined in Section IX(D)(6) of this policy.

A. CONSOLIDATION OF FORMAL COMPLAINTS

NJIT may consolidate Formal Complaints of allegations of Prohibited Conduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Prohibited Conduct arise out of the same facts or circumstances.

B. FORMAL COMPLAINT FILED BY A TITLE IX COORDINATOR

The Title IX Coordinator also has the discretion to file a Formal Complaint. In evaluating the appropriate manner of resolution, including whether the Title IX Coordinator will file a Formal Complaint in the absence of a Formal Complaint filed by the Complainant, the Title IX Coordinator will consider the following factors: whether the Complainant has requested anonymity, whether the Complainant wants to participate in an investigation, the severity and impact of the alleged misconduct, whether the misconduct was committed with a weapon, the respective ages of the parties, whether the Complainant is a minor under the age of 18, whether the Respondent has admitted to the misconduct, whether the Respondent has a history of committing such misconduct, whether there have been other complaints about the same Respondent, whether the Respondent is alleged to have threatened further misconduct, whether the misconduct was committed by multiple perpetrators, whether the report reveals a pattern of misconduct (e.g., at a given location or by a particular group), the existence of independent evidence that may be available without the participation of the Complainant, and the extent of prior remedial methods taken with the Respondent.

NJIT will take all reasonable steps to respond to the report consistent with a Complainant's requested course of action, but its ability to do so may be limited based on the nature of the reported information. Where the Title IX Coordinator files a Formal Complaint on behalf of the



Complainant, the Title IX Coordinator or designee will inform the Complainant about the chosen course of action.

IX. RESOLUTION PROCESS

NJIT is committed to the fair and equitable treatment of both the Complainant and Respondent by providing remedies to a Complainant where a determination of responsibility for Prohibited Conduct has been made against the Respondent and by following the resolution process described in this policy before imposing any disciplinary actions against a Respondent. All remedies are intended to restore or preserve equal access by Complainant to a NJIT education program or activity. NJIT will never condition enrollment or continuing enrollment, employment or continuing employment, or enjoyment of any other right, on the waiver of a party's right to the resolution of a Formal Complaint. As NJIT is committed to a prompt adjudication process, this policy specifies the expected time frames for resolution. Notwithstanding, these time frames may be delayed or extended for good cause (e.g., illness, exams, holidays) with written notice to the Complainant and Respondent explaining the reason for the delay or extension.

A. ADVISOR OF CHOICE

If desired, the Complainant and Respondent may each elect to have one advisor of their choosing present during any stage of the formal or informal resolution process under this policy. This advisor may be, but need not be, an attorney. This advisor may not speak or otherwise participate in the proceeding, except as permitted in the hearing to conduct questioning on the party's behalf. Otherwise, the advisor's function is solely to observe, provide support, and provide guidance or advice to the party (outside of the proceeding). NJIT may remove or dismiss advisors who do not abide by the restrictions on their participation or who are otherwise disruptive. The advisor must meet with the Title IX Coordinator (or designee) in advance of any participation in any meeting or proceedings to understand the expectations of the role, privacy, and appropriate decorum. If a party does not have an advisor and the matter is proceeding to a hearing under this policy, NJIT will provide an advisor, without fee or charge, to the party for the sole purpose of conducting questioning at the hearing on behalf of that party.

B. RECEIPT OF A FORMAL COMPLAINT

Upon receipt of a Formal Complaint, the Title IX Coordinator or designee shall provide written notice to all known parties involved in the matter of:

- a description of the resolution process, including formal and informal resolution;
- the allegations of Prohibited Conduct, including sufficient details known at the time such as the identities of the parties, the conduct involved, and the date and location at which the conduct occurred;
- the potential policy violations at issue;
- a statement that the Respondent is presumed not responsible for the disclosed conduct and that a determination regarding responsibility is made at the conclusion of the formal resolution process;



- the name of the assigned investigator and an opportunity to object to the investigator on the basis of bias or conflict of interest;
- a statement that the party may have an advisor of their choice, who may be, but is not required to be, an attorney, and that if the party does not have an advisor present at the live hearing, NJIT will provide them an advisor, without fee or charge, for cross-examination;
- a statement that the parties and advisors may inspect and review evidence directly related to the allegations at the conclusion of the investigation phase;
- a statement about preservation of evidence; and
- the prohibition against retaliation.

This initial notice of investigation will be sent to the parties with sufficient time to prepare a response before any initial interviews are conducted as part of the investigation process. The notice of investigation will be updated and recirculated if additional allegations that were not included in the initial notice are now being investigated.

C. INFORMAL RESOLUTION

After a Formal Complaint is filed, but before a determination regarding responsibility is made via the adjudication process, the Complainant and Respondent may participate in an informal resolution process. Informal resolution is a voluntary process that may result in the parties and NJIT agreeing on a resolution of the allegations of a Formal Complaint in lieu of an investigation and/or adjudication under the formal resolution process. NJIT will not require the parties to participate in an informal resolution process. Either party can decide to terminate the informal resolution process at any time before it is completed and then the adjudication process to determine responsibility will resume. Any information obtained during the informal resolution process may be used during the resumed adjudication process. Informal resolution is not available if the alleged Prohibited Conduct was perpetrated by a Respondent who is a NJIT-employee.

In order to conduct the informal resolution process, NJIT will first:

- Provide to the Complainant and Respondent each a written notice detailing the allegations, the requirements associated with the process including the circumstances under which the parties cannot revert back to the adjudication process and the possible consequences that could occur by participating in the informal resolution process; and
- If the parties voluntarily agree to participate in the informal resolution process, obtain the Complainant's and Respondent's written consent that they each voluntarily agree to participate.

Thereafter, the informal resolution process will commence. If the informal resolution process is successful, then the matter will be considered closed. If a mutually acceptable resolution cannot be reached during a period of up to thirty (30) days, which may be extended for good cause, the formal resolution process may resume.



D. FORMAL RESOLUTION

Formal resolution consists of a prompt and equitable investigation, a live hearing, and an opportunity to appeal the outcome.

1. INVESTIGATION

a. APPOINTMENT OF INVESTIGATOR

The Title IX Coordinator will appoint one or more trained investigators to conduct a prompt, thorough, equitable and impartial investigation. The Title IX Coordinator will assign an investigator, who may be a NJIT employee or an external professional.

If a Complainant or Respondent believes that the assigned investigator(s) may have a conflict of interest or bias which could result in their inability to provide a fair investigation to the Complainant or Respondent, the Complainant or Respondent should notify the Title IX Coordinator immediately, in writing, of this concern, including an explanation or reason for the claim of conflict of interest or inappropriate bias. If the Title IX Coordinator determines there is a substantial and legitimate basis of a claim of an actual conflict of interest and/or inappropriate bias exists, the Title IX Coordinator will assign a new investigator.

b. INFORMATION GATHERING

The role of the investigator will be to gather information through interviews with the Complainant, the Respondent, and relevant witnesses, as well as collect available evidence, including electronic and social media communications, documents, photographs, and communications between the parties. The investigator may visit relevant sites or locations and record observations through written, photographic, or other means. The investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. If a person voluntarily chooses to share medical or counseling records with the investigator, they must sign a written consent that acknowledges that relevant information from the medical or counseling records must be shared with the other party to ensure the other party has notice of that information and an opportunity to respond. In some cases, the investigator may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

The investigation is designed to provide both parties a full, equal, and fair opportunity to be heard, to submit relevant inculpatory or exculpatory information, and to identify fact or expert witnesses. Neither the Complainant nor the Respondent is restricted from discussing the allegations made in the Formal Complaint and under investigation or gathering and presenting relevant evidence. All evidence—both inculpatory and exculpatory—will be considered throughout the adjudicatory process.

NJIT, not the parties, has the burden of gathering relevant evidence to the extent reasonably possible. Both the Complainant and Respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications, photographs, and other evidence.



Both parties are encouraged to provide all relevant information in a timely manner to facilitate prompt resolution. Any individual whose participation is invited or expected will receive written notice of the date, time, location, participants, and purpose of their participation with sufficient time to prepare to participate. It is expected that the investigation will take up to sixty (60) days but such period may be extended for good cause.

c. EVIDENCE REVIEW

Both the Complainant and Respondent will each have an equal opportunity to inspect and review any evidence collected that is directly related to the allegations raised in the Formal Complaint. Prior to the creation of the investigative report summarizing the relevant evidence collected, NJIT will send each party and the party's advisor, if any, the foregoing evidence so that each party can meaningfully respond to the same. A party's response must be provided within ten (10) days and such response will be considered prior to finalizing the investigative report.

2. RELEVANCE

The investigator will review all information identified or provided by the parties and will determine the relevance of the information developed or received during the investigation.

Relevant information is information that tends to make a material fact at issue more or less probable and the fact is of consequence in determining the action. The following forms of evidence are considered irrelevant:

- **Privileged Information:** NJIT cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, attorney, clergy member, or other recognized professional or paraprofessional acting or assisting in that capacity, and which are maintained in connection with the provision of services to the party, unless that party gives their voluntary, written consent to do so. In those instances, the relevant information from the records must be shared with the other party.
- **Prior Sexual history of the Complainant:** The sexual history of the Complainant is not relevant, except in two circumstances: (1) to show that someone other than Respondent committed the reported conduct; and, (2) where the Respondent alleges the sexual contact was consensual, evidence of the manner and nature of how the parties communicated consent in the past may be relevant in assessing whether consent was communicated in the reported conduct. As set forth in the definition of consent, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent and, even in the context of a relationship, consent to one sexual act does not constitute consent to another sexual act, and consent on one occasion does not constitute consent on a subsequent occasion.



3. INVESTIGATION REPORT

The investigator will write an investigative report that fairly summarizes the evidence, both inculpatory and exculpatory and send it to each party and the party's advisor, if any, for review and written response no less than ten (10) days prior to the live hearing or other time a determination regarding responsibility is made.

4. ACCEPTANCE OF RESPONSIBILITY

At any point during the formal resolution process, the Respondent may elect to accept responsibility for some or all of the policy violations at issue. Where there is an acceptance of responsibility as to some but not all of the charges, the investigation will continue to conclusion. Where there is an acceptance of responsibility as to all of the potential policy violations, the investigator will complete an investigation report of all information gathered to date and refer the matter for sanctioning as described below.

5. LIVE HEARING

The live hearing is an opportunity for the parties to present their views of the case to the hearing officer and is expected to occur within thirty (30) days after release of the investigation report.

a. APPOINTMENT OF HEARING OFFICER

Upon completion of the investigation of a Formal Complaint, the Title IX Coordinator shall assign a trained hearing officer to conduct a live hearing. The hearing officer may be a NJIT employee or an external professional. Prior to the hearing, the Title IX Coordinator will provide the hearing officer with the investigation report and any written responses submitted by the parties.

b. NOTICE OF HEARING

The Title IX Coordinator will provide the parties and all witnesses whose participation will be requested written notice including details on the date, time, and location of the hearing, the anticipated witness list, and the name of the hearing officer, at least five (5) business days in advance of the hearing.

c. CHALLENGE OF HEARING OFFICER

If a Complainant or Respondent believes that an assigned hearing officer may have a conflict of interest or bias that could result in their inability to provide a fair determination regarding responsibility and/or sanctions to the Complainant or Respondent, the Complainant or Respondent should notify the Title IX Coordinator immediately, in writing, of this concern, including an explanation or reason for the claim of conflict of interest or inappropriate bias. If the Title IX Coordinator determines that there is a substantial and legitimate basis for an actual conflict of interest and/or inappropriate bias exists, the Title IX Coordinator will assign a new hearing officer.



d. STATEMENTS

The Complainant may submit a written statement describing the impact of the Prohibited Conduct on the Complainant. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered when determining the sanctions(s) to be imposed. The Title IX Coordinator will provide any statement(s) to the hearing officer who will only view and consider the statements if there is a finding of responsibility. Each party has the opportunity to view the other party's statement.

e. HEARING FORMAT

The hearing officer has the discretion to determine the format of the hearing. Typically, the parties will have an opportunity to provide an opening statement to the hearing officer. Each party will then have an opportunity to address the hearing officer and respond to questions by the hearing officer, or as described below, the other party's advisor.

The hearing officer will also hear from relevant witnesses, including the investigator. Each party will have the opportunity to question the other party, the witnesses, and the investigator through their advisor of choice directly, orally, and in real time. Only relevant questions may be asked of a party or witness. Before a Complainant, Respondent, or witness responds to a question, the hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant, as defined in this policy.

If a party does not have an advisor present at the live hearing, NJIT will provide an advisor, free of charge, for questioning on behalf of that party. Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Hearing Officer can only rely on relevant evidence that is available through the investigation and hearing in making the ultimate determination of responsibility. The Hearing Officer may not draw any inference from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

All evidence collected by NJIT that the parties' inspected and reviewed will be made available at the live hearing and each party will have equal opportunity to refer to the same. At the request of either party, NJIT may accommodate any student(s) who has concerns for the personal safety, well-being, and/or concerns regarding confrontation during the hearing by providing for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions. A transcript, or audio or audiovisual recording, of the live hearing will be created and NJIT will make it available to the parties for inspection and review.

f. DETERMINATION REGARDING RESPONSIBILITY

At the conclusion of the hearing, the hearing officer will deliberate in private to determine whether there is sufficient evidence, by a preponderance of the evidence, that Respondent engaged in



conduct that violated this policy. If the hearing officer determines the Respondent violated this policy, it will determine an appropriate sanction(s).

In making a determination regarding responsibility, the hearing officer will apply the preponderance of the evidence standard, meaning it will be determined whether it is more likely than not that the allegation of Prohibited Conduct occurred. The Respondent is not responsible for the alleged Prohibited Conduct until a determination regarding responsibility is made at the conclusion of the adjudication process.

g. DETERMINATION REGARDING SANCTIONS

NJIT will impose sanctions designed to end the Prohibited Conduct, prevent its recurrence, and remedy its effects on the Complainant and the university community. For students, these sanctions could include:

- Warning
- Reprimand
- Disciplinary probation
- Loss of privileges
- Discretionary sanctions
- Suspension from NJIT
- Expulsion from NJIT
- Reassignment of Housing
- Suspension from Housing
- Expulsion from Housing

All sanctions imposed on employees will be in accordance with any applicable collective bargaining agreement and could include written reprimand, suspension and/or termination.

h. WRITTEN DETERMINATION OF OUTCOME

Within ten (10) days of the live hearing, the Hearing Officer will issue a written determination regarding responsibility. The written determination will:

- Identify the allegations potentially constituting Prohibited Conduct;
- Describe the procedural steps taken during the course of the adjudication process;
- State the findings of fact supporting the determination and the conclusions drawn when applying NJIT policies to such facts;
- State the determination made regarding responsibility as to each allegation and the rationale therefore;
- Identify the disciplinary measures being imposed on the Respondent or remedies being provided to Complainant; and
- Provide the bases and procedures for the Complainant or Respondent to appeal.

The Complainant and the Respondent will be notified simultaneously of the outcome. The determination regarding responsibility becomes final: (1) if a party appeals, when the written



determination of the result of the appeal is provided, or (2) if a party does not appeal, the date on which an appeal is no longer timely.

6. APPEAL

A Complainant or Respondent may appeal (1) the determination regarding responsibility and/or the (2) dismissal of a Formal Complaint by filing their full and complete written appeal with the Dean of Students and Campus Life (or his/her designee) or Vice President for Human Resources (or his/her designee) within five (5) days of the date of the letter of notification of the decision being appealed, unless that time is extended in writing by the Dean of Students and Campus Life (or his/her designee) or Vice President for Human Resources (or his/her designee). For students, appeals may be based only on the following reasons:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence, which was not reasonably available at the time of the decision, that could affect the outcome of the matter; or
3. A conflict of interest or bias for or against the individual Complainant or Respondents or more generally against complainants and respondents by the Title IX Coordinator, investigator(s), or decision-maker(s) that affected the outcome of the matter.

For employees, all appeals will be as permitted by the respective collective bargaining agreement or the Anti-Discrimination and Anti-Discriminatory Harassment Policy for non-aligned employees. All materials supporting any appeal must be submitted at the time the appeal is filed. The Dean of Students and Campus Life (or his/her designee) or Vice President for Human Resources (or his/her designee) will advise the non-appealing party in writing of the receipt of an appeal and will provide a copy of the appeal to the non-appealing party. The non-appealing party(ies) will have five (5) days from the date of their receipt of the appeal to respond in writing to the appeal. A copy of the response will be issued to the appealing party. No additional review or response to submissions related to the appeal may be made by either party after this point, unless requested by the Dean of Students and Campus Life (or his/her designee) or Vice President for Human Resources (or his/her designee). After receipt of the non-appealing party's response, the Dean of Students and Campus Life (or his/her designee) or Vice President for Human Resources (or his/her designee) will determine the disposition of the appeal and notify simultaneously both parties of its decision including its rationale. It is expected that a decision will be rendered within five (5) days but may be extended for good cause.

X. ADDITIONAL CONSIDERATIONS

A. RECORD KEEPING

NJIT will maintain for a period of seven years records of:

- Each investigation under this policy including any determination regarding responsibility and any audio or audiovisual recording or transcript created, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant;



- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom; and
- All materials used to train Title IX Coordinators, investigators, hearing officers, and any person who facilitates an informal resolution process. NJIT will make these training materials publicly available on its website.

In response to every complaint received by the Title IX Coordinator, NJIT will create, and maintain for a period of seven years, records of any actions, including any Supportive Measures, taken in response to a report or formal complaint of Prohibited Conduct. In each instance, NJIT will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to a NJIT education program or activity. If the Title IX Coordinator does not provide a Complainant with Supportive Measures, then the Title IX Coordinator must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit NJIT in the future from providing additional explanations or detailing additional measures taken.

B. TRAINING

The Title IX Coordinator will identify and oversee the implementation of mandatory training for students, faculty, staff, and administrators that will focus on Title IX and corresponding legislation. These programs will be offered continuously throughout the year, and will include awareness education, prevention and risk reduction techniques, bystander intervention information, and recognition of warning signals.