

## APPENDIX B

### UNIVERSITY OF VIRGINIA

#### ALTERNATIVE RESOLUTION PROCEDURES FOR RESOLVING REPORTS OF TITLE IX AND/OR SEXUAL AND GENDER-BASED PROHIBITED CONDUCT ("ALTERNATIVE RESOLUTION")

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##### I. INTRODUCTION

The University of Virginia (the "University") is committed to providing a safe and non-discriminatory environment for all members of the University community. This Alternative Resolution Procedure applies to the University's prohibition of Sexual or Sex-Based Harassment, as defined by Title IX; other forms of Sexual or Sex-Based Misconduct; and Retaliation against a person for the good faith reporting of any of these forms of conduct or participation or non-participation in any investigation or proceeding under the [Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence](#) ("Sexual Misconduct Policy"). The specific forms of Prohibited Conduct are defined in the Sexual Misconduct Policy. This Appendix identifies the procedure the University follows for resolving reports of Prohibited Conduct through Alternative Resolution. The University uses Alternative Resolution to respond to and resolve any such allegation against Students and Employees who are alleged to have violated the Sexual Misconduct Policy with regard to Prohibited Conduct. **Alternative Resolution is not available where an employee is alleged to have engaged in Title IX Prohibited Conduct directed at a student.**

##### II. DEFINITIONS

**"Alternative Resolution"** is a form of resolution following the filing of a Formal Complaint that is available as an alternative to Formal Resolution in some cases and requires the parties to voluntarily agree to specific measures as an outcome. Alternative Resolution also requires the approval of the Title IX Coordinator.

An “**Alternative Resolution Facilitator**” is the individual assigned to facilitate the parties’ efforts to successfully resolve a Formal Complainant through Informal Resolution.

A “**Complainant**” is an individual who is reported to be the subject of conduct that could constitute Prohibited Conduct under the Sexual Misconduct Policy regardless of whether such person makes a report or files a Formal Complaint.

The “**Decision Maker**” is an external professional with experience adjudicating cases of Prohibited Conduct. The Decision Maker will not be the Title IX Coordinator or the Investigator(s) assigned to investigate the Formal Complaint.

The “**Dismissal Appeals Officer**” is the University’s Associate Vice President for Equal Opportunity and Civil Rights (“EOCR”) or designee and is responsible for receiving, reviewing, and responding to appeals of dismissals under this Grievance Process.

A “**Formal Complaint**” is a document filed in person, by mail, or by email and signed by the Complainant or Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the University investigate the allegation. A Formal Complaint cannot be filed by telephone. The Formal Complaint must include a physical or digital signature. Submission of a report through Just Report It is not a Formal Complaint. If the Title IX Coordinator signs the Formal Complaint, they are not considered a Complainant or party to the investigation. Rather, as defined above, the subject of the alleged conduct is considered to be the Complainant.

“**Prohibited Conduct**” includes the following forms of behavior defined in the University’s Sexual Misconduct Policy: (1) Title IX Prohibited Conduct including *Quid Pro Quo* Harassment, Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking; or (2) Sexual or Gender-Based Prohibited Conduct including *Quid Pro Quo* Harassment, Sexual or Gender-Based Hostile Environment Harassment, Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, Sexual Exploitation, Intimate Partner Violence, Stalking, and Complicity; or (3) Retaliation.

A “**Report**” is notification to the University Title IX Coordinator, or any Responsible Employee made by any person who believes that Prohibited Conduct may have occurred. A Report is not limited by the form of the notice to the University, does not require a physical or digital signature, and may be submitted by any person.

A “**Respondent**” is any individual who has been reported to be the perpetrator of conduct that could constitute as Prohibited Conduct.

### III. EXPECTATIONS OF THE PARTIES

Pursuant to Alternative Resolution, Complainants and Respondents can expect:

- Prompt and equitable resolution of allegations of Prohibited Conduct;
- Privacy in accordance with the Sexual Misconduct Policy and any legal requirements;

- Reasonably available Supportive Measures to both parties without fee or charge, as described in the Sexual Misconduct Policy and in the applicable Resource Guides;
- Freedom from Retaliation designed to interfere with any right or privilege secured by Title IX, or as the result of making a good faith report of Prohibited Conduct or participating or declining to participate in any proceeding under the Sexual Misconduct Policy;
- The responsibility to refrain from Retaliation directed against any person to interfere with any right or privilege secured by Title IX or for making a good faith report of Prohibited Conduct or participating or declining to participate in any proceeding under the Sexual Misconduct Policy;
- The responsibility to provide truthful information in connection with the resolution of Prohibited Conduct under the Sexual Misconduct Policy through Alternative Resolution;
- The opportunity to request and receive reasonable accommodations for a disability or necessary language translation or interpreter services to ensure meaningful participation in any step of the proceedings under the Sexual Misconduct Policy;
- The opportunity to articulate concerns or issues about proceedings or the University's authority to investigate under the Sexual Misconduct Policy and Alternative Resolution;
- Timely notice of any meeting or proceeding at which the party's presence is contemplated by the Alternative Resolution Procedure;
- The opportunity to choose an advisor, including the right to have that advisor attend any meeting or proceeding at which the party's presence is contemplated by the Alternative Resolution Procedure;
- Written notice of a Formal Complaint, including notice of potential Sexual Misconduct Policy violations and the nature of the alleged Prohibited Conduct;
- The opportunity to challenge the Alternative Resolution Facilitator for bias or conflict of interest;
- Timely and equal access to any relevant and not impermissible information that will be used during Alternative Resolution and related meetings;
- Reasonable time to prepare any response contemplated by the Alternative Resolution Procedure;

- The opportunity to request extensions for any response contemplated by the Alternative Resolution Procedure, which, if granted, would be provided to both parties;
- Written notice of any extension of timeframes for good cause;
- Written notice of the outcome of any Alternative Resolution, including the completed Alternative Resolution Agreement; and
- The opportunity to appeal the dismissal of a Formal Complaint or any allegation within a Formal Complaint to a Dismissal Appeals Officer who does not have a conflict of interest or bias against or for Complainants or Respondents generally or the Complainant or Respondent.

#### **IV. INTERSECTION OF ALTERNATIVE RESOLUTION AND OTHER UNIVERSITY PROCESSES**

##### **A. FORMAL RESOLUTION**

At any point after the Notices of Alternative Resolution are issued to the parties and before the signed Alternative Resolution Agreement is returned to the parties, either party may withdraw their agreement to engage in Alternative Resolution, at which point Formal Resolution will resume or be initiated, as described in [Appendix A](#). Any information gathered during the Alternative Resolution that is not independently discovered during Formal Resolution may not be considered by the Investigator or Appeals Officer.

##### **B. VIOLATION OF UNIVERSITY DIRECTIVES**

In accordance with the Sexual Misconduct Policy, “directives of University officials” includes: (1) complying with No Contact Directives issued by the Title IX Office; and (2) submitting a timely Report of potential Prohibited Conduct following a disclosure of Prohibited Conduct to a Responsible Employee, as described in the Sexual Misconduct Policy.

A student’s failure to comply with the directives of University officials may result in a charge under the University Judiciary Committee’s Standards of Conduct, specifically Standard 12. An employee’s failure to comply with the directives of University officials pertaining to these matters may be a violation of the applicable standards of conduct and may result in disciplinary action up to and including termination. If the Title IX Office is resolving other allegations of behavior under this Alternative Resolution Procedure, the related Standard 12 or other Standards of Conduct charge will be resolved along with the other allegations of Prohibited Conduct.

#### **V. COMMENCEMENT OF ALTERNATIVE RESOLUTION**

At any time, the Complainant may choose to file a Formal Complaint with the Title IX Office. A Formal Complaint must be filed in order to pursue Alternative Resolution, and Alternative

Resolution may not be pursued anonymously. The Title IX Coordinator will evaluate the Formal Complaint to determine whether it constitutes Prohibited Conduct. If the Title IX Coordinator determines that the Formal Complaint does not constitute Prohibited Conduct, Alternative Resolution or Formal Resolution will not be available to the Complainant; however, the Title IX Coordinator will continue to offer appropriate Supportive Measures to the Complainant; engaging in educational conversations with the Respondent; or providing targeted training to a department and/or organization.

Additionally, either party may request an Alternative Resolution process following the initiation of a [Formal Resolution under the Grievance Procedures](#) by informing the Title IX Coordinator in writing. The Title IX Coordinator may also offer the Alternative Resolution process to the parties.

The Title IX Coordinator has the discretion to determine whether Alternative Resolution is appropriate in light of the nature of the conduct alleged in the specific Formal Complaint, the type of Alternative Resolution that may be appropriate in a specific Formal Complaint, and pursuant to Section VII.D of the [Grievance Procedures](#), to refer a Formal Complaint for Formal Resolution at any time.

**Alternative Resolution is not available where an employee is alleged to have engaged in Title IX and/or Sexual and Gender-Based Prohibited Conduct directed at a student. Forms of Alternative Resolution that involve face-to-face or virtual meetings between the Complainant and the Respondent, such as mediation, may not be available in cases involving Sexual Assault, Dating Violence, or Domestic Violence.**

## **VI. WRITTEN NOTICE OF ALTERNATIVE RESOLUTION**

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide all parties (Complainant(s) and Respondent(s)) written notice of the allegation(s), including sufficient details about the allegation(s) known at the time, and information about both the Formal and Alternative Resolution processes. The written Notice of Alternative Resolution will:

- Identify the Complainant(s) and the Respondent(s);
- Specify (to the extent known at the time) the date, time, location, and nature of the alleged Prohibited Conduct and any other relevant conduct (*e.g.*, PADHR Conduct, University Standards of Conduct, or other applicable policy);
- Identify the assigned Alternative Resolution Facilitator(s);
- Include information about the parties' respective expectations under Alternative Resolution Procedure this Alternative Resolution Procedure;
- Explain the prohibition against Retaliation;

- Inform the parties how to challenge participation by the Facilitator(s) on the basis of bias or conflict of interest;
- Provide a copy of the Sexual Misconduct Policy, the Grievance Procedures, and the Alternative Resolution Procedure;
- Describe the Alternative Resolution process, including the circumstances under which it allows or precludes the parties from resuming Formal Resolution under the Grievance Procedures after initiating Alternative Resolution, and any consequences resulting from participating in Alternative Resolution, including the records that will be maintained or could be shared;
- Instruct the parties how to express preferences related to Formal and/or Alternative Resolution;
- Describe both parties' right to an advisor of their choice, which include the right to have that advisor attend any meeting or proceeding at which the party's presence is contemplated by the Alternative Resolution Procedure;
- State that all parties and witnesses are prohibited from making materially false statements in bad faith;
- State that both parties will receive advance, written notice of any meetings associated with the Alternative Resolution Procedure;

The Formal Complaint will be resolved through Formal Resolution, as described in [Appendix A](#), unless both parties voluntarily agree and successfully complete Alternative Resolution, or unless the Formal Complaint is dismissed under Section VIII of the [Grievance Procedure](#).

## **VII. ADVISORS**

### **A. RIGHT TO ADVISOR OF CHOICE**

Throughout the Alternative Resolution process, each party has the right to choose and consult with an advisor. An advisor may be any person, and may be, but is not required to be, an attorney.

### **B. ROLE OF ADVISOR**

The parties may be accompanied by their respective advisors at any meeting or proceeding related to the Alternative Resolution Procedure. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties, submit written statements not attributed to the party, or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings. The University will not unduly delay the scheduling of meetings or proceedings based on the advisor's unavailability.

### **C. COMMUNICATION WITH ADVISORS**

The Alternative Resolution Facilitator(s) and the Title IX Coordinator will communicate directly with the party through their University-provided email address and copy the advisor on all communications.

## **VIII. ALTERNATIVE RESOLUTION PROCEDURE**

### **A. VOLUNTARY**

Participation in Alternative Resolution (including any specific form of Alternative Resolution) is voluntary. Prior to the initiation of Alternative Resolution, the Title IX Coordinator will obtain written consent from both parties. Participation in Alternative Resolution will not be a condition of enrollment, continued enrollment, employment, or continued employment, or require the waiver of the right to an investigation and adjudication of a Formal Complaint consistent with the Grievance Procedures. The University will not compel any party to engage in Alternative Resolution or to directly confront the other party and will allow a party to withdraw from Alternative Resolution at any time prior to resolution.

The Alternative Resolution process is completely independent of any external agreements by the parties and will not be conditioned upon the successful completion of an external agreement. The University may decline the request for Alternative Resolution in any particular Formal Complaint and may terminate an ongoing Alternative Resolution process at any time. Pursuing Alternative Resolution does not preclude later use of Formal Resolution if the Alternative Resolution fails to achieve a resolution acceptable to the parties and the University.

Where the Complainant or the Respondent withdraws from Alternative Resolution or Alternative Resolution is otherwise terminated for any reason, Formal Resolution may resume and any statements or disclosures made by the parties during the course of the Alternative Resolution that are not independently revealed during the course of the Formal Resolution investigation may not be considered by the Decision Maker.

### **B. METHODS AND RESOLUTION**

Any form of Alternative Resolution and any combination of interventions and remedies that are enforceable by the University may be utilized, including but not limited to:

- Participation in educational offerings on topics including, but not limited to, consent and communication, the use of alcohol or other drugs, healthy interpersonal relationships, stress management and wellbeing;
- Facilitated conversations between the parties;
- Voluntary restrictions from participation in particular registered student organizations or campus events on Grounds;
- Changes to on-Grounds housing, subject to availability;

- Changes to patronage of specific dining facilities;
- Provision to the Respondent to read an “impact statement” written by the Complainant (describing the impact(s) that the Respondent’s alleged conduct had on the complainant); or
- Other measures deemed appropriate by the Title IX Coordinator.

### C. ALTERNATIVE RESOLUTION AGREEMENT

Once both parties and the Title IX Coordinator sign an Alternative Resolution Agreement, the agreement is final, and the parties are bound by its terms. The allegations addressed by the agreement are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by the University, except as otherwise provided in the agreement itself, absent a showing that a party induced the agreement by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to the University. A signed Alternative Resolution Agreement is not subject to appeal.

If an agreement acceptable to the University, the Complainant, and the Respondent is reached through Alternative Resolution, the terms of the agreement are implemented and the matter is resolved and closed. The Title IX Coordinator will monitor the implementation of the agreement as appropriate.

### D. TIMEFRAME

Typically, Alternative Resolution will be completed within thirty (30) business days of the issuance of the Notice of Alternative Resolution. This period may be extended to account for attempt(s), if any, at Formal Resolution, or for other good cause. Any extension and the reason for the extension, will be timely shared with the parties in writing.

### E. VIOLATIONS OF ALTERNATIVE RESOLUTION AGREEMENTS

Alleged violations of an Alternative Resolution Agreement, or allegations that the agreement was induced by fraud, misrepresentation, or any other misconduct, should be reported to the Title IX Coordinator, and may be subject to review, which may lead to disciplinary action.

## IX. RECORDS RETENTION

### A. STUDENT RESPONDENTS

The University shall retain all records relating to a report of Prohibited Conduct for a period of ten (10) years after the date the report was received, and the University shall retain all of such records for a period of twenty (20) years in cases in which the Respondent was found responsible for Prohibited Conduct.



## B. EMPLOYEE RESPONDENTS

The University shall retain all records relating to a report of Title IX and/or Sexual and Gender-Based Prohibited Conduct, including investigation files and personnel record documentation of disciplinary or other personnel actions, in accordance with the [University's Record Retention and Disposition Schedule](#).