



**CURTIS**  
INSTITUTE OF MUSIC

# SEXUAL AND GENDER-BASED HARASSMENT AND INTERPERSONAL VIOLENCE POLICY

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*Applies to sexual and gender-based harassment, sexual assault, sexual exploitation, stalking, dating violence, domestic violence, and retaliation*

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## **I. Introduction**

The Curtis Institute of Music (Curtis) is committed to protecting the rights and dignity of all students, faculty, staff and community members, and seeks to maintain an environment that is free from all forms of unlawful harassment, discrimination, and retaliation, including sexual and gender-based harassment and violence. This policy prohibits all forms of sexual and gender-based harassment, sexual assault, sexual exploitation, stalking, dating violence, domestic violence, and retaliation (collectively referred to in this policy as Prohibited Conduct). These forms of Prohibited Conduct are harmful to the well-being of Curtis community members, the Curtis community, and Curtis's learning, living and working environments. Any person found responsible for violating this policy may be subject to disciplinary action, up to and including separation from Curtis for students and employees. Some forms of Prohibited Conduct may also violate state and federal laws, and criminal prosecution may occur independently of any disciplinary action imposed by Curtis.

This policy informs members of the Curtis community about the forms of Prohibited Conduct, resources and reporting options, and prompt and equitable resolution options. This policy encourages prompt reporting of Prohibited Conduct; identifies persons to whom Prohibited Conduct may be reported; prohibits retaliation against persons who bring reports under this Policy; assures privacy to the extent possible consistent with the need to address and resolve Prohibited Conduct appropriately and foster a safe learning, living and working environment; assures all members of the Curtis community that each report of Prohibited Conduct will receive a prompt, equitable, impartial and thorough investigation and/or resolution; and provides for appropriate disciplinary action. The policy reinforces Curtis's commitment to preventing and responding to sexual and gender-based harassment and violence and interpersonal violence in a manner consistent with applicable federal, state and local law. Consistent with the procedures set forth in this policy, Curtis will take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy any discriminatory effects for individuals or members of the Curtis community.

All members of the Curtis community are encouraged to take reasonable and prudent actions to prevent or stop an act of Prohibited Conduct. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement or seeking assistance from a person in authority. Retaliation against community members who make good faith reports of Prohibited Conduct or who participate in an investigation under this Policy is prohibited.

This policy shall not be interpreted to abridge academic freedom. Accordingly, in an academic setting, expression that is reasonably designed or reasonably intended to contribute to academic inquiry, education or debate on issues of public concern does not violate this policy.

This policy applies to all reports of Prohibited Conduct that are received by Curtis on or after the effective date of this policy, regardless of when the Prohibited Conduct occurred.

## **II. Notice of Non-Discrimination**

Curtis does not unlawfully discriminate against any person in any of its education programs and activities, including employment and admissions, on any basis prohibited by federal law, or other applicable law, including on the basis of sex or gender, and it does not tolerate discrimination or harassment on the basis of sex or gender. Curtis complies with Title IX of the Education Amendments of 1972 (Title IX), and its implementing regulations, 20 U.S.C. 1681 *et seq.*, which prohibit discrimination on the basis of sex in Curtis's education programs and activities; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA), which governs the policy related to Curtis's response to sexual assault, dating violence, domestic violence and stalking; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits discrimination on the basis of sex; and other applicable law.

Curtis has designated a Title IX Coordinator to oversee the implementation of this policy and to ensure compliance with Title IX, relevant portions of Clery and Title VII, and to work with the Division of Safety and Security to facilitate compliance with Clery and other applicable laws. Curtis's Title IX Coordinator:

**Kimberly I. Gould, J.D.**

Title IX Coordinator

Director of Human Resources and Equal Opportunity

1260 Locust Street, 3<sup>rd</sup> floor

Phone: (215)717-3174

Email: [titleIX@curtis.edu](mailto:titleIX@curtis.edu)

Concerns about Curtis's application of Title IX and the Clery Act may be addressed to Curtis's Title IX Office; the United States Department of Education, Clery Act Compliance Division (at [clery@ed.gov](mailto:clery@ed.gov)); the United States Department of Education, Office for Civil Rights (at [OCR@ed.gov](mailto:OCR@ed.gov) or 800-421-3481); and/or the Equal Employment Opportunity Commission (at [info@eeoc.gov](mailto:info@eeoc.gov) or 800-669-4000).

## **III. Scope and Jurisdiction**

This policy governs the conduct of trustees, faculty, staff, students, volunteers and other participants in Curtis's programs and activities. It also governs the conduct of third parties, including visitors to Curtis, vendors, alumni, independent contractors and others.

In this policy, the term **Complainant** refers to an individual who is reported to have experienced Prohibited Conduct. The term **Respondent** refers to an individual who has been accused of Prohibited Conduct. This policy applies to Prohibited Conduct that occurs within Curtis's education program or activity. The term "education program or activity" includes all of Curtis's operations, including locations, events, or circumstances over which Curtis exercised substantial control over both the Respondent and the context in which the conduct occurs; and any building owned or controlled by a student organization that is

officially recognized by Curtis. Curtis's education program or activity includes employment and admissions, as well as on-campus, off-campus, or online conduct, including through the use of Curtis-owned or provided technology resources.<sup>1</sup> Examples include Curtis-sponsored, Curtis-funded or otherwise Curtis-supported study off campus, research, internship, mentorship, summer session, conferences, meetings, social events, or other affiliated programs or premises. This Policy also applies to Prohibited Conduct that occurs outside of the United States, including for example, Curtis-sponsored, Curtis-funded, or otherwise Curtis-supported study or travel abroad.

Under certain circumstances, this Policy may also apply pertain to reports of Prohibited Conduct that occur outside of the education program or activity but have continuing adverse effects in the education program or activity, or that fall within the scope of conduct otherwise regulated by Curtis.

### **A. Title IX Jurisdiction**

For some forms of Prohibited Conduct covered under this Policy, Curtis's jurisdiction is limited by Federal law. Specifically, The Title IX regulations apply to certain forms of sexual harassment that occur in an education program or activity in the United States (Title IX Sexual Harassment, defined below). Title IX Sexual Harassment includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking. Where conduct occurs outside of the education program or activity, outside of the United States, or would not meet the definition of Title IX Sexual Harassment, Curtis is required to dismiss any allegations in a formal complaint under Title IX.

However, in keeping with Curtis's educational mission and commitment to foster a learning, living, and working environment free from discrimination, harassment, and retaliation, Curtis will move forward under the same resolution process for Sexual and Gender-based Harassment (which has a slightly different definition than Title IX Sexual Harassment), Sexual Assault, Dating Violence, Domestic Violence, Stalking, Sexual Exploitation, and other forms of Prohibited Conduct that occur outside of Title IX Jurisdiction (e.g., not in the United States, or as noted above, outside of the education program or activity).

### **B. Third Party Jurisdiction**

**Third Party Complainant:** Any individual may make a report to Curtis of Prohibited Conduct and receive access to reasonably available supportive measures. A student, employee or other individual who is participating in, or attempting to participate in, Curtis's education program or activity may also file a formal complaint requesting an investigation under this Policy. In addition, the Title IX Coordinator may file a formal complaint on behalf of a third party.

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<sup>1</sup> Curtis's campus includes Lenfest Hall, 1616 Locust Street; Rubenstein Centre, 1620 Locust Street; 1718 Locust Street; Rock Resource Center, 1720 Locust Street; and Main Building, 1726 Locust Street.

**Third Party Respondent:** The Title IX Coordinator will review the circumstances of the reported conduct to determine whether Curtis has jurisdiction or disciplinary authority over the Respondent or the conduct. If the Respondent is not an employee or student, Curtis’s ability to take disciplinary action will be limited and is determined by the context of the Prohibited Conduct and the nature of the relationship of the third-party Respondent to the College. In instances where Curtis does not have disciplinary authority over the Respondent or the conduct is unconnected to a Curtis program or activity, Curtis will take reasonably available steps to support a Complainant or other community members through supportive measures and provide assistance in identifying external reporting mechanisms.

### **C. Other Forms of Sex or Gender Discrimination**

This policy addresses discrimination on the basis of sex or gender as it relates to Prohibited Conduct reportedly committed by a student, employee, third party or student organization. Discrimination on the basis of sex or gender not related to Prohibited Conduct, e.g., gender discrimination in terms of pay or promotion, as well as discrimination and harassment based on other federally protected classes, including race, color, religion, national origin, age, disability, veteran status, sexual orientation, gender identity or expression, or any other basis prohibited by applicable law in any of its programs or activities are governed by the Equal Employment Opportunity Policy and Complaint Procedures contained in [Curtis’s Employment Policies](#). Faculty conduct is also governed by [The Faculty Handbook](#), and student conduct is also governed by the [Student Code of Conduct](#).

Where conduct involves the potential violation of both this policy and another Curtis policy, Curtis may choose to investigate other potential misconduct under the procedures set forth in this policy, provided that it does not unduly delay a prompt or equitable resolution of the report.

## **IV. The Role of the Title IX Coordinator**

The Title IX Coordinator oversees Curtis’s centralized response to all reports of Prohibited Conduct to ensure consistent implementation of this policy and compliance with applicable federal, state and local law. The Title IX Coordinator and designated staff will:

- Oversee Curtis’s response to reports of Prohibited Conduct, including coordinating the effective implementation of supportive measures following a report of Prohibited Conduct and remedies following a finding of responsibility for engaging in Prohibited Conduct;
- Communicate with all members of Curtis community regarding applicable law and policy and provide information about how individuals may access resources and reporting options.
- Maintain and implement applicable Curtis policies to ensure institutional compliance with applicable law.

- Ensure that all students and employees have access to education and training regarding Title IX, related provisions of the Clery Act and Prohibited Conduct.
- Respond to any report regarding conduct that may violate this policy. In this capacity, 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 with or without the filing of a formal complaint.
  - Explain to the Complainant the process for filing a formal complaint.
  - Consider the Complainant's wishes with respect to supportive measures. Oversee the prompt and equitable investigation and resolution of the report.
  - Through Informal Resolution or Formal Resolution, take appropriate action to eliminate the Prohibited Conduct, prevent its recurrence and remedy its effects.
- Maintain centralized records of all reports, investigations and resolutions.

The Title IX Coordinator maintains broad oversight responsibility, but may delegate responsibilities under this policy to designated administrators or external professionals who will have appropriate training and/or experience. When used in this policy, the term Title IX Coordinator may include an appropriate designee.

The Title IX Coordinator is:

**Kimberly I. Gould, J.D.**

Title IX Coordinator

Director of Human Resources and Equal Opportunity

1620 Locust Street, 3<sup>rd</sup> floor

Phone: (215)717-3174

Email: [titleIX@curtis.edu](mailto:titleIX@curtis.edu)

**V. Prohibited Conduct**

In determining whether reported conduct violates this policy, Curtis will consider the totality of the facts and circumstances involved in the incident, including the nature of the reported conduct and the context in which it occurred. Lack of familiarity with Curtis policy is not a defense to a violation of this policy. Unless specifically noted, intent is not a required element to establish a policy violation. Additionally, intoxication or impairment from alcohol, drugs or other substances is not a defense to a violation of this policy. Prohibited Conduct also includes attempts to commit Prohibited Conduct, even if the act is not completed.



Prohibited Conduct consists of two categories: those forms of conduct specifically prohibited by Title IX (Title IX Sexual Harassment) and other forms of sexual and gender-based harassment (Other Sexual Misconduct).

### **A. Title IX Sexual Harassment**

**Title IX Sexual Harassment:** The Title IX regulations define Sexual Harassment as conduct on the basis of sex that satisfies one or more of the following:

1. A Curtis employee conditions the provision of an aid, benefit, or service in Curtis's education program or activity on an individual's 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 Curtis's education program or activity;
3. Sexual Assault, Dating Violence, Domestic Violence, and Stalking, as defined below.

**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*).<sup>2</sup> Sexual contact includes:

- F. 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
- G. 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:

1. who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
2. where the existence of such a relationship shall be determined based on a consideration of the following factors:

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<sup>2</sup> 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.

- a. The length of the relationship;
- b. The type of relationship; and
- c. 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, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under Pennsylvania state law, or by any other person against an adult or minor Complainant who is protected from that person's acts under Pennsylvania state law;

**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.

## **B. Other Sexual Misconduct**

Other forms of Sexual Misconduct include Sexual and Gender-Based Harassment and Sexual Exploitation.

**Sexual and Gender-Based Harassment** involve a broad range of conduct:

**Sexual Harassment** is any unwelcome sexual advance, request for sexual favors, and/or other verbal or physical conduct of a sexual nature when one of the conditions outlined in (1), (2) or (3), below, is present.

**Gender-Based Harassment** includes harassment based on gender, sexual orientation, gender identity or gender expression, which may include acts of aggression, intimidation or hostility, whether verbal or non-verbal, graphic, physical or otherwise, even if the acts do not involve contact of a sexual nature, when one of the conditions outlined in (1), (2) or (3), below, is present.

- (1) Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of a person's instruction, academic standing, employment, or participation in any Curtis program, activity or benefit.

- (2) Submission to, or rejection of, such conduct by an individual is used as a basis for evaluation in making academic or personnel decisions.
- (3) Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits or deprives an individual from participating in or benefiting from Curtis's educational, employment, and/or campus-residential experience when viewed through both a subjective and objective standard.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of sexual assault, for example, may be sufficiently severe to constitute a hostile environment.

### **Sexual and Gender-Based Harassment:**

- May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- Does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- May be committed by anyone, regardless of gender, age, position or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational or employment relationships, harassment can occur in any context.
- May be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship.
- May be committed by or against an individual or may be a result of the actions of an organization or group.
- May occur by or against an individual of any sex, gender identity, gender expression or sexual orientation.
- May occur in the classroom, in the workplace, in residential settings or in any other context.
- May be a one-time event or may be part of a pattern of behavior.
- May be committed in the presence of others or when the parties are alone.
- May affect the Complainant and/or third parties who witness or observe harassment.

**Sexual and Gender-Based Harassment** may include, for example:

- Sexual Assault, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking or any of the forms of Prohibited Conduct defined in this policy if they are committed on the basis of sex or gender.
- Offering or implying an employment-related reward (such as a promotion, raise, or different work assignment) or an education-related reward (such as a better grade, a letter of recommendation, favorable treatment in the classroom, assistance in obtaining employment, grants or fellowships, offer of performance opportunities, access to music festivals, recommendations or endorsements for work opportunities, or admission to any education program or activity) in exchange for sexual favors or submission to conduct of a sexual nature.
- Threatening or taking a negative employment action (such as termination, demotion, denial of an employee benefit or privilege, or change in working conditions) or negative educational action (such as giving an unfair grade, withholding a letter of recommendation, or withholding assistance with any educational activity or professional development opportunity) or intentionally making the individual's job or academic work more difficult because submission to conduct of a sexual nature is rejected.
- Unwelcome sexual advances, repeated propositions or requests for a sexual relationship to an individual who has previously indicated that such conduct is not wanted, unwelcome physical contact of a sexual nature, or sexual gestures, noises, remarks, jokes, questions or comments about a person's sexuality that are so severe, persistent or pervasive that they would reasonably be perceived as creating a hostile or abusive work or educational environment.

**Sexual Exploitation** occurs when a person violates the sexual privacy of another or takes advantage of another person's sexuality without Consent. Sexual Exploitation may include:

- Surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Recording, photographing, transmitting, showing, viewing, streaming or distributing intimate or sexual images, audio recordings or sexual information without the knowledge and consent of all parties involved; or
- Exposing one's genitals or causing another to expose their own genitals in non-consensual circumstances.

### **C. Other Prohibited Conduct**

This policy also prohibits Retaliation, Complicity, and Violation of Curtis Directive.

**Retaliation** 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.

**Complicity** is any deliberate act or failure to act that knowingly or intentionally aids, attempts or assists the commission of a specific act of Prohibited Conduct by another person.

**Violation of Curtis Directive** is the failure to abide by the terms of a supportive measure or comply with a requirement of this policy.

## **VI. Consent and Incapacitation**

**Consent** is an affirmative decision to engage in mutually agreed upon sexual activity and is given by clear words or actions. **Consent** cannot be obtained through force, where there is a reasonable belief of the threat of force, or by taking advantage of another person's Incapacitation.

In evaluating whether **Consent** has been freely sought and given, Curtis will consider the presence of any force, threat of force, or coercion; whether the Complainant had the capacity to give consent; and whether the communication (through words and/or actions) between the parties would be interpreted by a reasonable person (under similar circumstances and with similar identities) as a willingness to engage in a particular sexual act.

Important considerations regarding **Consent** include:

- Consent to one form of sexual activity does not imply or constitute consent to another form of sexual activity.
- Consent on a prior occasion does not constitute consent on a subsequent occasion.
- Consent to an act with one person does not constitute consent to an act with any other person.
- The existence of a prior or current relationship does not, in itself, constitute consent; even in the context of a relationship, there must be real time and mutual consent to sexual activity.
- Consent can be withdrawn or modified at any time, and sexual contact must cease immediately once Consent is withdrawn.
- Consent seeks to have a clearly articulated "yes" and cannot be inferred from the absence of a "no."

- Consent cannot be inferred from silence, passivity, or lack of verbal or physical resistance, and relying on nonverbal communication alone may result in a violation of this policy.
- Assent shall not constitute consent if it is given by a person who because of youth, disability, incapacitation, or other condition is unable to lawfully give consent.

In Pennsylvania, it is a crime to engage in sexual activity with a person who is less than 16 years of age and the Respondent is four or more years older. Further, an individual under the age of 13 cannot consent to sexual activity under Pennsylvania law.

**Incapacitation:** Incapacitation is the inability, temporarily or permanently, to give Consent because the individual is mentally and/or physically impaired, either voluntarily or involuntarily, or the individual is unconscious, asleep or otherwise unaware that the sexual activity is occurring. An individual who is incapacitated cannot consent to sexual activity. A person violates this policy if they engage in sexual activity with someone the individual knows, or reasonably should know, is incapacitated.

Incapacitation means that a person lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity at the time of the sexual contact. This may be demonstrated if an individual is unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction.

A person is not incapacitated merely because they have consumed alcohol or other drugs. When alcohol or other drugs are involved, incapacitation is a state of impairment that is so severe that it interferes with a person's capacity to make informed and knowing decisions. Because alcohol and other drugs impact each individual differently, determining whether an individual is incapacitated requires an individualized assessment. Curtis does not expect community members to be medical experts in assessing incapacitation. In evaluating whether a person has the capacity to consent, individuals should look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. A person's level of intoxication is not always demonstrated by objective signs; however, some signs that a person may be incapacitated include clumsiness, difficulty walking, poor judgment, difficulty concentrating, slurred speech, vomiting, combativeness or emotional volatility.

An individual's level of intoxication may change over a period of time based on a variety of subjective factors, including the amount and type of substance intake, speed of intake, body mass and metabolism. It is especially important, therefore, that anyone engaging in sexual activity is aware of both their own and the other person's level of intoxication and capacity to give consent throughout the duration of the sexual contact.

It is important to remember that the use of alcohol or other drugs can lower inhibitions and create an atmosphere of confusion about whether Consent is effectively sought and freely given. If there is any doubt as to the level or extent of one's own or the other individual's intoxication or Incapacitation, the safest course of action is to forgo or cease any sexual

activity. Even where there is insufficient evidence to establish Incapacitation, a Complainant's level of impairment may still be a relevant factor in establishing whether Consent was sought and freely given.

In evaluating Consent in cases of reported Incapacitation, Curtis asks two questions: (1) Did the Respondent know that the Complainant was incapacitated? and if not, (2) Would a sober, reasonable person in a similar set of circumstances as the Respondent have known that the Complainant was incapacitated? If the answer to either of these questions is "yes," there was no Consent; and the conduct is likely a violation of this policy.

The perspective of a reasonable person will be the basis for determining whether a Respondent knew or should have been aware of the extent and amount of the ingestion of alcohol and/or other drugs by the Complainant or of the extent to which the use of alcohol and/or other drugs impacted a Complainant's ability to give consent. For example, an individual who is in a blackout may appear to act normally and be giving consent but may not actually have conscious awareness, the ability to consent, or later recall the events in question. The extent to which a person in this state affirmatively gives mutually understandable words and/or clear, unambiguous actions indicating a willingness to engage in sexual activity and the other person is unaware – or reasonably could not have known – of the person's level of alcohol consumption and/or level of impairment must be evaluated in determining whether consent has been given.

A Respondent's voluntary intoxication is never an excuse for or a defense to Prohibited Conduct, and it does not diminish one's responsibility to determine that the other person has given Consent.

## **VII. Understanding Privacy and Confidentiality**

Issues of privacy and confidentiality play important roles in this policy and may affect individuals differently. While they are closely related, the concepts of privacy and confidentiality are distinct terms that are defined below.

**Privacy** refers to the discretion that will be exercised by Curtis, including the Title IX Office, in the course of any investigation or disciplinary processes under this policy. Information related to a report of Prohibited Conduct will be handled discreetly and shared with a limited circle of Curtis employees or designees who need to know in order to assist in the assessment, investigation and resolution of the report and related issues. Curtis employees will receive training in how to safeguard private information. Curtis will make reasonable efforts to investigate and address reports of Prohibited Conduct under this policy, and information may be disclosed to participants in an investigation as necessary to facilitate the thoroughness and integrity of the investigation. In all such proceedings, Curtis will maintain the privacy of the parties to the extent reasonably possible. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA). Access to an employee's personnel records is also governed by Curtis policy and by applicable local laws.

**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, and ordained clergy (Confidential Resources). These Confidential Resources must maintain the confidentiality of communications disclosed within the scope of the provision of professional services. When an individual shares information with a Confidential Resource as a confidential communication in the course of a protected relationship, the Confidential Resource cannot disclose the information (including information about whether an individual has received services) to any third party without the individual's written permission or unless permitted or required consistent with ethical or legal obligations. Similarly, medical and counseling records cannot be released without the individual's written permission or unless permitted or required consistent with ethical or legal obligations.

## **VIII. Reporting Responsibility of Curtis Employees and Affiliated Persons**

### **A. Responsible Employees and Persons<sup>3</sup>**

All Curtis employees, as well as affiliated persons (trustees and outside contractors or vendors) are designated as Responsible Employees or Persons, meaning that they are required to promptly share all information about Prohibited Conduct with Curtis's Title IX Coordinator. Responsible Employees and Persons are required to promptly report any information they learn about suspected Prohibited Conduct or potential violations of this policy. They must report all known information, including the identities of the parties, the date, time and location and any details about the reported incident to the Title IX Coordinator.

The Title IX Coordinator may share reports with other Curtis employees to ensure a coordinated institutional response. Responsible Employees or Persons may provide support and assistance to a Complainant, witness or Respondent; but they cannot promise Confidentiality or withhold information about Prohibited Conduct. Failure by a Responsible Employee or Person to report suspected Prohibited Conduct in a timely manner may subject them to appropriate discipline, including removal from a position or termination of employment.

Responsible Employees or Persons are not required to report information disclosed at public awareness events (e.g., "Take Back the Night," candlelight vigils, protests, "survivor speak-outs" or other public forums in which students may disclose prohibited conduct (collectively, public awareness events)). Curtis may provide information about Title IX and available Curtis

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<sup>3</sup> The Title IX regulations state that notice to Curtis only occurs when an official with the ability to institute corrective measures receives notice. Those individuals are the Title IX Coordinator and the Director of Residence Life. Curtis, however, continues to require and train all employees that reporting is expected, and will respond to all reports raised through Responsible Employees or Persons.



and community resources and support at public awareness events. In addition, a Complainant may choose not to make a report in their own case, even if the Complainant would otherwise have reporting obligations as a Responsible Employee or Person.

## **B. Clery Act Reporting**

Certain Curtis employees, including student employees, are also designated as Campus Security Authorities (CSAs). Pursuant to the Clery Act, Curtis includes statistics about certain offenses reported to CSAs in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. The Clery Act also requires Curtis to issue timely warnings to the Curtis community about certain crimes that have been reported and may continue to pose a serious or continuing threat to campus safety. Consistent with the Clery Act, Curtis withholds the names and other personally identifying information of complainants when issuing timely warnings to the Curtis community.

## **C. Mandatory Reporting of Suspected Child Abuse**

In addition to the above reporting responsibilities, all Curtis employees have an obligation to report suspected child abuse and neglect of a child to the Pennsylvania child abuse reporting hotline when:

1. The employee comes into contact with the child in the course of employment, occupation and practice of a profession or through a regularly scheduled program, activity or service;
2. The employee is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child;
3. Any person makes a specific disclosure to the employee that an identifiable child is the victim of child abuse or neglect; or
4. An individual 14 years of age or older makes a specific disclosure to the employee that the individual has committed child abuse or neglect.

The duty to report is triggered by reasonable cause to suspect that a child under the age of 18 is a victim of child abuse or neglect. Reasonable cause may be based on the employee's own observations or knowledge, or on information shared with the employee by the child or any other individual. Reasonable cause to suspect is a very low threshold. It does not require proof, nor actual evidence, and the employee should not seek to investigate the information. Reasonable cause may exist regardless of whether the date of abuse, the specific nature of the act, or the identity of the perpetrator is known. When in doubt about whether to make a report, the employee should err on the side of reporting the conduct of concern.

An employee who has reasonable cause to suspect that a child is the victim of child abuse or neglect must take the following actions:

1. If the child is in immediate danger, call 911.
2. Immediately make a report of the suspected child abuse or neglect by:
  - a. Calling Pennsylvania's ChildLine (a 24-hour toll free telephone reporting system operated by the Pennsylvania Department of Human Services) at 800-932-0313; or,
  - b. Filing a written report at [www.compass.state.pa.us/cwis](http://www.compass.state.pa.us/cwis). The written report shall include: the names and addresses of the child, the child's parents and any other person responsible for the child's welfare; where the suspected abuse occurred; the age and sex of each subject of the report; the nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or any sibling of the child; the name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by each individual; family composition; the source of the report; the name, telephone number and e-mail of the person making the report; the actions taken by the person making the report; and, any other information required by Federal or state law or regulations.
3. Notify the Title IX Coordinator that the report was made to ChildLine, and seek guidance from the Title IX Coordinator, if appropriate or necessary.
4. Document all information received, including any observations by or disclosures made to the Mandated Reporter. The documentation should include factual observations, not statements of personal opinion or speculation. The documentation should also include the circumstances and timing of the ChildLine report, including the name and ID number of the ChildLine operator.

Under Pennsylvania law, a person who makes a good faith report of suspected child abuse or neglect (whether required to or not), cooperates or participates in an investigation, or testifies in any proceeding, has immunity from civil and criminal liability. Employees are also protected from employment discrimination for making a good faith report of suspected child abuse.

Under Pennsylvania law, a mandated reporter who willfully fails to report a case of suspected child abuse or neglect or to make a referral to the appropriate authorities commits an offense up to the level of a felony of the third degree. Employees who negligently, recklessly, or willfully fail to report suspected child abuse or neglect may also be subject to disciplinary action by Curtis, up to and including dismissal. Additionally, anyone impeding or obstructing an investigation into suspected child abuse or neglect, or retaliating against anyone involved

in the reporting or investigation of suspected child abuse or neglect may be in violation of Pennsylvania law or otherwise subject to disciplinary action by Curtis.

## **IX. Campus and Community Resources**

A Complainant or witness has many options, including seeking counseling or assistance from a Confidential Resource, making a report under this policy, and/or making a report to law enforcement. Curtis encourages prompt reporting of Prohibited Conduct to the Title IX Coordinator and law enforcement. Curtis also recognizes that deciding among these options can be difficult and is an intensely personal decision. Complainants and witnesses are encouraged to seek assistance from a Confidential Resource and to explore all potential reporting and support options.

### **A. Emergency Resources and Law Enforcement**

Emergency medical assistance and campus safety/law enforcement assistance are available 24/7. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that may pose a threat to safety or physical well-being or following a potential criminal offense.

Members of the Curtis community who believe their safety or the safety of others is threatened or who have experienced or witnessed Prohibited Conduct that may be criminal in nature should immediately call 911 to reach local law enforcement. The Lenfest Hall Security Desk can also be reached at (215) 875-4200.

### **B. Medical Treatment and Preservation of Evidence**

Regardless of whether a report is filed with local law enforcement, individuals should preserve all evidence that could be relevant to any criminal charges that may be brought or that might be needed to obtain a protection order. Individuals who have been subjected to sexual assault are encouraged to obtain a physical examination by a Sexual Assault Nurse Examiner (SANE) at a local hospital emergency room or through the [Philadelphia Sexual Assault Response Center](#) (PSARC).

Before obtaining a SANE examination, individuals should avoid showering, washing, changing clothes, combing hair, drinking, eating or altering their physical appearance. Even if a SANE exam is not sought, all victims of violence should consider obtaining medical attention so that any issues relating to possible injury or disease from the incident may be addressed.

The [Philadelphia Sexual Assault Response Center](#) (PSARC) is a private, not-for-profit center whose mission is to provide expertise in the assessment and evaluation of sexual assault victims in Philadelphia. All services are provided in private, medical office setting located adjacent to the Special Victims Unit of the Philadelphia Police Department. This unique setting allows for private, confidential, victim-centered care. The center is staffed 24/7, by on-call, specially trained and experienced SANE nurses who provide forensic rape

examinations and evidence collection to both females and males. The SANE staff are all highly-trained, compassionate nurses with years of experience in the care of sexually assaulted patients. Accompaniment services, if desired, are provided by Women Organized Against Rape, Philadelphia's rape crisis center.

Services provided at PSARC include: forensic medical evaluation, injury documentation, forensic photography, pregnancy prevention, sexually transmitted infection prevention, HIV prevention, follow-up care, court testimony, and victim advocacy linkage.

PSARC  
300 E. Hunting Park Avenue  
Philadelphia, PA 19124  
Phone: 215-800-1589  
Emergency Phone: 215-425-1625 to reach the on-call SANE staff  
Fax: 215-425-1419

[University of Pennsylvania Student Health Service](#) (UPSHS) can also provide evaluation and treatment related to sexual violence regardless of whether an individual makes a report or seeks additional resources. All services are confidential. Both male and female providers can perform examinations, discuss testing and treatment of sexually transmissible infections, provide emergency contraception if necessary and arrange for referrals and follow up. UPSHS, however, does not conduct SANE exams.

UPSHS  
3535 Market Street, Suite 100  
Philadelphia, PA 19104  
Phone: 215-746-3535 (including nights and weekends)

### **C. Campus Resources**

Members of the Curtis community may obtain information about resources relating to Prohibited Conduct from:

- Curtis Title IX Coordinator: (215)717-3174 or [titleIX@curtis.edu](mailto:titleIX@curtis.edu)
- Curtis Senior Associate Dean of Student Affairs: (215)717-3133 or [patricia.carpino@curtis.edu](mailto:patricia.carpino@curtis.edu)
- Curtis Associate Dean of Student Life and International Student Affairs: (215) 717-3165 or [meredith.tarditi@curtis.edu](mailto:meredith.tarditi@curtis.edu)
- Curtis Director of Residence Life: (215)875-4256 or [steven.couras@curtis.edu](mailto:steven.couras@curtis.edu)

The Title IX Office will provide students, faculty and staff with written notice about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance and other services, as well as options and available assistance for changing

academic, living, transportation and working situations, if requested, if reasonably available and regardless of whether reports are made to local law enforcement. These supports are described in greater detail in the section on Supportive Measures.

#### **D. Confidential Counseling Resources**

Students may contact any member of the Counseling Team to obtain counseling services:

- Ellen L. Wright, Ph.D. - (215) 732-3720 or [dr.ellenwright@gmail.com](mailto:dr.ellenwright@gmail.com)
- Jesse Jong-Shik Suh, Psy.D. - (215) 207-9373 or [jessesuh@drjessesuh.com](mailto:jessesuh@drjessesuh.com)
- Robin B. Risler, Psy.D. - (610) 246-5459 or [drrobinrisler@gmail.com](mailto:drrobinrisler@gmail.com)
- Allan L. Goldberg, Ph.D. - (215) 592-4060 or [DrGberg48@comcast.net](mailto:DrGberg48@comcast.net)
- Cheryll Rothery, Psy.D. - (215) 990-0159 or [cheryllrothery@gmail.com](mailto:cheryllrothery@gmail.com)

Employees may obtain counseling from Curtis's Employee Assistance Program, which can be accessed through Cigna's Life Assistance Program: phone (800) 538-3543 or email [www.cignalap.com](http://www.cignalap.com).

Counseling resources are also available through [WOAR](#), a non-profit organization whose mission is to eliminate sexual violence through specialized treatment services, comprehensive prevention education programs, and advocacy for the rights of survivors of sexual assault. WOAR provides free services to anyone who has experienced sexual violence, including free individual and group counseling services, court advocacy, crisis counseling, and a 24-hour hotline to victims and survivors of sexual assault, among other preventative and educational services. To reach the WOAR hotline, call 215-985-3333.

#### **X. Reporting Options**

Any individual may make a report of Prohibited Conduct under this Policy regardless of affiliation with Curtis and regardless of whether or not the person reporting is the person alleged to be the victim of conduct. Reports can be made in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. A report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

Curtis encourages all individuals to report Prohibited Conduct or a potential violation of this policy to the Title IX Coordinator and/or to local law enforcement. A Complainant has the right to report, or decline to report, potential criminal conduct to law enforcement. Upon request, Curtis will assist a Complainant in contacting law enforcement at any time. Under

limited circumstances posing a threat to health or safety of any individual or to comply with applicable law, Curtis may independently notify law enforcement.

An individual may make a report to Curtis, to law enforcement, to neither or to both. Campus Title IX processes and law enforcement investigations operate independently of one another, although the Title IX Coordinator may coordinate information with law enforcement as part of the Initial Assessment. Anyone can make a report as follows:

- Make a report to the Title IX Coordinator in person, by telephone, by email or online at (215)717-3174 or [titleIX@curtis.edu](mailto:titleIX@curtis.edu).
- Call 911 to reach local law enforcement or contact the 9<sup>th</sup> Police District.
- Anonymously, through the online reporting form posted at [www.lighthouse-services.com/Curtis](http://www.lighthouse-services.com/Curtis) or the reporting hotline at (833) 700-0026.

An individual may pursue some or all of these steps at the same time (e.g., one may simultaneously pursue a Title IX report and a criminal complaint). When initiating any of the above options, an individual does not need to know whether they wish to request any particular course of action nor how to label what happened. As part of a report to the Title IX Coordinator, an individual can also request Supportive Measures and resources.

#### **A. Anonymous Reporting**

Anyone can make an anonymous report using the online reporting form posted at [www.lighthouse-services.com/Curtis](http://www.lighthouse-services.com/Curtis) or the reporting hotline at (833) 700-0026. Providing information may help Curtis maintain accurate records regarding the number of incidents involving students, employees, and third parties; determine if there is a pattern of conduct with regard to a particular location or Respondent; and alert the campus community to potential dangers when appropriate. Depending on the amount of information available in the anonymous report, however, Curtis' ability to respond with an investigation or disciplinary action may be limited. Responses to anonymous reports are governed by this policy and the [Lighthouse Services Procedures](#).

#### **B. Timeframe for Reporting**

Complainants and witnesses are encouraged to report Prohibited Conduct as soon as possible in order to maximize Curtis's ability to respond promptly and effectively. Curtis does not, however, limit the timeframe for reporting. Depending on the relationship of the Respondent to Curtis – for instance, an employee of an independent contractor - Curtis may not have the authority to impose disciplinary action. Where Curtis does not have direct disciplinary authority, Curtis will still seek to meet its Title IX obligations by evaluating the reported conduct, providing reasonably available supportive measures, assisting the Complainant in identifying external reporting options, and taking reasonably available steps to end the Prohibited Conduct, prevent its recurrence and address its effects.

### **C. Amnesty**

Curtis encourages reporting and seeks to remove barriers to reporting by providing amnesty for Complainants and witnesses who report Prohibited Conduct for potential conduct violations occurring at or near the time of the incident. In general, Curtis will not pursue disciplinary action against a student who makes a good faith report to Curtis as a Complainant or witness to Prohibited Conduct for personal consumption of alcohol or other drugs (underage or illegal) which would otherwise be a violation of the Code of Student Conduct, provided the misconduct did not endanger the health or safety of others. Curtis may initiate an assessment or educational discussion or pursue other non-disciplinary options regarding alcohol or other drug use.

### **D. Requests for Anonymity**

Once a report has been shared with the Title IX Coordinator, a Complainant may request that their identity not be shared with the Respondent (request for anonymity) and/or decline to file a formal complaint. Curtis will carefully balance this request in the context of Curtis's commitment to provide a safe and non-discriminatory environment for all Curtis community members. Curtis will take all reasonable efforts to investigate and respond to the report consistent with a Complainant's request, but in order to pursue disciplinary action against a Respondent, the Respondent must be provided with notice of the reported conduct. In some circumstances, the Title IX Coordinator may arrange for limited preliminary fact-finding by an investigator to gain a better understanding of the context of the report or take other appropriate steps, including consulting with law enforcement. For more information, see the section on **Balancing Complainant Autonomy with Curtis Responsibility to Investigate**.

## **XI. Overview of Resolution Processes**

Curtis is committed to providing a prompt, thorough, equitable, and impartial resolution of all formal complaints under this policy. Curtis uses two processes to resolve formal complaints of Prohibited Conduct under this policy:

- **Informal Resolution**, an informal framework that includes informal or restorative options for resolving reports that typically does not involve disciplinary action against a Respondent.
- **Formal Resolution**, formal procedures that involve an investigation, adjudication and, if appropriate, the imposition of sanctions.

In all Informal and Formal Resolution processes, Curtis will treat Complainants and Respondents equitably by offering supportive measures to a Complainant when Curtis has notice of potential Prohibited Conduct, and by following the resolution process before the imposition of any disciplinary sanction against a Respondent. Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator will conduct an initial assessment of the



available information and consider the Complainant's stated interests, as well as Curtis's compliance obligations, in determining how to proceed. A report of Prohibited Conduct, may be resolved through: provision of supportive measures only; pursuing the Formal Resolution process, which involves a prompt, equitable and impartial investigation, a live hearing in certain instances, and an appeal; or, pursuing an Informal Resolution process, which requires the voluntary and written consent of the Complainant and the Respondent. A Complainant is always entitled to reasonably available supportive measures, regardless of whether an Informal or Formal Resolution process is initiated.

The Title IX Coordinator will determine the appropriate resolution process after making an initial assessment of the reported information, consulting with the Complainant, considering campus safety, and evaluating Curtis's obligation to maintain an environment free from harassment and discrimination. Where a Complainant requests a Formal Resolution and the available information raises the elements of Prohibited Conduct, the Title IX Coordinator will initiate an investigation.

#### **A. Time Frame for Resolution**

Curtis will seek to complete the appropriate resolution process as promptly as possible, consistent with the need to conduct sensitive and informed fact-gathering to ensure an equitable resolution. The policy designates reasonably prompt timeframes for the major stages of the investigation and resolution process, but Curtis may extend any timeframe in this policy for good cause. An extension may be required for good cause to ensure the integrity and thoroughness of the investigation; to comply with a request by law enforcement; in response to the unavailability of the parties or witnesses; or for other legitimate reasons, such as intervening breaks in Curtis calendar, finals periods, the complexity of the investigation, the volume of information, number of witnesses, length of the written record, and/or the severity and extent of the alleged misconduct

While requests for delays by the parties may be considered, Curtis will not unduly or unreasonably delay the prompt resolution of a report under this policy. Reasonable requests for delays by the parties may serve to extend the time period for resolution of the report. The Title IX Coordinator, in consultation with the investigator, has the authority to determine whether an extension is required or warranted by the circumstances. Curtis will notify the parties in writing of any temporary delay or extension of the timeframes for good cause, the reason for the extension and the length of the extension.

Although cooperation with law enforcement may require Curtis to suspend the fact-finding portion of a Title IX investigation temporarily, Curtis will promptly resume its Title IX investigation as soon as it is notified by the law enforcement agency that the agency has completed the evidence gathering process. Curtis will not, however, wait for the conclusion of a criminal proceeding to begin or conclude its own investigation and, if needed, will take immediate steps to provide appropriate supportive measures.

Timeframes for all phases of the formal resolution process will apply equally to both the Complainant and the Respondent.



## **B. Advisor of Choice**

Throughout Informal or Formal Resolution, each party has the right to consult with an advisor of their choosing. The advisor may be any person, including an attorney. The parties may be accompanied by their respective advisor at any meeting or proceeding related to the resolution of a report under this policy. In particular, a party has the right to have an advisor present at any hearing, and the party's advisor may conduct questioning of the other party or witnesses during the hearing. If a party does not have an advisor, or both the party and advisor do not appear at the hearing, Curtis must provide an advisor, free of charge, to conduct questioning on the party's behalf at the hearing. With the exception of this limited role at the hearing, the advisor may provide support and advice to the parties at any meeting and/or proceeding, but may not speak on behalf of the parties or otherwise participate in, or in any manner delay, disrupt or interfere with meetings and/or proceedings. The advisor is entitled to review all information gathered in the investigation that is directly related to the allegations (as part of evidence review), to access to the investigative report, and to cross-examine the other party and all witnesses during the live hearing. Curtis will not unduly delay the scheduling of meetings or proceedings based on an advisor's unavailability. An advisor may be asked to meet with a Curtis administrator in advance of any proceedings to understand the expectations of the role, privacy considerations and appropriate decorum.

## **C. Obligation to Provide Truthful Information**

All Curtis community members are expected to provide truthful information in any 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 incident of Prohibited Conduct is prohibited and subject to disciplinary sanctions, in accordance with the Student Code of Conduct and other applicable Curtis procedures. 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.

# **XII. Initial Assessment**

## **A. Response to Report of Prohibited Conduct**

Anyone may make a report of Prohibited Conduct to the Title IX Coordinator. Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator will conduct an Initial Assessment of the reported information and respond to any immediate health or safety concerns raised by the report. The Title IX Coordinator will also promptly contact the Complainant to discuss:

- the availability of supportive measures with or without the filing of a formal complaint;
- the process for filing a formal complaint; and
- ascertain and consider the Complainant's wishes with respect to supportive measures.

A Complainant may request supportive measures only, may file a formal complaint, or may request more time to consider their options. Alternatively, as described below, the Title IX Coordinator may determine that it is appropriate to file a formal complaint. After the filing of a formal complaint, the Complainant may decide to seek an Informal Resolution instead of a Formal Resolution process (investigation and hearing). 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 determine, in consultation with other need to know Curtis officials as appropriate, whether the Policy applies to the report and whether the reported conduct falls within the jurisdiction and scope of the Policy.

## **B. Intake Meeting**

The Initial Assessment typically includes an initial intake meeting (which may take place in person or via live technology), with the Complainant 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 the Policy.

In addition to the intake meeting, Curtis will provide the Complainant with written information about resources, procedural options for Formal and Informal Resolution, reasonably available supportive measures and the process for requesting and obtaining them, the range of disciplinary sanctions available upon a finding of responsibility for violating the Policy, the prohibition against Retaliation, and how to report concerns of retaliation. The written information will also include information about campus and community resources and services, including counseling, health, mental health, victim advocacy, legal assistance, and other available services. This written information will also include a notification about the process for seeking disability-based accommodations, academic adjustments, and/or auxiliary aids under Section 504 of the Rehabilitation Act.

## **C. Overview of Initial Assessment**

As part of the initial assessment, the Title IX Coordinator will typically:

- 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 based on reasonably available information;
- Discuss the Complainant's expressed preference for manner of resolution (i.e., Formal Resolution in the form of an investigation and hearing or Informal Resolution) and any barriers to proceeding;

- Assess the nature and circumstances of the report, including whether it provides the names and/or any other information that identifies the Complainant, the Respondent, any witness and/or any other individual with knowledge of the reported incident;
- Address immediate physical safety and emotional well-being;
- Notify the Complainant of their right to contact (or decline to contact) law enforcement or seek a civil protection order;
- Notify the Complainant of the right to seek medical treatment;
- Notify the Complainant of the importance of preservation of evidence;
- Conduct an individualized analysis of safety and risk for the campus community to determine whether a student Respondent's presence in Curtis's education program or activity poses an immediate threat to the physical health or safety of any student, faculty, staff, or other individual such that it justifies emergency removal;
- Conduct an individualized analysis of safety and risk for the campus community to determine the need for administrative leave for an employee Respondent;
- Refer the report to the Senior Director of Facility Operations to comply with Clery reporting obligations and assess the need for a timely warning under the Clery Act;
- Provide the Complainant with written information about on and off campus resources;
- Notify the Complainant about their option to report to law enforcement;
- Provide the Complainant with an explanation of the procedural options, including Formal Resolution and Informal Resolution;
- Notify the Complainant of the right to be accompanied at any meeting by an advisor of choice, that the advisor may accompany them to any meeting or proceeding under the policy and Complainant, and that if the matter proceeds under the Formal Resolution process and either party does not have an advisor, Curtis will provide a hearing advisor, without fee or charge, to conduct questioning on behalf of the party at the adjudication meeting;
- Assess the available information for any pattern of conduct by Respondent;
- Discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns);

- Explain Curtis’s policy prohibiting Retaliation and how to report acts of Retaliation; and
- Determine the age of the Complainant; and if the Complainant is a minor, make the appropriate report of suspected abuse consistent with state law.

#### **D. Supportive Measures**

Supportive measures are non-disciplinary, non-punitive, individualized support services that are offered as appropriate, as reasonably available, and without fee or charge to the Complainant when a report is received, whether or not a formal complaint is filed, and to Respondents after a formal complaint has been filed. Supportive measures are designed to address the physical safety and emotional well-being of the parties (and the Curtis community, as appropriate), as well as to restore or preserve equal access to Curtis’s education (including employment and other Curtis) programs and activities without unreasonably burdening the other party, or to deter any form of Prohibited Conduct.

Supportive measures may be temporary or permanent and may include, but not be limited to, the following:

- Facilitating access to counseling and medical services.
- Guidance in obtaining a sexual assault forensic examination.
- Assistance in arranging rescheduling of exams and assignments and extensions of deadlines.
- Academic support.
- Assistance in requesting long-term academic accommodations if the individual qualifies as an individual with a disability.
- Change in class schedule, including the ability to transfer course sections or withdraw from a course.
- Allow either a Complainant or a Respondent to drop a class in which both parties are enrolled in the same section.
- Voluntary changes in the Complainant’s or Respondent’s work schedule or job assignment.
- Change in campus housing.
- Escort and other safety planning steps.
- Mutual “no contact order,” an administrative remedy designed to curtail contact and communications between two or more individuals.

- Voluntary leave of absence.
- Referral to resources to assist in obtaining a protective order.
- Referral to resources to assist with any financial aid, visa or immigration concerns.
- Any other remedial measure that does not unreasonably burden the other party can be used to achieve the goals of this policy.

The availability of supportive measures will be determined by the specific circumstances of each report and will be tailored to avoid unreasonably burdening the other party. Curtis will consider a number of factors in determining which measures to take, including the needs of the student or employee seeking supportive measures; the severity or pervasiveness of the alleged conduct; any continuing effects on the parties; whether the Complainant and the Respondent share the same residence hall, academic course(s), or job location(s); and whether court proceedings have been used to protect any parties (e.g., protective orders). Curtis 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 effective implementation of supportive measures and coordinating Curtis's response. The Title IX Coordinator has the discretion to impose and/or modify any supportive measure based on all available information and is available to meet with a Complainant or Respondent to address any concerns about the provision of supportive measures. Curtis will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality does not impair the ability to provide the supportive measures.

All individuals are encouraged to report to the Title IX Coordinator any concerns about the failure of another to abide by a Curtis directive (e.g., No Contact Order). In the event of an immediate health or safety concern, individuals should contact 911 or the Lenfest Hall Security Desk at (215) 875-4200 (on campus) immediately. Curtis will enforce a previously implemented measure, which may include additional supportive measures and/or disciplinary penalties for failing to abide by a Curtis directive.

When the Title IX Coordinator decides to initiate an investigation, impose supportive measures, or take any other action that impacts a Respondent, the Title IX Coordinator will also ensure that Respondent is notified and receives written information on available resources and options, consistent with the list outlined above. The relationship of the Respondent to Curtis may impact the availability and appropriateness of supportive measures provided by Curtis, but Curtis may refer the third party Respondent to community resources.

## **E. Emergency Removal**

Certain circumstances may warrant removing a student Respondent from a Curtis program or activity on an emergency basis, typically in the form of a temporary suspension. Curtis may remove a student Respondent on an emergency basis from Curtis property or employment, education, research programs or activities, or other Curtis programs and activities. Before imposing an emergency removal, Curtis will undertake an individualized analysis of safety and risk for the campus community to determine whether the Respondent's presence in the Curtis 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 Curtis program or activity.

The Title IX Coordinator will promptly provide the Complainant, where appropriate because the removal relates to them, and the Respondent with simultaneous written notice of the Emergency Removal, the effect of the Emergency Removal, the rationale for the Emergency Removal, and an opportunity for the Respondent to challenge the Emergency Removal. During any challenge, the Respondent will remain off-campus and must comply with the notice of Emergency Removal. That notice will include a statement that any information the Respondent chooses to provide during the challenge may subsequently be used in implementing any aspect of this Policy, including the investigation and hearing.

The Respondent will have 72 hours from the notice of Emergency Removal to submit a written challenge to the safety and risk analysis that forms the rationale for the Emergency Removal to the Title IX Coordinator. The Title IX Coordinator will assign the matter to be reviewed by the Dean to evaluate the information in support of the individualized safety and risk analysis and any information provided by the Respondent and the Complainant, as applicable. The Dean or designee will submit a final decision in writing to the Respondent and the Complainant within three (3) business days, with a copy to the Title IX Coordinator.

#### **F. Administrative Leave**

Curtis may place a non-student staff or faculty Respondent on administrative leave, with or without pay, at any time.

### **XIII. FORMAL COMPLAINT**

The Formal Resolution process (investigation, hearing and appeal process) is initiated by the filing of a formal complaint. A formal complaint is a written document submitted to the Title IX Coordinator by the Complainant alleging that a Respondent engaged in Prohibited Conduct and requesting an investigation. The formal complaint may be submitted to the Title IX Coordinator in person, by mail, or by electronic mail, using the formal complaint form. The Complainant may also contact the Title IX Coordinator directly for assistance in making a formal complaint. At the time of filing the formal complaint, the Complainant must be participating in or attempting to participate in Curtis's education program or activity. Where a Complainant files a formal complaint and requests an investigation, and the reported conduct falls within the scope and jurisdiction of the policy, the Title IX Coordinator must pursue an investigation.

## **A. Dismissal of Formal Complaint**

The Title IX Coordinator will determine whether the conduct alleged in the formal complaint falls within the scope of the policy and the definitions of Prohibited Conduct. The Title IX regulations require Curtis to dismiss some or all of the allegations in the formal complaint related to Title IX Sexual Harassment if: 1) the conduct alleged, even if substantiated, would not constitute Title IX Sexual Harassment as defined in the Title IX regulations; 2) the conduct did not occur within Curtis's education program or activity; or, 3) the conduct did not occur against a person in the United States. This means that Curtis may be required by law to dismiss some or all of the allegations in the formal complaint under Title IX and provide the parties notice of the dismissal and the opportunity to appeal that dismissal.

Where the allegations in the formal complaint include Other Sexual Misconduct, the conduct occurred outside of the United States, or the conduct is not within the education program or activity (but still within the scope of conduct regulated by Curtis), the Formal Resolution process will still apply and the remaining allegations will proceed to the Formal Resolution process set forth below.

In addition, the Title IX Coordinator may dismiss a formal complaint, at any stage of the process, in any of the following three circumstances: (1) the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; (2) the Respondent is no longer enrolled or employed by Curtis; (3) or specific circumstances, including a Complainant's decision not to respond to outreach by the Title IX Coordinator, prevent Curtis from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

The decision about whether to dismiss a formal complaint, in whole or in part, may be made at any time in the process and will be communicated to all parties in writing. Either party may appeal the decision to dismiss the formal complaint to the Appellate Authority.

Dismissal of the formal complaint will be communicated to the parties simultaneously and in writing. Either party may challenge the dismissal of a formal complaint by notifying the Title IX Coordinator in writing of the challenge within five (5) business days of the dismissal of the formal complaint. The other party will be notified of the challenge. Challenges to dismissals will be review by the Appellate Authority within five (5) business days.

## **B. Title IX Coordinator Discretion to File Formal Complaint**

- 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 by

the Complainant, the Title IX Coordinator will consider the following factors: The totality of the known circumstances;

- The nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon;
- The respective ages and roles of the Complainant and Respondent;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether there have been other reports of other prohibited conduct or other misconduct by the Respondent;
- Whether the report reveals a pattern of misconduct related to Prohibited Conduct (e.g., illicit use of drugs or alcohol) at a given location or by a particular group;
- The Complainant's interest in Curtis not pursuing an investigation or disciplinary action and the impact of such actions on the Complainant;
- Whether Curtis possesses other means to obtain relevant evidence;
- Fairness considerations for both the Complainant and the Respondent;
- Curtis's obligation to provide a safe and non-discriminatory environment; and
- Any other available and relevant information.

The Title IX Coordinator will consider what steps may be possible or appropriate when a Respondent is unknown or the Complainant requests anonymity and what other measures or remedies might be considered to address any effects of the reported behavior on the campus community. The Title IX Coordinator will make a determination regarding the appropriate manner of resolution under the policy. Curtis will seek resolution consistent with the Complainant's request, if it is reasonably possible to do so, based upon the facts and circumstances, while also protecting the health and safety of the parties and Curtis community.

Where the Title IX Coordinator determines that a Complainant's request(s) can be honored, Curtis may nevertheless take other appropriate steps to address the reported conduct, prevent its recurrence and remedy its effects on the Complainant and Curtis community. Those steps may include offering appropriate supportive measures to the Complainant, providing targeted training and prevention programs, and/or providing or imposing other remedies.

The Title IX Coordinator may also re-open a report under this policy if any new or additional information becomes available, and/or if the Complainant later decides that they would like a Formal Resolution to occur.



In those instances when the Title IX Coordinator files a formal complaint, the Title IX Coordinator will notify the Complainant that Curtis intends to initiate an investigation. The Complainant is not required to participate in the investigation or in any of the actions taken by Curtis.

Curtis' ability to investigate and respond fully to a report may be limited if the Complainant requests anonymity or declines to participate in an investigation. Curtis will, however, pursue other steps to limit the effects of the reported conduct and prevent its recurrence. In all cases, the final decision on whether, how and to what extent Curtis will conduct an investigation will be taken in connection with a report of Prohibited Conduct will be made in a manner consistent with this policy.

### **XIII. Informal Resolution**

Following receipt of a formal complaint, Curtis may resolve reports through Informal Resolution, as appropriate based on the circumstances. Informal Resolution is available only once a formal complaint has been filed, prior to a determination of responsibility, and if the Complainant and Respondent voluntarily consent to the process in writing. It is important to note that, under the Title IX regulations and this policy, Informal Resolution is not available in cases in which an employee (faculty or staff) is alleged to have sexually harassed a student. In all cases, the Title IX Coordinator will have discretion to determine whether or not Informal Resolution, or any particular form of Informal Resolution, is appropriate to the circumstances.

Informal Resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent; mediation; indirect action by the Title IX Coordinator or other appropriate Curtis officials; and other forms of resolution that can be tailored to the needs of the parties. With the voluntary consent of the parties, Informal Resolution may be used to impose agreed-upon disciplinary sanctions. Any person who facilitates an Informal Resolution will be trained and free from conflicts of interest or bias for or against either party.

If the parties are interested in pursuing Informal Resolution, the Title IX Coordinator will send written notices to the parties describing:

1. the allegations at issue;
2. the requirements of the Informal Resolution process;
3. the circumstances under which the parties are precluded from resuming a formal complaint arising from the same allegations;
4. the right to end the Informal Resolution process at any time prior to resolution and resume the Formal Complaint process; and

5. the consequences resulting from participating in the Informal Resolution, including that the records and communications created or maintained as part of the Informal Resolution process may be viewed by parties, or later used or considered in the Formal Resolution process, including in the investigation or at a hearing if determined to be relevant information.

All parties will be required to return signed copies of the written notices agreeing to the Informal Resolution process.

With any form of Informal Resolution, each party has the right to choose and consult with an advisor. The advisor may be any person, including an attorney. The parties may be accompanied by their respective advisors at any meeting or proceeding held as part of Informal Resolution. 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 or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.

Any form of Informal Resolution and any combination of interventions and remedies may be utilized. If an agreement acceptable to Curtis, the Complainant, and the Respondent is reached through Informal Resolution, the terms of the agreement are implemented and the matter is resolved and closed. The Title IX Coordinator or designee will monitor the implementation of the agreement as appropriate. If an agreement between the parties and subject to the Title IX Coordinator's approval is not reached or if a Respondent fails to comply with the terms of the Informal Resolution, the formal complaint may be referred for investigation or an investigation may resume under the Formal Resolution process. Once any terms of the Informal Resolution are fully completed and the matter is closed, the parties will be precluded from filing another formal complaint arising from the same set of facts or circumstances.

Prior to reaching a resolution, any party can withdraw from the Informal Resolution process, and Curtis will resume the formal complaint process. Curtis's goal is to complete an Informal Resolution within thirty (30) days of the parties' written agreement to participate in the process. If Curtis anticipates the process will take longer, written notification will be provided to the parties with an explanation regarding the delay.

The Title IX Coordinator will maintain records of all reports and conduct referred for Informal Resolution, which will typically be complete within twenty (20) business days of the initial report.

#### **XIV. Formal Resolution: Investigation**

This Formal Resolution process is followed after the filing of a formal complaint by the Complainant or Title IX Coordinator.

Curtis will conduct a prompt and equitable investigation to gather information relevant to the determination of whether there is sufficient information, by a preponderance of the

evidence, to determine that a policy violation occurred. The investigation will be impartial and will be conducted by trained individuals who have no actual bias or conflict of interest.

During the investigation and disciplinary proceedings, both the Complainant and Respondent have equitable opportunities, including the opportunity to receive a written notice of investigation; to participate in the investigation; to review and present information and evidence; to be accompanied by an advisor of their choice to any meeting; to timely and equal access to information that will be used in any meeting or disciplinary proceedings; to timely written notice of meetings at which their presence will be requested or required, including the date, time, location, participants, and purpose of the meeting, with sufficient time to prepare ; to simultaneous written notice of the outcome, sanction and rationale; and to appeal the outcome.

The Investigator, not the parties, is responsible for gathering relevant evidence. During an investigation, the Investigator will seek to meet separately with the Complainant, Respondent and relevant witnesses. The Complainant and Respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications and other evidence, if available. The parties are encouraged to provide all relevant information as promptly as possible to facilitate prompt resolution and are encouraged to preserve relevant evidence. In the event that a party declines to voluntarily provide material information, the ability to conduct a prompt, thorough and equitable investigation may be affected.

The Respondent will be presumed not responsible for any alleged policy violation unless and until a determination is made that there is sufficient evidence, by a preponderance of the evidence, to find that the Respondent violated this policy.

#### **A. Designation of Investigator**

When the decision is made to initiate an investigation, Curtis will designate an Investigator to conduct a prompt, thorough, fair and impartial investigation. The Investigator may be a Curtis employee and/or an experienced external investigator. Any Investigator used by Curtis must receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence and stalking; the scope of Curtis's education program and activity (to include employment and other Curtis programs and activities); and on how to conduct an investigation that is fair and impartial. The Investigator will be impartial and free from conflict of interest or actual bias for or against the Complainant or Respondent.

#### **B. Notice of Investigation**

The Title IX Coordinator will notify the Complainant and the Respondent, in writing, of the following information: (1) the names of the Complainant and the Respondent; (2) the date, time (if known), location, and a brief summary of the nature of the reported conduct; (3) the reported policy violation(s); (4) the name of the Investigator; (5) how to challenge participation by the Investigator on the basis of a conflict of interest or bias; (6) information

about the parties' participation in the process; (6) a statement that the Respondent is presumed not responsible for the alleged conduct unless and until there is a determination of responsibility by a preponderance of the evidence; (7) the prohibition against Retaliation; (8) the importance of preserving any potentially relevant evidence in any format; (9) that the parties are entitled to an advisor of their choice throughout the process, and if the party does not have an advisor at the hearing, Curtis will provide an advisor, free of charge, to conduct questioning on the party's behalf; (10) the prohibition against providing false information during the process; and (11) a copy or link to this policy. If the investigation reveals the existence of additional or different potential violations of this policy, the Investigator will issue a supplemental notice of investigation.

## **C. Investigative Considerations**

### **1. Consolidation of Investigation**

The Title IX Coordinator may consolidate formal complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party (*i.e.*, cross-complaint), where the allegations of Prohibited Conduct arise out of the same or substantially similar facts or circumstances. All parties will receive simultaneous, timely notification of any consolidation. During the course of the investigation, the investigation may reveal the existence of additional or different potential policy violations, which may also be consolidated following notification to the parties of the amended notice of investigation.

### **2. Witnesses**

Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the incident, the disclosure, the parties or related matters. Witnesses may also be offered to provide subject matter expert information. Where witnesses are interviewed as part of the investigation, the name of the witness and the information gathered in the interviews will be included in the written investigative report, which the parties will have the opportunity to review at the conclusion of the investigation.

### **3. Other Forms of Evidence**

The Investigator will also gather other relevant information or evidence, including documents, photographs, communications between the parties, medical records (subject to the consent of the applicable person), and other electronic records as appropriate.

The Investigator may also consider information publicly available from online sources that comes to the attention of Investigator. Curtis does not actively monitor online sources, however, and as with all potentially relevant information, the Complainant, Respondent or witness should bring online information to the attention of the Investigator if they believe it is relevant.

The Investigator may also consider communications involving or relating to one or both parties that either party brings to the attention of the Investigator or that is provided by the parties in response to a request by the Investigator. The Investigator may also seek review of information available on Curtis devices or servers, consistent with Curtis's technology policies.

The Investigator may visit relevant sites or locations and record observations through written, photographic or other means. In some cases, the Investigator may consult with relevant experts when deemed appropriate and necessary by Curtis. Curtis will not consider polygraph results.

In general, a person's medical and counseling records are privileged records confidential and not accessible to the Investigator unless the person voluntarily waives the privilege in a written consent, to share those records with the Investigator. In those instances, the relevant information from the records must be shared with the other party.

#### **4. Relevance**

Relevant evidence is any evidence that makes a material fact in the investigation more or less likely. Relevant evidence, both inculpatory and exculpatory, will be included in the Investigative report and considered by the Disciplinary Authority in the determination on responsibility made following a live hearing. The Investigator will review all information identified or provided by the parties and will determine the relevance and probative value of the information developed or received during the investigation and include all relevant information in the Investigative report.

#### **5. Prior or Subsequent Conduct**

To the extent such information is relevant or available, prior or subsequent conduct may be considered in determining knowledge, motive, intent, state of mind, preparation, absence of mistake, lack of accident, identity, pattern or another material fact. Evidence of prior or subsequent conduct, regardless of whether there has been a prior finding of a policy violation, may be deemed relevant and probative to both the determination of responsibility and/or sanction for the conduct under investigation.

The Investigator, in consultation with the Title IX Coordinator, will assess whether proof of the other misconduct makes a material fact in the investigation more or less likely and whether use of this information would cause undue prejudice. With respect to pattern evidence, the determination of relevance will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar conduct.

Where a sufficient informational foundation exists for the inclusion of prior or subsequent conduct, the Investigator will provide notice to both parties of the scope of any inclusion of prior or subsequent conduct in the investigative report. The parties will have a full and fair opportunity to respond to the information included in the investigative report.

## **6. Prior Sexual History**

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are: 1) offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or, 2) the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent. As set forth in the Consent definition above, however, previous relationships or prior consent cannot imply consent to future sexual acts.

The Investigator, in consultation with the Title IX Coordinator, will assess whether information related to prior sexual history makes a material fact in the investigation more or less likely. Where a sufficient informational foundation exists for the inclusion of prior sexual history, the Investigator will provide notice to both parties of the scope of any inclusion of such information in the investigative report. The parties will have a full and fair opportunity to respond to the information included in the investigative report.

## **7. Participation of the Parties**

Curtis expects all members of Curtis community to cooperate fully with the investigation and disciplinary procedures, but will not retaliate against a student or employee for declining to participate. It is understood that there may be circumstances in which a Complainant or Respondent wish to limit their participation, and Curtis will respect the choice of the Complainant or Respondent as to how to engage in proceedings under this policy. Curtis may, however, move forward with an investigation and disciplinary action without the participation of a party or parties.

Curtis will not draw any adverse inference solely from a Complainant's or Respondent's decision not to participate in the investigation or any form of resolution under this policy; however, the Complainant or Respondent should be aware that declining to participate in the investigation may impact the timing and outcome of the case.

## **8. Effect of Withdrawal**

At any time, Curtis may place an administrative hold on a student Respondent's transcript, make a transcript notation, or defer or withhold the award of the student Respondent's degree. Although a student Respondent may withdraw from Curtis while the investigation is pending, this withdrawal may be considered permanent and the Respondent's transcript may note that there was a withdrawal while under investigation for sexual violence, when required or permitted by law. Even if a student Respondent withdraws from Curtis, the Title IX Coordinator may proceed with further action as necessary to eliminate, prevent or address any impacts of the reported conduct.

## **9. Safeguarding Privacy**

Individuals involved in investigations or disciplinary proceedings under this policy are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation. While discretion regarding the process is important, Complainants and Respondents are not restricted from discussing the allegations under investigation to gather and present relevant evidence or seek support, but the parties should be advised that doing so in a way that constitutes Harassment or Retaliation may subject them to additional policy violations. All parties, however, are encouraged to maintain the privacy of Family Educational Rights and Privacy Act (FERPA)-protected and/or sensitive information gathered or learned in the process.

## **10. Coordination with Law Enforcement**

If there is a concurrent criminal investigation, Curtis will seek to work in a collaborative manner in order to respect the integrity of external investigations and Curtis investigations. This may include contacting the law enforcement agency that is conducting any investigation to inform that agency that a Curtis investigation is also in progress, attempting to ascertain the status of the criminal investigation, and seeking to determine the extent to which any evidence collected by law enforcement may be available to Curtis in its investigation.

## **11. Timing of Investigation**

The Investigator will provide periodic updates to the parties about the status of the investigation, with a goal to complete the fact-gathering portion of the investigation within approximately 30 to 60 calendar days.

### **D. Evidence Review**

At the conclusion of the fact-gathering, the Investigator will make information gathered in the investigation available for review by the parties and their advisors. The parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the Curtis does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The investigator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least ten (10) calendar days to submit a written response, which may be comments, proposed questions for the investigator(s) to ask the other party, identification of additional witnesses or sources of evidence, which the investigator will consider prior to completion of the investigative report.

The Investigator will determine the appropriateness of additional investigative steps and the relevance of additional information. If either party provides a written response or makes a request for additional investigation, the written response and any additional information gathered by the Investigator will be shared with the other party and



incorporated as appropriate in the investigative report. Any information gathered through additional investigation steps will be shared with both parties, and, as appropriate, each will have the opportunity for further response.

#### **E. Review of Investigative Report**

The Investigator will prepare an investigative report that fairly summarizes the relevant evidence, including inculpatory and exculpatory evidence. The Investigator has the discretion to determine the relevance of the information included in the investigative report.

The investigation report will include a recommendation by the Investigator whether the conduct alleged in the formal complaint falls within the scope of the Policy and the definitions of Prohibited Conduct. In particular, the Investigator will make a recommendation whether the conduct alleged, if substantiated, would constitute Title IX Sexual Harassment. This is not a determination of responsibility, nor does it involve a determination about the credibility of the information gathered; those decisions are reserved for the Disciplinary Authority. Rather, this evaluation accepts all facts as presented by the Complainant as true in order to determine the potential Policy violations that will be the subject of the hearing.

The investigative report and accompanying documents will be made available to the Complainant and the Respondent to review. The Complainant and Respondent will have ten (10) calendar days to submit a written response to the investigative report. The written response will be considered by the Disciplinary Authority, and can address any issue from the evidence review or investigative report, including the Investigator's assessment of relevance or recommendation as to jurisdiction. This is the final opportunity to submit substantive information prior to the hearing.

#### **F. Title IX Coordinator Review of Title IX Jurisdiction**

The Title IX Coordinator will review the Investigator's recommendation as to whether the conduct alleged in the formal complaint falls within the scope of the Policy. Where the conduct, if true, would not constitute Title IX Sexual Harassment, Curtis may be required by law to dismiss some or all of the allegations in the formal complaint under Title IX and provide the parties notice of the dismissal and the opportunity to appeal that dismissal, as described above.

In some instances, the investigator, in consultation with the Title IX Coordinator will determine that the allegations, even if accepted as true, would not rise to the level of Title IX Sexual Harassment, but nonetheless require remediation. The Title IX Coordinator, in partnership and consultation with relevant stakeholders, may address unprofessional, disrespectful, and/or offensive conduct that: 1) does not rise to the level of creating a hostile environment (or a violation of this Policy, or 2) is of a generic nature not clearly based on a Protected Characteristic; and/or 3) runs counter to Curtis's mission and values. Addressing such behaviors will not typically result in the imposition of disciplinary sanctions under the Policy, but may be addressed through restorative remedial actions, such as coaching, education, and/or effective conflict resolution or other alternative resolution mechanisms.



However, Curtis reserves the right to take any action it deems, in its sole discretion, to be appropriate in response to such behaviors.

### **G. Acceptance of Responsibility**

A Respondent may choose to accept responsibility for their conduct at any point during the investigation or thereafter. In the event that the Respondent admits responsibility for committing an act or acts of Prohibited Conduct, the Title IX Coordinator will determine whether further investigation is warranted. The Disciplinary Authority will issue a finding of responsibility and determine an appropriate sanction(s) pursuant to the sanctioning process below.

### **XV. Formal Resolution: Hearing**

Following the issuance of the investigative report, the Title IX Coordinator will appoint a Disciplinary Authority to conduct a live hearing. For student Respondents, the Disciplinary Authority may be an external adjudicator or a single Curtis administrator.

The role of the Disciplinary Authority is to provide all parties with an equitable opportunity to be heard and to reach a full and fair determination as to responsibility and imposition of any sanction, should there be a finding of responsibility. The Disciplinary Authority must be trained in how to serve as an informed and impartial Disciplinary Authority; this training will include training content provided to investigators, as well training on any technology to be used at a hearing and on issues of relevance of questions and evidence. The Disciplinary Authority may reach credibility determinations, but may not base credibility determinations on a person's status as a Complainant, Respondent or witness.

The Disciplinary Authority must be free of conflict of interest or bias for or against either party. The Complainant and Respondent will be provided the name of the Disciplinary Authority in advance and have the opportunity to raise a challenge for bias or conflict of interest to the Title IX Coordinator prior to the hearing. The Title IX Coordinator shall render a determination in writing on any such challenge, which determination shall be final.

#### **A. Notice and Timing of Hearing**

The Complainant and Respondent will be notified in writing of the date, time, and location of the hearing, the designation of Disciplinary Authority, how to challenge participation by the Disciplinary Authority for bias or conflict of interest, the right to have an advisor present at the hearing and conduct questioning on the party's behalf; that Curtis will provide an advisor, without fee or charge, to conduct questioning on behalf of the party at the hearing if the party does not have an advisor present for the hearing; how to request that witnesses be present at the hearing; and, information about the hearing format. The hearing will be promptly scheduled upon issuance of the Final Investigative report.

The Complainant or Respondent may request a postponement for good cause. A request for a postponement for good cause must be made in writing, include supporting rationale, at least two (2) business days before the scheduled hearing.

## **B. Standard of Review**

The Disciplinary Authority is responsible for objectively evaluating the relevant inculpatory and exculpatory evidence and making a determination whether there is sufficient evidence, by a preponderance of the evidence, to establish that the Respondent violated this policy.

A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all of the evidence and reasonable inferences from the evidence, that the Respondent violated the policy. If the evidence weighs so evenly that the Disciplinary Authority is unable to say there is a preponderance on either side, the Disciplinary Authority must determine that there is insufficient evidence to conclude that a violation of the policy occurred.

## **C. Hearing Format**

The hearing will be live and require the participants to simultaneously see and hear each other. A hearing may be conducted with all parties physically present in the same geographic location. Alternatively at the discretion of the Title IX Coordinator, any or all parties, witnesses, or other participants may appear at the hearing virtually, with technology enabling participants simultaneously to see and hear each other. Either party may request that the parties are located in separate rooms or locations for the hearing with technology enabling the Disciplinary Authority and parties to simultaneously see and hear the party or witness answering questions. Such a request should be submitted to the Title IX Coordinator at least three (3) business days prior to the hearing. Nothing in this section requires the parties to appear in-person before the Disciplinary Authority and the hearing may proceed with all parties participating virtually as appropriate and necessary.

The hearing is an opportunity for the parties to address the Disciplinary Authority in person about issues relevant to the determination of responsibility. The parties may address any information in the evidence review or in the investigation report, subject only to a determination of relevance by the Disciplinary Authority. All of the evidence available at the evidence review (directly related to the allegations) must be available to the parties and their advisors for use at the hearing. Each party has the opportunity to be heard, to identify salient information for the Disciplinary Authority's consideration, to respond to any questions of the Disciplinary Authority and the other party's advisor, and to ask witnesses questions of the other party or witnesses through their advisor. The parties are not permitted to directly question one another.

Only relevant questions may be asked of a party or witness. Before a Complainant, Respondent, or witness responds to a question, the Disciplinary Authority will first determine whether the question is relevant and briefly explain any decision to exclude a question as

not relevant. The Disciplinary may ask the party's advisor to articulate the relevance of the question, but objections and argument by the advisors are not permitted.

The Disciplinary Authority has the discretion to determine the format of the hearing. A typical hearing may include brief opening remarks by the Complainant and Respondent, with follow-up questions posed by the Disciplinary Authority and the other party's advisor, information presented by the Investigator, with questions by the Disciplinary Authority and the parties' advisors, information from witnesses, with questions by the Disciplinary Authority and the parties' advisors, and brief concluding remarks by the Complainant and Respondent.

#### **D. Participation of the Parties in the Hearing**

Because the most accurate and fair review of the facts can best be accomplished when all parties are present, both parties are strongly encouraged to attend and participate. If the Complainant or Respondent chooses not to attend a hearing, the determination of responsibility will be reviewed as scheduled on the basis of the information available. In addition, Curtis must provide an advisor, free of charge, to conduct questioning on the party's behalf, even when the party and advisor of choice decline to attend the hearing. Statements made by a party or witness who does not participate in the hearing and submit to questioning by the other party's advisor will not be considered by the Disciplinary Authority. Neither party is required to participate in the hearing and the Disciplinary Authority may not draw any inference from the decision of a party or witness to not participate in the hearing.

#### **E. Determination of Sanction**

Where a finding of responsibility is made by the Disciplinary Authority, the Disciplinary Authority will determine the appropriate sanction according to the framework outlined in the section on Sanction below.

### **XVI. Formal Resolution: Sanctions**

Curtis's sanctioning process is designed to identify and implement a tailored and individual response intended to eliminate Prohibited Conduct, prevent its recurrence and remedy its effects, while supporting Curtis's educational mission, legal obligations and commitment to compliance with Title IX, Clery and related authority. Sanctions or interventions may also serve to promote safety and/or deter other individuals from similar future behavior. Other remedies may include corrective action that is intended to be non-punitive, such as targeted or broad-based educational programming or training.

The Disciplinary Authority may consult with appropriate Curtis administrators and related professionals. For example, for student Respondents, the Disciplinary Authority may consult with administrators involved in administering the Student Code of Conduct. For staff or faculty respondents, the Disciplinary Authority may consult with the Respondent's direct

supervisor. In all instances, the Disciplinary Authority may consult with the Title IX Coordinator to ensure that the sanction and/or remedies satisfy Curtis's obligation to eliminate the Prohibited Conduct, prevent its recurrence and address its effects.

### **A. Impact or Mitigation Statements**

In the time frame directed by the Title IX Coordinator, the Complainant and Respondent may submit a written impact or mitigation statement for consideration by the Disciplinary Authority. The decision whether to provide an impact or mitigation statement is completely voluntary. An impact statement is written information from the Complainant regarding how the Prohibited Conduct has affected them. A mitigation statement is written information from the Respondent regarding any potential mitigating factors. Each party will receive a copy of the impact or mitigation statement provided by the other.

### **B. Determination of Sanction**

In determining the appropriate sanction(s) and/or remedies, the Disciplinary Authority will consider a number of factors, including:

- The nature of the conduct at issue;
- The impact of the conduct on the Complainant;
- The impact or implications of the conduct on Curtis community;
- Prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at Curtis or elsewhere, and any criminal convictions, if such information is available and known;
- Any expression of remorse or acceptance of responsibility by a Respondent;
- Maintenance of a safe and respectful environment conducive to learning;
- Protection of Curtis community;
- The necessity of any specific action in order to eliminate the Prohibited Conduct, prevent its recurrence and remedy its effects on the Complainant or other Curtis community members; and,
- Any other mitigating, aggravating or compelling circumstances in order to reach a just and appropriate resolution in each case.

The Disciplinary Authority may also consider restorative outcomes that, taking into account the safety of Curtis community as a whole, allow a Respondent to develop insight about their responsibility for the behavior, learn about the impact of the behavior on the Complainant and the community, and identify how to prevent or change the behavior. Sanctions may be issued individually, or a combination of sanctions may be imposed.

Sanctions will typically be imposed immediately, although the Disciplinary Authority has the discretion to stay imposition of some or all sanctions pending an Appeal.

### **C. Sanctions for Student Respondents**

Sanctions for student Respondents include, but are not limited to: warning – written notice of violation, no further sanctions; written reprimand with conditions; loss of privileges; monetary penalty and/or restitution; suspension – separation of the student from Curtis; expulsion – permanent separation from Curtis; withholding of the degree or diploma; other sanctions – for example: work assignments, essays, service, etc.; revocation of admission and/or degree or diploma.

Student-employees who are reported to have engaged in Prohibited Conduct in their employment capacity may be subject to sanctions both in connection with their employment and in connection with their student status, as appropriate under applicable processes. If a student is employed through a financial aid package, such as work study, any modification to the employment will not result in a decrease in student aid funds.

### **D. Sanctions for Staff and Faculty Respondents**

Sanctions for Staff and Faculty Respondents include, but are not limited to, oral or written warning, reprimand, censure, disciplinary probation, suspension, termination of employment, dismissal, training, guidance, adjustment of supervisory or evaluative responsibilities, and measures to protect health and safety.

### **E. Written Notice of Outcome**

Within ten (10) business days following the conclusion of the deliberations, the Disciplinary Authority will prepare a written decision, including the finding of responsibility or non-responsibility, and rationale. The Disciplinary Authority provide the written notice of outcome to the Title IX Coordinator who will simultaneously issue it to the parties. The notice of outcome will include:

- E.** Identification of the allegations potentially constituting Prohibited Conduct;
- F.** A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- G.** Findings of fact supporting the determination;
- H.** Conclusions regarding the application of the Policy to the facts;
- I.** A statement of, and rationale for, the finding as to each alleged policy violation, including a determination regarding responsibility; and
- J.** Any disciplinary sanctions issued to the Respondent and remedies for the Complainant are imposed.

The Complainant and Respondent will receive simultaneous written notification of the outcome, including both the sanction and the rationale. The Notice of Outcome will include information about the Appeal procedures.

## **H. Remedies**

The Title IX Coordinator will review the written notice of outcome to determine whether additional remedies for the Complainant are necessary to restore and preserve equal access to Curtis's education program and activity. Examples of such remedies may include the provision of counseling, academic services, escort services, and/or training for members of the Curtis community, as well as making modifications to class scheduling and/or housing assignments.

## **XVII. Appeal**

The Complainant or Respondent may appeal the outcome by submitting a written appeal within five business days of the date of the Notice of Outcome. The appeal will be conducted in an impartial manner and equivalent procedural rights will be provided to both parties throughout the process.

The appeal review will be a person designated by the Title IX Coordinator who has not had prior involvement in the matter. The Appellate Authority may be an external professional. The Appellate Authority will receive training regarding Curtis policies and procedures and other relevant issues.

Any individual serving as an Appellate Authority must be free from actual bias or conflict of interest. Either party may raise a challenge to the Appellate Authority on the basis of actual bias or conflict of interest. This challenge must be raised, in writing, to the Title IX Coordinator within 2 business days of receipt of notice of acceptance of the appeal.

A Complainant or Respondent may appeal on one or more of the following grounds:

1. Procedural irregularity that affected the outcome of the matter and/or sanction;
2. New evidence, not reasonably available at the time of the adjudication meeting regarding responsibility or dismissal of the formal complaint, that could affect the outcome of the matter;<sup>4</sup>
3. The Title IX Coordinator, investigator(s), or Disciplinary Authority had a conflict of interest or bias for or against Complainants or Respondents

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<sup>4</sup> The time frame for filing an appeal based on newly discovered information may be extended at the discretion of the Title IX Coordinator where the evidence could not reasonably have been discovered within the time frame and a compelling justification exists for its consideration.

generally or the individual Complainant or Respondent that affected the outcome of the matter.

The appeal shall consist of a plain, concise and complete written statement outlining the basis for appeal and all relevant information to substantiate the claim. Dissatisfaction with the outcome is not sufficient grounds for appeal. The appeal will be narrowly tailored to the stated appeal grounds.

Each party will be given the opportunity to review and respond in writing to the other party's appeal. Any response by a party to the other party's appeal must be submitted within three business days. All appeal documents from each party will be considered together in one review process.

The Appellate Authority will review the matter based on the issues identified in the appeal(s) materials. The Appellate Authority has the authority to determine the appropriateness of evidence, including whether certain evidence should be considered, and the strength and weight that evidence will be given. The Appellate Authority will consider the final investigative report, any written submissions by the parties, and any impact or mitigation statements. The Appellate Authority may request additional information as necessary.

Appeals are not intended to be a reevaluation of the facts gathered, nor may the Appellate Authority substitute their judgment for that of the Investigator or Disciplinary Authority merely because they disagree with the outcome. The finding and sanction are presumed to have been decided reasonably and appropriately, and the Appellate Authority should give deference to the underlying outcome unless there is clear error based on the stated appeal grounds.

The Appellate Authority may conclude that there is no error and therefore determine that the outcome be affirmed. In the alternative, the Appellate Authority may identify error based on one of the stated appeals grounds. If so, the Appellate Authority may affirm the finding or sanction, modify the sanction, or refer the matter back to the Title IX Coordinator, Investigator or Disciplinary Authority with instructions or recommendations for additional actions.

The Appellate Authority will strive to complete the appeal review within 10 business days of receipt of all documents. Both parties will be provided with simultaneous written notice of the outcome of the appeal. The determination by the Appellate Authority is final.

## **XVIII. RECORDS**

The Office of the Title IX Coordinator will create, and maintain the following records for a period of seven years: records of any actions, including any supportive measures, taken in response to a report or formal complaint; records of investigations, 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. These records will be maintained in accordance with the privacy protections set forth in Title IX, the Clery Act, FERPA, and state law regarding the privacy of personnel records.

## **XIX. PREVENTION AND AWARENESS PROGRAMS**

Curtis is committed to the prevention of Prohibited Conduct through regular and ongoing education and awareness programs. Incoming students and new employees receive primary prevention and awareness programming, and returning students and current employees receive ongoing training and related programs.

## **XX. REVIEW OF POLICY**

The policy reflects Curtis's good faith efforts to implement the newly-promulgated legal requirements under the Title IX regulations issued in May 2020, to synthesize those regulations with other Federal law, including the Clery Act, and with state law applicable to students and employees. Curtis reserves the right to modify this policy as necessary to comply with Federal or state law, and such modifications may be made before or during an ongoing resolution process.

Given the rapidly evolving nature of the legal requirements applicable to Prohibited Conduct, and the desire to provide accessible, effective, and legally compliant policies and procedures, Curtis will review this policy on at least an annual basis. The review will take into consideration evolving legal requirements, evaluate the supports and resources available to the parties, and assess the effectiveness of the resolution process. The review will include the opportunity for individuals affected by the policy to provide feedback and will incorporate review of reports, resolutions, and climate considerations.

***Effective date of this policy: August 13, 2020; updated: March 19, 2021***