



UNIVERSITY OF RICHMOND

Policy Manual

Policy #:	GOV-3104	Policy Title:	Policy on Preventing and Responding to Discrimination and Sexual Misconduct Involving Faculty or Staff
Effective:	July 1, 2018	Responsible Office:	Compliance and Title IX
Date Approved:	March 12, 2018	Approval:	Vice President and General Counsel
Replaces Policy Dated:	October 2015	Responsible University Official:	Vice President and General Counsel Senior Associate Vice President for Human Resources Director of Compliance and Title IX Coordinator

PURPOSE:

This policy is designed to foster the University of Richmond's commitment to the principle that every University of Richmond student, faculty and staff member has the right to work and learn in an environment free from discrimination and harassment.

SCOPE:

This policy applies to the University of Richmond and all of its Affiliates. As used in this policy, the term "Affiliates" means organizations or entities in which the University owns a controlling interest or has the right to elect the majority of the entity's governing board.

This policy sets forth the process for handling complaints of discrimination and harassment.

Sexual Misconduct. Sexual misconduct is a type of sex discrimination. The University's [Policy Prohibiting Sexual Misconduct](#) specifies, in detail, the University's prohibition of sexual misconduct and the process by which reports of sexual misconduct involving students, faculty, and staff are investigated by the University. This policy specifies the process for addressing reports of sex discrimination and sexual misconduct following completion of an investigation as described in the [Policy Prohibiting Sexual Misconduct](#). This policy and the University's [Policy Prohibiting Sexual Misconduct](#) are intended to complement each other.

Academic Freedom. This policy is not intended to and shall not be used to limit or restrict, in any manner, academic freedom, including, but not limited to, the curricular or pedagogical choices of faculty members. Members of the University community are expected to promote academic freedom, including the freedom to discuss all relevant matters in the classroom; to explore all avenues of scholarship, research, and creative expression; and to speak or write as a public citizen without institutional restraint or discipline. Members of the University community are also expected to foster intellectual honesty and freedom of inquiry and to respect those with differing views.

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If a report or complaint relates to an academic issue, including, but not limited to, the selection of course materials, the content of a course, the content of a class discussion, or course assignments and projects, the dean of the appropriate school shall evaluate the report or complaint and conduct any follow-up that may be warranted.

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POLICY STATEMENT:

GOV-3104.1 – Policy

The University of Richmond prohibits discrimination against applicants, students, faculty, or staff on the basis of race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity, gender expression, disability, status as a veteran or any classification protected by local, state, or federal law.

The University also prohibits any form of harassment based on race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity, gender expression, disability, status as a veteran or any classification protected by local, state, or federal law. The University prohibits such harassment by all students, faculty and staff, and Affiliates of the University.

As a recipient of federal funds, the University complies with federal laws prohibiting discrimination, including Title IX of the Education Amendments of 1972 (Title IX). Title IX provides that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

The University is committed to preventing and responding to conduct that violates its non-discrimination policy. Any individual whose conduct violates this policy will be subject to remedial action in accordance with applicable University policies and procedures.

The University of Richmond shall make reasonable efforts to investigate and appropriately address reports of discrimination and harassment (as defined in this policy). Upon receipt of a complaint, report, or information about possible discrimination or harassment, the University will respond in an effort to stop such conduct, eliminate any hostile environment, take reasonable steps to prevent a recurrence of such conduct, and address any effect that such conduct may have on the larger University community.

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For questions about discrimination in education, including sex discrimination, please contact the University's Director of Compliance and Title IX Coordinator, Kristine Henderson Puryear Hall, Suite 101, (804) 289-8186, khender3@richmond.edu or the University's Senior Associate Vice President for Human Resources and Deputy Title IX Coordinator, Carl Sorensen, Weinstein Hall, (804) 289-8166, csorensen@richmond.edu. Further information about Title IX and sexual discrimination in education is available from the Assistant Secretary for Civil Rights, U.S. Department of Education, Office of Civil Rights, 400 Maryland Avenue, SW, Washington, DC, 20202-1100; 800-421-3481; OCR@ed.gov; or at the website: <http://www.ed.gov/ocr>.

GOV-3104.2 – Definitions

Discrimination: Discrimination is inequitable treatment by the University or its Affiliates based on an individual's Protected Status, as defined in this policy, that adversely affects a term or condition of an individual's employment or limits or denies an individual's opportunity to participate in or benefit from a University program or activity.

Harassment: Harassment is unwelcome conduct directed against an individual, based on that individual's Protected Status, as defined in this policy, that: (a) is sufficiently serious or pervasive such that it limits or denies an individual's employment, academic performance, or ability to participate in or benefit from University programs or activities; or (b) creates Hostile Environment, as defined in this policy. Sexual harassment is a form of harassment.

Hostile Environment: A hostile environment exists, for purposes of this policy, when unwelcome conduct based on Protected Status, as defined in this policy, or unwelcome conduct of a sexual nature is sufficiently serious, persistent, or pervasive such that it limits or denies an individual's employment, academic performance, or ability to participate in or benefit from University programs or activities. Conduct must be deemed serious, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the University will consider the totality of the relevant circumstances, including, but not limited to:

- The type, frequency, duration, and seriousness of the conduct;
- Whether the conduct was physically threatening;
- The extent to which the conduct was engaged in, by, or affected one or more individuals;
- The identity of, and relationship between, the Respondent(s) and Complainant(s)
- The effect of the conduct on the Complainant;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or ability to participate in or benefit from University programs or activities; and
- Whether the conduct implicates concerns related to academic freedom or protected speech.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently serious. The more serious 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.

Protected Status: For purposes of this policy, the term protected status means an individual's race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity, gender expression, disability, status as a veteran or any classification protected by local, state, or federal law.

Quid Pro Quo Harassment: Quid Pro Quo Harassment occurs if submission to unwanted sexual conduct is an implicit or explicit term or condition of an individual's employment, academic standing, or participation in

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any University programs and/ or activities, or is used as the basis for University decisions regarding the individual who is the subject of the unwanted sexual conduct.

Sexual Harassment: Sexual harassment is unwelcome conduct of a sexual nature that: (a) creates Hostile Environment, as defined in this policy; or (b) constitutes Quid Pro Quo Harassment, as defined in this policy.

Sexual Misconduct: As used in this policy, the term sexual misconduct includes, but is not limited to, non-consensual sexual intercourse, non-consensual sexual contact, sexual violence, sexual exploitation, sexual harassment, dating/relationship violence, domestic violence and stalking. See the University's [Policy Prohibiting Sexual Misconduct](#) for definitions of these terms.

GOV-3104.3– Reporting Concerns about Discrimination or Harassment

The University strongly encourages prompt reporting of incidents that may constitute discrimination or harassment.

Any member of the University community who believes that he or she may have been or knows someone who may have been discriminated against or subjected to harassment, including sexual harassment, in violation of the University's policy, should report that concern or those concerns as follows:

- *Students*: For matters involving students either as the subject of the alleged discrimination or harassment or as the person alleged to be discriminating or engaging in misconduct, contact:

Tracy Cassalia, Deputy Title IX Coordinator for Students, at (804) 289-8464, tcassali@richmond.edu.

For disability related concerns, contact:

Tina Cade, Ph.D., Associate Vice President for Student Development and Disability Coordinator at (804) 289-8032, tcade@richmond.edu

- *Faculty and Staff*: For cases involving faculty or staff as the subject of possible discrimination or harassment, please contact:

Carl Sorensen, Deputy Title IX Coordinator and Senior Associate Vice President of Human Resource at (804) 289-8166, csorensen@richmond.edu.

You may also contact:

Kristine Henderson, Director of Compliance and Title IX Coordinator at (804) 289-8186, khender3@richmond.edu.

While the University encourages people to report concerns regarding alleged discrimination directly to the individuals listed above, reports may also be made via the University's Ethics and Compliance Helpline. The Ethics and Compliance Helpline can be reached at (804) 287-1800 or by submitting an [online report](#). For more information on reporting sexual misconduct, see the University's [Policy Prohibiting Sexual Misconduct](#) or click [here](#). Unless designated as a confidential resource under the University's [Policy Prohibiting Sexual Misconduct](#), all University employees designated as Responsible Employees are required to report incidents of possible sex discrimination and sexual misconduct to the University's Title IX Coordinators. The definition of Responsible Employees can be found in the University's [Policy Prohibiting Sexual Misconduct](#).

The University has adopted a [policy](#) that prohibits retaliation or retribution, in any form, against an individual who reports, in good faith, an actual, potential or suspected violation of this policy.

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GOV-3104.4 – The Role of the Title IX Coordinators

The University's Title IX Coordinators are responsible for ensuring the University's compliance with Title IX of the Education Amendments of 1972. Additionally, the appropriate Title IX Coordinator will investigate any report or complaint of discrimination or harassment prohibited by this policy.

For more information on the role of Title IX Coordinators at the University, see the University's [Title IX Compliance Coordinators Policy](#).

GOV-3104.5 – Process for Addressing a Complaint of Discrimination, Harassment or Sexual Misconduct

The following process applies to complaints of discrimination, harassment or sexual misconduct involving University staff or faculty members as the Respondent. For information on the process for complaints involving students as the Respondent, see the University's [Policy Prohibiting Sexual Misconduct](#) and [Policy on Preventing and Responding to Discrimination Against Students](#).

The Senior Associate Vice President for Human Resources / Deputy Title IX Coordinator (the "AVP HR") or their designee will respond to information or reports of possible discrimination regardless of whether a formal complaint is made. The AVP HR or their designee will meet with the person making the complaint or on whose behalf the complaint or report is made (the "Complainant") to review the Complainant's concerns, to explain the University's procedures for handling a complaint of discrimination, to determine whether an investigation is warranted and to discuss with the Complainant the options for formal and informal resolution of the complaint.

If an investigation is warranted and the person accused of the discrimination is a student, the Deputy Title IX Coordinator for Students will conduct the investigation or shall engage the University's Title IX investigator to conduct the investigation. The investigation will be conducted in a prompt, objective, and thorough manner. The time period for such investigation may vary depending upon the complexity of the investigation. In the case of an allegation of sexual misconduct, the Deputy Title IX Coordinator for Students shall ensure that the investigation is conducted in accordance with the University's [Policy Prohibiting Sexual Misconduct](#).

If an investigation is warranted and the person accused of the discrimination is a member of the faculty or staff of the University, the AVP HR or their designee shall conduct the investigation. In the case of an allegation of sexual misconduct, the AVP HR or their designee shall ensure that the investigation is conducted in accordance with the University's [Policy Prohibiting Sexual Misconduct](#).

In general, the AVP HR or their designee will investigate promptly, objectively, and thoroughly. The time period for such investigation may vary depending upon the complexity of the investigation.

At the conclusion of the investigation, the AVP HR or their designee will provide a summary of the investigative findings to the Complainant and the accused individual (referred to as the "Respondent") simultaneously and in writing. The AVP HR or their designee will also discuss with the Complainant and the Respondent the options and process for informal and formal resolution of the complaint.

The Process for Informal Resolution of a Complaint.

A Complainant may, at their option, seek to resolve the matter informally, but will not be required to pursue informal resolution before filing a formal complaint. Additionally, a Complainant may terminate the informal resolution process at any time and initiate a formal resolution process.

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Informal resolution shall not be used for allegations of sexual violence, dating/relationship violence, domestic violence, or stalking, as defined in the University’s Policy Prohibiting Sexual Misconduct.

Purpose of Informal Resolution.

Informal resolution provides an opportunity for the Complainant to discuss their complaint with the Respondent and to communicate their feelings and perceptions regarding the incident, the impact of the incident, and their wishes and expectations regarding protection in the future. The Respondent will have an opportunity to respond.

Informal Discussion with Human Resources Staff Present

A Complainant may wish to discuss their complaint with the Respondent in a discussion facilitated by a member of the University’s Human Resources office. In such case, the Complainant should notify the AVP HR or their desire to pursue this option. The AVP HR will make an independent assessment as to whether informal resolution is appropriate, given the nature of the allegation, and, if it is, will coordinate such a discussion. The Respondent will be encouraged, but not required, to participate in the informal resolution.

If, during the course of the informal resolution, the Respondent elects to take responsibility for the alleged conduct, the informal resolution process will be concluded and the Human Resources staff member will propose a sanction. If both the Complainant and the Respondent agree to such proposed sanction, the complaint will be resolved without any further rights to a hearing or appeal by either party.

If the Respondent does not take responsibility for the alleged conduct, or either the Complainant or the Respondent object to such proposed sanction, the matter will be handled in accordance with the formal resolution process outlined below.

The University, the Complainant, or the Respondent may, at any time prior to the conclusion of the informal resolution, elect to end such proceedings and initiate formal resolution instead. In such cases, statements or disclosures made by the parties in the course of the informal resolution may be considered in the subsequent formal resolution.

A. The Process for Formal Resolution of a Complaint

Filing a Formal Complaint

A Complainant has the option to pursue a formal resolution of their complaint regarding a possible violation of this policy. As stated above, the AVP HR may require that the complaint be resolved through formal rather than informal resolution. Additionally, as indicated above, a formal complaint is not required to initiate an investigation of a report or other information indicating a possible violation of this policy.

A Complainant may file a formal complaint with the AVP HR. Formal complaints alleging violation of this policy should be filed in a timely manner, ordinarily within thirty (30) days of the offending conduct, or shortly after the conclusion of the Informal Resolution process, usually within ten (10) working days. However, no complaint will be dismissed solely on the basis of the time it was filed.

The formal complaint must be in writing and must include the following:

- A statement that the Complainant intends for the document submitted be treated as a formal complaint;
- The date or approximate date on which the alleged behavior occurred;
- The identity of the person(s) allegedly responsible;
- A specific description for the conduct or behavior upon which the complaint is based; and

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- The names of all witnesses to the conduct or behavior at issue (if any) and any evidence supporting the complaint, including attaching any tangible evidence or documentation.

The formal complaint must be signed and dated by the Complainant.

Confidentiality

For cases in which the Complainant wishes to keep their name, the name of the Respondent, and other information confidential or decides not to file a formal complaint under this policy, the AVP HR, or their designee will gather as much information as reasonably possible about the alleged discrimination or harassment.

The University will respond to this information as it deems necessary to protect the campus community, while seeking to respect the Complainant's request for confidentiality. The AVP HR will inform the Complainant that keeping the Complainant's name confidential or declining to identify the accused individual may limit the University's ability to thoroughly investigate and respond to the alleged violation of this policy. The AVP HR will also inform the Complainant that in some cases it may not be possible to ensure confidentiality.

For information on how requests for Confidentiality are handled in cases involving potential sexual misconduct, see the [University's Policy Prohibiting Sexual Misconduct](#).

Interim Remedial Action

After gathering preliminary information from the Complainant and considering any request by the Complainant for confidentiality, the AVP HR, or their designee, will determine whether interim remedial measures are reasonable and appropriate during the pendency of an investigation or complaint process to protect the Complainant and/or the campus. Examples of such interim remedial measures include, but are not limited to:

- Issuing a “no contact order” or a “no trespass order;”
- Allowing the Complainant to take a paid leave of absence pending completion of the formal resolution process;
- Placing the accused individual on a paid or unpaid leave of absence pending completion of the formal resolution process; and
- Working with the supervisor for the Complainant and/or accused individual to prevent or address retaliation.

For a detailed description of other interim and long-term remedial measures see the [University's Policy Prohibiting Sexual Misconduct](#).

Investigation

If an investigation is warranted and the person accused of the discrimination, harassment or sexual misconduct is a member of the faculty or staff of the University, the AVP HR, or their designee, shall conduct the investigation or shall engage the University's Title IX investigator to conduct the investigation. In the case of a faculty member, the AVP HR or their designee shall coordinate such investigation with the dean of the faculty member's school. If the accused individual is the dean, the AVP HR or their designee shall coordinate such investigation with the Provost and Executive Vice President for Academic Affairs.

The AVP HR or their designee will investigate all reports of possible discrimination or harassment about which he or she becomes aware, regardless of the source of the report or information. The nature and extent of

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the investigation will vary based on the specific circumstances of the incident, but in all cases the investigation will be prompt, fair and impartial.

As part of that investigation, the AVP HR or their designee will interview the Complainant and the Respondent. The AVP HR or their designee will also interview other people who may have information about the incident and gather relevant information or documents.

At the conclusion of the investigation, the AVP HR or their designee will share a summary of the investigative findings with the Complainant and the Respondent, and other appropriate officials at the University. The AVP HR or their designee will also determine whether the incident should be referred for further evaluation of potential disciplinary charges or other remedial action. The AVP HR or their designee may consult with other appropriate University officials for evaluation of potential disciplinary action or remedial action under applicable University policies and procedures.

If the AVP HR determines that there is not enough information to warrant an evaluation of potential disciplinary action or remedial action, he or she will close the investigation. The investigation may be reopened when and if additional evidence becomes available. Additionally, even if the AVP HR determines that there is not enough information to warrant an evaluation of potential disciplinary action or remedial action, he or she will evaluate and, where appropriate implement other types of interim or longer term remedial measures for the Complainant, the Respondent, witnesses, or other involved individuals, such as issue or continuing a “no contact” order, implementing or continuing other workplace accommodations, or facilitating access to counseling or other support services.

Additionally, in collaboration with other University officials, the AVP HR will consider and, where appropriate, implement remedial actions targeted at the broader campus community, such as increased monitoring or security at the location where the conduct occurred, creating additional education or training, and revising and publicizing the University’s policies and resources.

Advisors

In cases involving alleged sexual violence, domestic violence, dating violence, or stalking, all as defined in the University’s [Policy Prohibiting Sexual Misconduct](#), the Complainant and the Respondent each have the right to the services of an advisor of their choice. The advisor may be an attorney. The Complainant and the Respondent may have their advisors attend any appeal proceeding, as described herein, and any other related meeting, hearing, or investigative interviews.

In all other cases, the Complainant and Respondent may have an advisor who is an employee of the University, present at any appeal proceeding described herein.

The role of the advisor is to provide support, guidance, and advice to the Complainant or Respondent. Other than providing advice and guidance directly to the Complainant or Respondent, advisors are not permitted to participate in the appeal proceeding, other related meetings or interviews, including, but not limited to making oral arguments or statements, questioning witnesses, or raising objections during a proceeding. An advisor may request a brief recess of the proceedings to provide advice to the Complainant or Respondent.

Remedies

Staff Members

If the accused individual is a staff member and the AVP HR, or their designee, determines that there is sufficient evidence to support a finding that the accused individual violated this policy or the University’s [Policy Prohibiting Sexual Misconduct](#), then the AVP HR, or their designee, shall, after consultation with the

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accused individual's supervisor, determine the appropriate disciplinary and/or remedial action and shall notify the Respondent of the outcome in accordance with the University's [Progressive Discipline Policy](#). In cases where there is a finding of sex discrimination or sexual misconduct, the AVP HR, or their designee shall also notify the Complainant of the sanction(s) that directly relate to the Complainant.

1. Faculty Members

If the accused individual is a faculty member, the AVP HR, or their designee, shall refer their factual findings and assessment regarding whether a violation of this policy has occurred to the dean of the faculty member's school and/or Provost, as appropriate. The dean of the appropriate school shall determine the appropriate remedial action. If the accused individual is the dean, then the report shall be made to the Provost and Executive Vice President for Academic Affairs. Any further disciplinary action shall be governed by the provisions of the Faculty Handbook and other applicable policies and procedures. In cases where there is a finding of sex discrimination or sexual misconduct, the Complainant shall be notified of the outcome of the disciplinary procedures and any sanctions that relate directly to the Complainant.

Appeal of Findings and/or Remedies

1. Staff Members.

The Respondent may appeal findings of the investigation or the recommended remedial action. In the case of sex discrimination or sexual misconduct, the Complainant may also appeal the findings of the investigation or the recommended remedial action.

A Respondent or, where applicable, a Complainant, may only appeal a finding or recommended remedial action on the following grounds:

- A witness in the investigation lied and such witness' account was both material and adverse to the appealing party;
- New evidence of a material nature is available that was not and could not have been available at the time of the investigation;
- The appealing party was denied their rights, as specifically set forth in University policies and procedures, during the investigation; or
- The remedial action imposed on the Respondent is disproportionate to the findings.

A Complainant or Respondent wishing to appeal the findings of an investigation or the remedial action imposed against the Respondent, must file a written appeal with the AVP HR. The appeal must be filed within ten (10) working days from the date the Complainant and Respondent were notified of the findings and sanctions.

The appeal must include the following:

- The basis for the appeal, which must be detailed and consistent with the grounds for appeal set forth above; and
- Any factual information supporting the basis for the appeal.

The appeal will be considered by a grievance appeal committee of three or more persons to be appointed by the Executive Vice President and Chief Operating Officer of the University. In cases involving sex discrimination or sexual misconduct, the Executive Vice President and Chief Operating

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Officer shall select three members of the University Hearing Board pool to serve on the grievance committee. The Respondent and, where applicable, the Complainant, has the right to petition that any member of the grievance committee be removed on the basis of bias or conflict of interest. The Executive Vice President and Chief Operating Officer shall respond to such request, in writing.

The grievance appeal committee will meet with the Complainant and/or Respondent at a mutually convenient time.

The committee may also elect to meet separately with the AVP/HR or their designee, the Respondent or the Complainant's supervisor and any other person(s) it deems necessary for a full review of the facts. The committee will make a recommendation to the Executive Vice President for Business and Chief Operating Officer. The decision of the Executive Vice President and Chief Operating Officer to approve, disapprove, or modify the recommendation shall be final.

The decision on a request for an appeal shall be made within thirty (30) days of the receipt of the appeal, unless there is good cause for a reasonable extension of this time period. In which event, the AVP HR or their designee shall provide written notice to the Respondent, and, where applicable, the Complainant setting forth the reason for the extension.

Upon reaching a decision on a request for an appeal, the Executive Vice President and Chief Operating Officer shall provide written notification of their decision to the Respondent, the Complainant (if applicable), and to the AVP HR.

2. Faculty Members

The appeal process for faculty members shall be conducted in accordance with the provisions of the Faculty Handbook and other applicable faculty policies and procedures.

B. Retaliation is Prohibited

All members of the University community, including faculty, staff and students, who have a good faith concern regarding possible violations of this policy are expected to report such concerns to the Title IX Coordinators.

The University prohibits retaliation or retribution, in any form, against an individual who reports, in good faith, an actual, potential or suspected violation of this policy. As used in this policy, reporting "in good faith" means the individual making the report has a reasonable basis to believe that there has been or may have been a violation of this policy. Individuals who make frivolous or false reports shall not be deemed to be acting in good faith.

Anyone who engages in or attempts to engage in retaliation or retribution against an individual who reports, in good faith, an actual, potential or suspected violation of this policy shall be subject to discipline in accordance with the policies and procedures of the University.

RELATED POLICIES:

GOV-3101 - Policy Prohibiting Discrimination

GOV-3102 - Policy Prohibiting Sexual Misconduct

GOV-3103 - Policy on Preventing and Responding to Discrimination and Harassment Against Students
Standards of Student Conduct

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POLICY BACKGROUND:

The October 2015 version of this policy was reviewed by the President’s Cabinet and the Academic Cabinet. The 2018 version of this policy updates contact names and titles, includes a revised definition of “harassment” and adds definitions of “discrimination,” “hostile environment,” “protected status,” “quid pro quo harassment,” and “sexual harassment.” The definitions of “harassment,” “hostile environment,” “quid pro quo harassment,” and “sexual harassment” were shared with the President’s Advisory Committee for Sexual Violence Prevention and Response in April 2018.

POLICY CONTACTS:

Director of Compliance and Title IX Coordinator