BT.30.I.001.3
TITLE IX POLICY FOR ALL STUDENTS AND UNIVERSITY PERSONNEL

Policy

MAINTAINED BY: Student Affairs Committee

APPROVED: October 17, 2018

PURPOSE

The Title IX of the Education Amendments of 1972 enacted by Congress prohibits sexual discrimination in any education program or activity receiving any type of federal financial aid. Title IX requires colleges and universities to provide enhanced, improved, sustained and consistent response to sexual violence on campus and if a college or university if found to be out of compliance with federal regulation, each violation can be assessed a fine of up to $35,000 if the Office of Civil Rights (OCR) determine that the institution did not adequately respond to reports of sexual violence. The Campus Sexual Violence Elimination (SAVE) Act adds to what must be reported annually on the Clery report, expanding the definition of sexual violence to include domestic violence and stalking, mandating that colleges and universities provide prevention, bystander awareness training, clear policies and a clear process for reporting. California standard SB 967 was signed into law on September 28, 2014 changing the "Yes Means Yes" standard from requiring having to say "No" to sexual activity to requiring an affirmative consent and requiring colleges and universities to set this as the standard for conduct.

POLICY STATEMENT

The Title IX of the Education Amendments of 1972 enacted by Congress prohibits sexual discrimination in any education program or activity receiving any type of federal financial aid. Title IX requires colleges and universities to provide enhanced, improved, sustained and consistent response to sexual violence on campus and if a college or university if found to be out of compliance with federal regulation, each violation can be assessed a fine of up to $35,000 if the Office of Civil Rights (OCR) determine that the institution did not adequately respond to reports of sexual violence. The Campus Sexual Violence Elimination (SAVE) Act adds to what must be reported annually on the Clery report, expanding the definition of sexual violence to include domestic violence and stalking, mandating that colleges and universities provide prevention, bystander awareness training, clear policies and a clear process for reporting. California standard SB 967 was signed into law on September 28, 2014 changing the "Yes Means Yes" standard from requiring having to say "No" to sexual activity to requiring an affirmative consent and requiring colleges and universities to set this as the standard for conduct.

REVIEW

The Board of Trustees maintains the right to revise this policy at any time. Any recommendation for changes and/or additions to this policy should be presented to the Vice President for Student Affairs for review and discussion with the University President.

APPROVAL

Upon review by the University President, final recommendation for changes and/or additions to this policy will be presented to the Board of Trustee for approval, via the Student Affairs Committee. The Board of Trustees reserves the right to submit this policy to legal counsel for review. All authority for adoption of this policy is set forth in the minutes of the Board of Trustees.

Policy

MAINTAINED BY: Student Affairs Committee

APPROVED: October 17, 2018

SCOPE

This policy applies to any person on Vanguard's campus including the Board of Trustees, administration, faculty, staff, students, visitors and guests.

DEFINITIONS

TITLE IX
Title IX is a clause in the 1972 Education Act stating that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance."

CLERY ACT
The Clery Act is a federal statute requiring all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.

VAWA
Violence Against Women Act is a broad-based law created in response to increasing violence against women in America. It includes a wide range of provisions from funding of domestic-violence programs to new civil rights remedies for women who were victims of gender-based attacks.

ADA
The Americans with Disabilities Act prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation.

REPORTING PARTY
A person bringing a formal complaint or accusation against another or group of persons.

RESPONDING PARTY
A person or persons responding to a formal complaint or accusation.

COMPONENTS OF THE POLICY

(not applicable)

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POLICY AND PROCEDURES

Equal Opportunity, Harassment and Nondiscrimination

APPLICABLE SCOPE

Vanguard University affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the Vanguard University's Equity Grievance Process (EGP), as detailed below. When the responding party is a member of the Vanguard University community, the EGP is applicable regardless of the status of the reporting party who may be a member or non-member of the campus community, including students, student organizations, faculty, administrators, staff, guests, visitors, campers, etc.

TITLE IX COORDINATOR

The Title IX Coordinator[1] serves as the ADA/504 Grievance Coordinator and oversees implementation of the University's Affirmative Action and Equal Opportunity plan, and the University's policy on equal opportunity, harassment and nondiscrimination. The Title IX Coordinator chairs the Title IX Committee and acts with independence and authority free of conflicts of interest. To raise any concern involving a conflict of interest by the Title IX Coordinator, contact the University President at OfficeofthePresident@vanguard.edu. To raise concerns regarding a potential conflict of interest with any other administrator involved in the EGP, please contact the Title IX Coordinator.

Inquiries about this policy and procedure may be made internally to:
Elizabeth Banks
Title IX Coordinator
55 Fair Drive, Costa Mesa, CA 92626
(714) 662-5271
Email: VUtitleIX@vanguard.edu

Joseph Baffa
Title IX Deputy
55 Fair Drive, Costa Mesa, CA 92626
(714) 662-5285

Stephanie D'Auria
Title IX Deputy
55 Fair Drive, Costa Mesa, CA 92626

Ryan Moyher
Title IX Deputy
55 Fair Drive, Costa Mesa, CA 92626
(714) 662-5253

[1] Note that throughout this document, the term "Title IX Coordinator" refers to the Title IX Coordinator or their designee.

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: http://www.ed.gov/ocr

Equal Employment Opportunity Commission (EEOC)
Contact: http://www.eeoc.gov/contact/

Los Angeles District Office
Roybal Federal Building
255 East Temple St., 4th Floor
Los Angeles, CA 90012
(800) 669-4000

REPORTING DISCRIMINATION
Reports of discrimination, harassment and/or retaliation may be made using any of the following options. There is no time limitation on the filing of grievances. However, if the responding party is no longer subject to the University's jurisdiction, the ability to investigate, respond and provide remedies may be more limited:

1) Report directly to the Title IX Coordinator or deputies at (714) 556-3610 or VUTitleIX@vanguard.edu;
2) Report online, using the reporting form posted at www.vanguard.edu/title-ix-reporting and/or
3) Report using the sexual harassment hotline (714) 957-2737.

All reports are acted upon promptly while every effort is made by the University to preserve the privacy of reports. Such reports may also be anonymous. Anonymous reports will be investigated to determine if remedies can be provided. Additionally, all employees of the University are designated as mandated reporters and will share a report with the Title IX Coordinator promptly. Confidentiality and mandated reporting is addressed more specifically below. Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the University President OfficeofthePresident@vanguard.edu.

JURISDICTION
This policy applies to behaviors that take place on the campus, at University-sponsored events and may also apply off-campus and to actions online when the Title IX Coordinator determines that the off-campus conduct affects a substantial University interest. A substantial University interest is defined to include:

a) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state or federal law;

b) Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;

c) Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or

d) Any situation that is detrimental to the educational interests of the University.

VIOLATION OF LAW AND UNIVERSITY DISCIPLINE

The University reserves the right to review actions taken by civil authorities regarding any student or student organization. University disciplinary proceedings may be instituted against a student charged with violation of a law and may, at the sole discretion of the University, be carried out prior to, concurrently, or following civil or criminal proceedings. Violations occurring during non-enrolled periods may be considered by the University in determining whether a student will be eligible to continue his/her enrollment in the University and if so, under what conditions.

1. UNIVERSITY POLICY ON NONDISCRIMINATION

Vanguard University adheres to all federal and state civil rights laws banning discrimination in private institutions of higher education. Vanguard will not discriminate against any employee, applicant for employment, student or applicant for admission on the basis of race, hearing status, personal appearance, color, sex, pregnancy, political affiliation, source of income, place of business, residence, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability, age, family responsibilities, gender, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status or any other protected category under applicable local, state or federal law, including protections for those opposing discrimination or participating in any grievance process on campus or within the Equal Employment Opportunity Commission or other human rights agencies.

Regarding employment and related matters, on a Federal level, Title VII of the Civil Rights Act of 1964 allows churches and religious organizations to prefer co-religionists in their employment decisions. In other words, the portions of Title VII that apply to hiring, promotion and separation do not apply to ". . . a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities." This preference exception also allows Vanguard to maintain and enforce community standards tied to our Religious affiliation for purposes of discontinuing employment of faculty and staff who have expressly violated those standards. In addition, California's Fair Employment and Housing Act (FEHA) contains an exemption for non-profit religious associations or corporations under Government Code Sections 12926(d) and 12940(j)(4)(B) whereby Vanguard is not subject to laws relative to aforementioned employment matters. Furthermore, under the Free Exercise Clause of the First Amendment to the Constitution of the United States and various relevant statutes, Vanguard University may lawfully discriminate on the basis of religious and confessional criteria in employment and educational practices, including admission to the University.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community, guest or visitor who acts to deny, deprive or limit the educational, employment, residential and/or social access, benefits and/or opportunities of any member of the campus community on the basis of their actual or perceived membership in the protected classes listed above is in violation of the University policy on nondiscrimination. When brought to the attention of the University, any such discrimination will be appropriately remedied by the University according to the procedures outlined below.

2. UNIVERSITY POLICY ON ACCOMMODATION OF DISABILITIES

Vanguard University is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if he or she has a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the institution whether qualified or not. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking or caring for oneself.

The Title IX Coordinator has been designated as the ADA/504 Grievance Coordinator responsible for coordinating efforts to comply with these disability laws, including investigation of any grievance alleging noncompliance.

A. STUDENTS WITH DISABILITIES

Vanguard University is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs and activities of the University.

All accommodations are made on a case-by-case basis. A student requesting any accommodation should first contact the Director of Disability Services who coordinates services for students with disabilities. The Director of Disability Services reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate to the student's particular needs and academic programs.

Director of Disability Services
Phone: (714) 619-6483
Email: DisabilityServices@vanguard.edu

504 Grievance Coordinator
Phone: (714) 619-6482
Email: VUtitleIX@vanguard.edu

B. EMPLOYEES WITH DISABILITIES

Pursuant to the ADA, Vanguard University will provide reasonable accommodation(s) to all qualified employees with known disabilities, where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive or would result in undue hardship. An employee with a disability is responsible for requesting an accommodation in writing to Senior Director of Human Resources and provide appropriate documentation. The Senior Director of Human Resources will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties.

3. UNIVERSITY POLICY ON DISCRIMINATORY HARASSMENT

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. Vanguard University's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under University policy.

A. DISCRIMINATORY AND BIAS-RELATED HARASSMENT

Harassment constitutes a form of discrimination that is prohibited by Vanguard University policy as well as the law. Vanguard University condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by policy or law. Vanguard University will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, Vanguard University may also impose sanctions on the harasser through application of the Equity Resolution Process. Vanguard University's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community. A hostile environment may be created by harassing verbal, written, graphic, or physical conduct that is severe or persistent/pervasive, and objectively offensive such that it interferes with, limits or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities[2]. The University reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature not on the basis of a protected status. Addressing such behaviors may not result in the imposition of discipline under University policy, but will be addressed through respectful confrontation, remedial actions, education and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, employees should contact the Senior Director of Human Resources and students should contact the Assistant Director of Residence Life.

[2] This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: Department of Education Office For Civil Rights, Racial Incidents And Harassment Against Students At Educational Institutions Investigative Guidance. The document is available at: http://www.ed.gov/about/offices/list/ocr/docs/race394.html.

B. SEXUAL HARASSMENT

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC) and the State of California regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. Vanguard University has adopted the following definition of sexual harassment, in order to address the special environment of an academic community, which consists not only of employer and employees, but of students as well.

Sexual harassment is:

- unwelcome, sexual, sex-based and/or gender-based, verbal, written, online and/or physical conduct[3].
- Anyone experiencing sexual harassment in any University program is encouraged to report it immediately to the Title IX Coordinator or a deputy. Remedies, education and/or training will be provided in response.
- Sexual harassment may be disciplined when it takes the form of quid pro quo harassment, retaliatory harassment and/or creates a hostile environment.

A hostile environment is created when sexual harassment is:

- Severe, or
- Sufficiently persistent or pervasive, and
- objectively offensive, such that it:
- unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the University's educational, employment social and/or residential program.

[3] Some examples of possible Sexual Harassment include:

- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- Explicit sexual pictures are displayed in a professor's office or on the exterior of a residence hall door.
- Two supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.
- Male students take to calling a particular brunette student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, "sexual relations" and Weight Watchers.
- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

Quid Pro Quo Sexual Harassment:
Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational development or performance.

POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS

All Vanguard University Faculty, Staff and Volunteers are expected to perform their responsibilities in a manner that is consistent with the mission and values of the University. Vanguard University recognizes that its Employees may develop personal relationships in the course of their employment. That said, consensual romantic relationships can lead to conflicts of interest and become potentially exploitative when they involve colleagues in the workplace or those teaching or in mentoring relationships. In an effort to prevent favoritism, morale problems, disputes or misunderstandings, potential sexual harassment claims, and to remain true and consistent with the University's Mission and Values, romantic relationships are not permitted between University Faculty, Administration, Staff, or volunteers (regardless of their level position at the university) and current traditional undergraduate students; or between supervisors and their direct reports or those with whom they have actual or perceived control or organizational influence due to their leadership role. NOTE: In cases where a student in the School for Graduate and Professional Students (SGPS) program is dating a staff or faculty member, that staff or faculty member cannot be in a position of authority or control over that student, i.e. cannot teach them in the classroom, or supervise them should they have a part– time job on campus.

Romantic relationships may include but are not limited to a pattern of exclusivity between two individuals, physical touching that implies romantic intention or desire, actual physical intimacy, or written communication or other action that implies or directly shows a sign of romantic interest. Relationships between University Faculty and students and, Staff and students should be transparent and only a friendship or mentoring relationship.

A. SEXUAL MISCONDUCT

State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, Vanguard University has defined categories of sex/gender discrimination as sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, Vanguard University considers Non-Consensual Sexual Intercourse violations to be the most serious of these offenses, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, Vanguard University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other sex/gender-based offenses, including intimate partner (dating and/or domestic) violence, non-consensual sexual contact and/or stalking based on the facts and circumstances of the particular allegation. Acts of sexual misconduct

may be committed by any person upon any other person, regardless of the sex, sexual orientation and/or gender identity of those involved. Violations include:

i. Sexual Harassment (as defined in section b above)

ii. Non-Consensual Sexual Intercourse

Defined as:

- any sexual intercourse
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force[4]

Sexual intercourse includes:

- Vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

iii. Non-Consensual Sexual Contact[5]

Defined as:

- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual touching includes:

- Intentional contact with the breasts, groin, or genitals, mouth or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
- Any other bodily contact in a sexual manner.

[4] The use of force in non-consensual sexual intercourse and contact-based incidents is not "worse" than the subjective experience of violation of someone who is a victim of sexual intercourse or sexual contact without consent. However, the use of physical force constitutes a stand-alone non-sexual offense as well, as it is our expectation that those who use physical force (restrict, battery, etc.) would face not just the sexual misconduct allegation, but allegations under the code for the additional assaultive behavior.

[5] The State of California defines sexual assault as touching the intimate part of another person against that person's will for the specific purpose of either sexual arousal, sexual gratification or sexual abuse, which is applicable to criminal prosecutions for sexual assault in California, but may differ from the definition used on campus to address policy violations.

iv. Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and that behavior does not otherwise fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed).
- Invasion of sexual privacy.
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
- Prostitution.
- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD) or infection (STI) without informing the other person of the infection.
- Administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent (assuming the act is not completed).
- Exposing one's genitals in non-consensual circumstances.
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

v. Force and Consent[6]

Force: Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent ("Have sex with me or I'll hit you." "Okay, don't hit me, I'll do what you want.").

Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

NOTE: Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

[6] The State of California defines consent as positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely or voluntarily and have knowledge of the nature of the act or transaction involved, which is applicable to criminal prosecutions for sex offenses in California but may differ from the definition used on campus to address policy violations.

Consent[7] : Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent can be withdrawn once given, as long as the withdrawal is clearly communicated.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party.

[7] Examples of lack of consent:

1. Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00pm until 3:00am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being “a prude.” Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a "hand job" (hand to genital contact). Amanda would never had done it but for Bill's incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left. Bill is responsible for violating the university Non-Consensual Sexual Contact policy. It is likely that campus decision-makers would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not valid when forced. Sex without consent is sexual misconduct.

2. Jiang is a junior at the university. Beth is a sophomore. Jiang comes to Beth’s residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a baby-sitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? Jiang would be held responsible in this scenario for Non Consensual Sexual Intercourse. It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Jiang had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, it is important to be as clear as possible as to whether or not sexual contact is desired, and to be aware that for psychological reasons, or because of alcohol or drug use, one’s partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

In California, a minor (meaning a person under the age of 18 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 18 years old may be a crime, and a potential violation of this policy, even if the minor wanted to engage in the act.

4. OTHER CIVIL RIGHTS OFFENSES, WHEN THE ACT IS BASED UPON THE STATUS OF A PROTECTED CLASS

In addition to the forms of sexual misconduct described above, the following behaviors are also prohibited as forms of discrimination when the act is based upon the reporting party's actual or perceived membership in a protected class.

- Threatening or causing physical harm, extreme verbal abuse or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive, limit or deny other members of the community of educational or employment access, benefits or opportunities;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the University community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity;
- Bullying, defined as
  - repeated and/or severe
  - aggressive behavior
  - likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally
  - That is not speech or conduct otherwise protected by the 1st Amendment;
- Intimate Partner Violence[8], defined as violence or abuse between those in an intimate interaction and/or relationship to each other[9];

[8] Examples:

- A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This physical assault based in jealousy is a violation of the Intimate Partner Violence policy.
- An ex-girlfriend shames her female partner, threatening to out her as a lesbian if she doesn't give the ex another chance. Psychological abuse is a form of Intimate Partner Violence.
- Married employees are witnessed in the parking garage, with one partner slapping and scratching the other in the midst of an argument.

[9] The State of California defines domestic violence as when a person's current or former spouse, boyfriend/girlfriend, someone who have a child in common with, someone you live(d) with or someone you are related to through blood or marriage does one of the following: causes or attempts to cause the person physically injury, assaults the person; makes the person or another person fear they are in immediate danger of

- Stalking[10]
  - Stalking 1:
    - A course of conduct
    - Directed at a specific person
    - On the basis of actual or perceived membership in a protected class
    - That is unwelcome, AND
    - Would cause a reasonable person to feel fear
  - Stalking 2:
    - Repetitive and Menacing
    - Pursuit, following, harassing and/or interfering with the peace and/or safety of another

- Any other University policies may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender.

Sanctions for the above-listed "Other Civil Rights Behaviors" behaviors range from reprimand through expulsion (students) or termination of employment.

5. RETALIATION

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing an allegation or for assisting in providing information relevant to a claim of harassment is a serious violation of University policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated.

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serious, physical injury, molests attacks, strikes, batters (uses force), or stalks the person; threatens or harasses the person-either in person or through phone calls, email, etc.; destroys personal property; and/or disturbs the peace,, which is applicable to criminal prosecutions for domestic violence in California, but may differ from the definition used on campus to address policy violations.

[10] Examples of Stalking

- A student repeatedly shows up at another student's on-campus residence, always notifying the front desk attendant that they are there to see the resident. Upon a call to the resident, the student informs residence hall staff that this visitor is uninvited and continuously attempts to see them, even so far as waiting for them outside of classes and showing up to their on-campus place of employment requesting that they go out on a date together (Stalking 1).
- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate if the gift deliveries stop. The student then started leaving notes of love and gratitude on the graduate assistant's car, both on-campus and at home. Asked again to stop, the student stated by email: "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything necessary to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. We are meant to be together" (Stalking 2).

Vanguard University is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation[11].

6. REMEDIAL ACTION

Upon notice of alleged discrimination, Vanguard University will implement initial remedial, responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact orders, providing counseling and/or medial services, academic support, living arrangement adjustments, transportation accommodations, visa and immigration assistance, student financial aid counseling, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources. Vanguard University will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor upon finding that they have engaged in harassing or discriminatory behavior or retaliation. The University will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the University's ability to provide the accommodations or protective measures.

Procedures for handling reported incidents are fully described below

7. CONFIDENTIALITY AND REPORTING OF OFFENSES UNDER THIS POLICY

All Vanguard University employees (faculty, staff, administrators), as mandatory reports, are required to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality – meaning they are not required to report actual or suspected discrimination or harassment to appropriate university officials – thereby offering options and advice without any obligation to inform an outside agency or campus official unless a reporting party has requested information to be shared. Other resources exist for reporting parties to report crimes and policy violations and these resources will take action when an incident is reported to them. The following describes the reporting options at Vanguard University:

CONFIDENTIAL REPORTING

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- On-campus counselors working in the counseling center
- On-campus health service providers
- The Dean of Spiritual Formation
- Employee Assistance Program (for employees)

[11] Examples of Retaliation:

- Student-athlete A files an allegation against a coach for sexual harassment; the coach subsequently cuts the student-athlete's playing time in half without a legitimate justification
- A faculty member reports or complains of gender inequity in pay within her department; the Department Chair then revokes his prior approval allowing her to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual misconduct hearing against the responding individual – also a member of Organization A; the student is subsequently removed as a member of Organization A because he participated in the hearing.

- Off-campus (non-employees):
  - Licensed professional counselors
  - Local rape crisis counselors
  - Domestic violence resources
  - Local or state assistance agencies
  - Clergy/Chaplains

All of the above-listed individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. Campus counselors are available to help free of charge and can be seen on an emergency basis during normal business hours. University employees listed above will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient or parishioner.

FORMAL REPORTING OPTIONS

All University employees have a duty to report, unless they fall under the "Confidential Reporting" section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared with the Title IX Coordinator. Employees must promptly share all details of the reports they receive. Generally, climate surveys, classroom writing assignments or discussions, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the reporting party clearly indicates that they wish a report to be made. Remedial actions may result from such disclosures without formal University action.

If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. Note that the University's ability to remedy and respond to a reported incident may be limited if the reporting party does not want the institution to proceed with an investigation and/or the Equity Resolution Process.

In cases indicating pattern, predation, threat, weapons and/or violence, the University will likely be unable to honor a request for confidentiality. In cases where the reporting party requests confidentiality and the circumstances allow the University to honor that request, the University will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have allegations taken seriously by Vanguard University when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy. Additionally, anonymous reports can be made by victims and/or third parties using the

online reporting form posted at www.vanguard.edu/title-ix-reporting or by phone or online, using the Lighthouse Services toll free number (855-636-0005) and/or website access (https://www.vanguard.edu/reporting-hotline). Confidential reporting is available 24 hours a day, 7 days a week for use by staff, faculty, and students. Note that these anonymous reports may prompt a need for the institution to investigate.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex/gender harassment or discrimination of which they become aware is a violation of University policy and can be subject to disciplinary action for failure to comply.

8. FEDERAL TIMELY WARNING OBLIGATIONS

Parties reporting sexual misconduct should be aware that under the Clery Act, University administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The University will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

9. FALSE ALLEGATIONS

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

10. AMNESTY FOR REPORTING PARTY AND WITNESSES

The University community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to University officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that reporting parties choose to report to university officials, and that witnesses come forward to share what they know. To encourage reporting, Vanguard University pursues a policy of offering reporting parties and witnesses amnesty from minor policy violations related to the incident.

11. PARENTAL NOTIFICATION (allegations involving students)

The University reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The university may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, the University will contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The University also reserves the right to designate which university officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act.

12. FEDERAL STATISTICAL REPORTING OBLIGATIONS

Certain campus officials – those deemed Campus Security Authorities - have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus law

enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student affairs/student conduct, campus public safety, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

EQUITY GRIEVANCE PROCESS FOR RESOLVING GRIEVANCES OF HARASSMENT, SEXUAL MISCONDUCT AND OTHER FORMS OF DISCRIMINATION

Vanguard University will act on any formal or informal allegation or notice of violation of the policy on Equal Opportunity, Harassment and Nondiscrimination, that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee.

The procedures described below apply to all allegations of harassment or discrimination on the basis of protected class involving students, staff or faculty members. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g.: vandalism, physical abuse of another, etc.). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty and staff handbooks.

OVERVIEW
Upon notice to the Title IX Coordinator, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the University will initiate a confidential investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determines whether the nondiscrimination policy has been violated. If so, the University will promptly implement effective remedies designed to end the discrimination, prevent its recurrence and address its effects.

1. EQUITY GRIEVANCE PANEL (EGP)
Allegations under the policy on nondiscrimination are resolved using the EGP. Members of the EGP pool are announced in an annual distribution of this policy to campus, prospective students, their parents and prospective employees. The list of members and a description of the panel can be found at https://www.vanguard.edu/resources/title-ix Members of the EGP pool are trained in all aspects of the resolution process, and can serve in any of the following roles, at the direction of the Title IX Coordinator:

- To provide sensitive intake for and initial advise pertaining to allegations
- To serve in a mediation role in conflict resolution

- To investigate allegations
- To act as process advisors to those involved in Equity Grievances Process
- To serve on appeal panels for grievances

EGP pool members also recommend proactive policies and serve in an educative role for the community. The President, in consultation with the Title IX Coordinator, appoints the pool, which reports to the Title IX Coordinator. EGP pool members receive annual training organized by the Title IX Coordinator, including a review of University policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety and promote accountability. This training will include but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to all forms of harassment and discrimination allegations; the University's Discrimination and Harassment Policies and Procedures (including Sexual Misconduct); confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance. All EGP pool members are required to attend this annual training to be eligible to serve.

The Equity Grievance Panel includes:

- One Chair
- One Administrative Hearing Officer who is an *ex officio* member and serves as Chair of grievance panel hearings for grievances involving student responding parties [Vice President for Student Affairs or designee]
- At least 1 member of the academic administration
- At least 3 members of the faculty
- At least 6 members of the staff
- At least 1 representative from Athletics

EGP pool members are usually appointed to three-year terms. Appointments to the pool should be made with attention to representation of groups protected by the harassment and non-discrimination policy. Individuals who are interested in serving in the pool are encouraged to contact the Title IX Coordinator.

2. REPORTING MISCONDUCT

Any member of the community, guest or visitor who believes that the policy on Equal Opportunity, Harassment and Nondiscrimination has been violated should contact the Title IX Coordinator. It is also possible for employees to notify a supervisor, or for students to notify an administrative advisor or faculty member. Any member of the community, including visitors, may contact Campus Public Safety to make a report. These individuals will in turn notify the Title IX Coordinator. The University website also includes a reporting form at www.vanguard.edu/title-ix-reporting which may serve to initiate the resolution process.

All employees receiving reports of a potential violation of University policy are expected to promptly contact the Title IX Coordinator, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with privacy: specific information on any allegations received by any party will be reported to the Title IX Coordinator, but, subject to the University's obligation to redress violations, every effort will be made to maintain the privacy of those initiating an allegation. In all cases, Vanguard University will give consideration to the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the

community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

3. PRELIMINARY INQUIRY

Following receipt of notice or a report of misconduct, the Title IX Coordinator[12] engages in a preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. The preliminary inquiry is typically 1-3 days in duration. This inquiry may also serve to help the Title IX Coordinator to determine if the allegations evidence violence, threat, pattern, predation and/or weapon, in the event that the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapon is not evidenced, the Title IX Coordinator may respect a reporting party's request for no action, and will investigate only so far as necessary to determine appropriate remedies. As necessary, the University reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.

In cases where the reporting party wishes to proceed or the University/College determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX Coordinator will direct a formal investigation to commence and the allegation will be resolved through one of the processes discussed briefly here and in greater detail below:

- Conflict Resolution – typically used for less serious offenses and only when both parties agree to conflict resolution
- Administrative Resolution – resolution by a trained administrator

The process followed considers the preference of the parties, but is ultimately determined at the discretion of the Title IX Coordinator. Conflict Resolution may only occur if selected by all parties, otherwise the Administrative Resolution Process applies.

If conflict resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.

Once a formal investigation is commenced, the Title IX Coordinator will provide written notification of the investigation to the responding party at an appropriate time during the investigation.[13] The University aims to complete all investigations within a sixty (60) calendar day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties as appropriate.

If, during the preliminary inquiry or at any point during the formal investigation, the Title IX Coordinator determines that there is no reasonable cause to believe that policy has been violated, the process will end unless the

[12] If circumstances require, the President or Title IX Coordinator may designate another person to oversee the process below, should an allegation be made against the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

[13] Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University -issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The reporting party is typically copied on such correspondence.

reporting party requests that the Title IX Coordinator makes an extraordinary determination to re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator.

4. INTERIM REMEDIES/ACTIONS

The Title IX Coordinator may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations.

These remedies may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Altering the housing situation of the responding party (resident student or resident employee (or the reporting party, if desired))
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

The University may interim suspend a student, employee or organization pending the completion of EGP investigation and procedures, particularly when in the judgment of the Title IX Coordinator the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the option to meet with the Title IX Coordinator prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX Coordinator has sole discretion to implement or stay an interim suspension and to determine its conditions and duration. Violation of an interim suspension under this policy will be grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to University housing and/or the University campus/facilities/events. As determined by the Title IX Coordinator, this restriction can include classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party. The institution will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the institution's ability to provide the interim actions or protective measures.

5. INVESTIGATION

Once the decision is made to commence a formal investigation, the Title IX Coordinator appoints EGP pool members to conduct the investigation (typically using a team of two EGP investigators), usually within two (2) days of determining that an investigation should proceed. Investigations are completed expeditiously, normally within ten

(10) days, though some investigations take weeks or even months, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

The University may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The University will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. University action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.

The investigators will typically take the following steps, if not already completed (not necessarily in order):

- In coordination with campus partners (e.g.: the Title IX Coordinator), initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated;
- Assist the Title IX Coordinator with an immediate preliminary inquiry to determine if there is reasonable cause to believe the responding party has violated policy.
    - If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Prepare the notice of charges on the basis of the preliminary inquiry;
- Meet with the reporting party to finalize their statement, if necessary;
- If possible, provide written notification to the parties prior to their interviews that they may have the assistance of a EGP pool member or other advisor of their choosing present for all meetings attended by the advisee;
- Provide reporting party and responding party with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;
- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses;
- Provide parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;

- Recommend to the Title IX Coordinator a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- Investigators and/or the Title IX Coordinator finalize and present the findings to the parties, without undue delay between notifications;

At any point during the investigation, if it is determined there is no reasonable cause to believe that University policy has been violated, the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the University's investigation and the Equity Grievance Process. Failure of a witness to cooperate with and/or participate in the investigation or Equity Grievance Process constitutes a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation do not have the ability to offer evidence later during the appeal if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Equity Grievance Process proceedings.

6. ADVISORS

Each party is allowed to have an advisor of their choice present with them for all EGP meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and usually otherwise not involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the campus community. The parties may choose their advisor from the EGP pool, choose a non-trained advisor from outside the pool, if preferred, or proceed without an advisor.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The University cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide one.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing panelists. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their

advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the University an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process. The University expects that the parties will wish to share documentation related to the allegations with their advisors. The University provides a consent form that authorizes such sharing. The parties must complete this form before the University is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with 3rd parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations. The University expects an advisor to adjust their schedule to allow them to attend University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an advisor's inability to attend. The University will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available. A party may elect to change advisors during the process, and is not locked into using the same advisor throughout. The parties must advise the investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

7. RESOLUTION

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with University policy. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.

A. CONFLICT RESOLUTION

Conflict Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Title IX Coordinator will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, a trained administrator will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions.

Conflict resolution will not be the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal

process is completed should the parties and the Title IX Coordinator believe that it could be beneficial. Mediation will not be used in cases of sexual violence. It is not necessary to pursue conflict resolution first in order to pursue Administrative Resolution, and any party participating in conflict resolution can stop that process at any time and request a shift to Administrative Resolution.

B. ADMINISTRATIVE RESOLUTION

Administrative Resolution can be pursued for any behavior that falls within the policy on Equal Opportunity, Harassment and Nondiscrimination, at any time during the process.

In Administrative Resolution, the Resolution Administrator has the authority to address all collateral misconduct, meaning that they hear all allegations of discrimination, harassment and retaliation, but also may address any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment and Nondiscrimination. Accordingly, investigations should be conducted with as wide a scope as necessary.

Any evidence that the Resolution Administrator believes is relevant and credible may be considered, including history and pattern evidence. The Resolution Administrator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the Resolution Administrator determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators will supply the Resolution Administrator with information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

Neither the Resolution Administrator nor investigators will meet with character witnesses, but investigators will accept up to two (2) letters supporting the character of each of the parties.

The Resolution Administrator will base the determination(s) on the preponderance of the evidence, whether it is more likely than not that the responding party violated policy as alleged.

The responding party may choose to admit responsibility for all or part of the alleged policy violations at any point during the investigation or Administrative Resolution process. If the responding party admits responsibility, the Title IX Coordinator will render a determination that the individual is in violation of University policy.

If the responding party admits the violation, or is found in violation, the Resolution Administrator, in consultation with the Title IX Coordinator and others as appropriate, will determine an appropriate sanction or responsive action, will implement it, and act promptly and effectively to stop the harassment or discrimination,

prevent its recurrence and remedy the effects of the discriminatory conduct.

The Resolution Administrator will inform the parties of the final determination within three (3) days of the resolution, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University -issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. The notice will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization, and any appeals options that are available.

C. SANCTIONS

Factors considered when determining a sanction/responsive action may include::

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous grievances or allegations involving similar conduct
- Any other information deemed relevant by the hearing panel
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the victim and the community

I. STUDENT SANCTIONS

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning:* A formal statement that the behavior was unacceptable and a warning that further infractions of any University policy, procedure or directive will result in more severe sanctions/responsive actions.
- *Probation:* A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any University policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co--curricular activities, non-contact orders and/or other measures deemed appropriate.
- *Suspension:* Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at University. This sanction may be noted as a

Conduct Suspension on the student's official transcript, at the discretion of the Title IX Coordinator.

- *Expulsion:* Permanent termination of student status, revocation of rights to be on campus for any reason or attend University-sponsored events. This sanction will be noted as a Conduct Expulsion on the student's official transcript.
- *Withholding Diploma*. The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*. The University reserves the right to revoke a degree awarded from the University for fraud, misrepresentation or other violation of University policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*. Deactivation, de-recognition, loss of all privileges (including University registration), for a specified period of time.
- *Other Actions:* In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

II. EMPLOYEE SANCTIONS

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

D. WITHDRAWAL OR RESIGNATION WHILE CHARGES PENDING

Students: The University does not permit a student to withdraw if that student has an allegation pending for violation of the policy on Equal Opportunity, Harassment and Nondiscrimination. Should a student decide to leave and/or not participate in the EGP, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to University unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

Employees: Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator will reflect that status, and any University responses to future inquiries regarding employment references for that individual will indicate the former employee is ineligible for rehire.

E. APPEALS

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within three (3) days of the delivery of the written finding of the Title IX Coordinator. Any party may appeal the findings and/or sanctions only under the grounds described, below. A three-member appeals panel chosen from the EGP pool will be designated by the Title IX Coordinator from those who have not been involved in the process previously. Any party may appeal, but appeals are limited to the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The sanctions imposed fall outside the range of sanctions the University/College has designated for this offense and the cumulative record of the responding party.

The appeals panel will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately. When any party requests an appeal, the Title IX Coordinator will share the appeal request with the other party(ies), who may file a response within three (3) days and/or bring their own appeal on separate grounds. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within three (3) days. These response or appeal requests will be shared with each party. Where the appeals panel finds that at least one of the grounds is met by at least one party, additional principles governing the hearing of appeals will include the following:

- Decisions by the appeals panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the investigation, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for appeals panelists to substitute their judgment for that of the original investigator(s) or Resolution Administrator merely because they disagree with its finding and/or sanctions.
- Appeals granted based on new evidence should normally be remanded to the investigator(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, heard by the three-member appeals panel.
- Sanctions imposed as the result of Administrative Resolution are implemented immediately unless the Title IX

Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
    - For students: Graduation, study abroad, internships/ externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- The Title IX Coordinator will confer with the appeals panel, incorporate the results of any remanded grounds, and render a written decision on the appeal to all parties within three (3) days of the resolution of the appeal or remand.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand. [Option: Where appeals result in no change to the finding or sanction, that decision is final. Where an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above, and in accordance with these procedures.
- All parties will be informed in writing within three (3) days of the outcome of the Appeals Panel, without significant time delay between notifications, and in accordance with the standards for notice of outcome as defined above.
- In rare cases where a procedural [or substantive] error cannot be cured by the original investigator(s) and/or Resolution Administrator (as in cases of bias), the appeals panel may recommend a new investigation and/or Administrative Resolution process, including a new Resolution Administrator. The results of a remand cannot be appealed. The results of a new Administrative Resolution process can be appealed, once, on any of the three applicable grounds for appeals.
  In cases where the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

F. LONG-TERM REMEDIES/ACTIONS

Following the conclusion of the Equity Grievance Process and in addition to any sanctions implemented, the Title IX Coordinator may utilize long-term remedies or actions stop the harassment or discrimination, remedy its effects and prevent their reoccurrence. These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Permanently altering the housing situation of the responding party (resident student or resident employee (or the reporting party, if desired))
- Permanently altering work arrangements for employees
- Providing campus escorts
- Climate surveys
- Policy modification
- Providing transportation accommodations
- Implementing long-term contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, long-term remedies may also be provided even when the responding party is found not responsible.

The institution will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution's ability to provide the actions or protective measures.

G. FAILURE TO COMPLETE SANCTIONS/COMPLY WITH INTERIM AND LONG-TERM REMEDIES/RESPONSIVE ACTIONS

All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Title IX Coordinator or Director of Human Resources. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from the University and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

H. RECORDS

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator indefinitely in the Title IX Coordinator database.

I. STATEMENT OF THE RIGHTS OF THE PARTIES

Statement of the Reporting Party's rights:

- The right to investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to University officials;
- The right to be informed in advance of any public release of information regarding the incident;
- The right not to have any personally identifiable information released to the public, without their consent;
- The right to be treated with respect by University officials;
- The right to have University policies and procedures followed without material deviation;
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- The right not to be discouraged by University officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- The right to be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report, as well;
- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus law enforcement and other campus officials;
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;

- The right to a campus no contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the reporting party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
    - Change of an on-campus student's housing to a different on-campus location;
    - Assistance from University support staff in completing the relocation;
    - Transportation accommodations;
    - Arranging to dissolve a housing contract and pro-rating a refund;
    - Exam (paper, assignment) rescheduling;
    - Taking an incomplete in a class;
    - Transferring class sections;
    - Temporary withdrawal;
    - Alternative course completion options;

- The right to have the University maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures;
- The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses;
- The right to be informed of the names of all witnesses whose information will be used to render a finding, in advance of that finding, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence;
- The right to regular updates on the status of the investigation and/or resolution;
- The right to have reports addressed by investigators and Resolution Administrators who have received annual sexual misconduct training;
- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to meetings and/or interviews that are closed to the public;
- The right to petition that any University representative in the process be recused on the basis of demonstrated bias or conflict-of-interest;
- The right to bring a victim advocate or advisor of the reporting party's choosing to all phases of the investigation and resolution proceeding;
- The right to submit an impact statement in writing to the Resolution Administrator following determination of responsibility, but prior to sanctioning;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;

- The right to be informed in writing of when a decision by the University is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.

Statement of the Responding Party's rights:
The rights of the responding party should also be prominently indicated.

- The right to investigation and appropriate resolution of all credible reports of sexual misconduct and/or discrimination made in good faith to University administrators;
- The right to be informed in advance, when possible, of any public release of information regarding the report;
- The right to be treated with respect by University officials;
- The right to have University policies and procedures followed without material deviation;
- The right to be informed of and have access to campus resources for medical, health, counseling, and advisory services;
- The right to timely written notice of all alleged violations, including the nature of the violation, the applicable policies and procedures and possible sanctions;
- The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law, prior to the finding by the Resolution Administrator;
- The right to be informed of the names of all witnesses whose information will be used to render a finding, prior to final determination, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
- The right to have reports addressed by investigators and Resolution Administrators who have received annual training;
- The right to petition that any University representative be recused from the resolution process on the basis of demonstrated bias and/or conflict-of-interest;
- The right to meetings and interviews that are closed to the public;
- The right to have an advisor of their choice to accompany and assist throughout the campus resolution process;
- The right to a fundamentally fair resolution, as defined in these procedures;
- The right to provide an impact statement in writing to the Resolution Administrator following any determination of responsibility, but prior to sanctioning;
- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision of the University is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding

and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.

8. **DISABILITIES ACCOMMODATION IN THE EQUITY RESOLUTION PROCESS**

Vanguard University is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and support needed to ensure equal access to the Equity Resolution Process at the University. Anyone needing such accommodations or support should contact the Director of Disability Services, who will review the request and, in consultation with the person requesting the accommodation, and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation.

AMENDEMENT A

INTERIM TITLE IX HEARING POLICY FOR ALL STUDENTS AND UNIVERSITY PERSONNEL

AMENDMENT A – HEARING PROCEDURES
Provided that the contested allegations are not resolved through Informal Resolution, the matter shall proceed to a Formal Resolution process involving investigation. Pursuant to California mandate (B271834- Roe v. University of Southern California), regarding investigation cases where students are facing "serious discipline," such as a suspension or expulsion, the University must permit cross-examination of the reporting party and/or witnesses at a hearing either in person or via such means as videoconferencing. In such cases, the Title IX Coordinator will refer the matter for a hearing within (10) days of the conclusion of the investigation, barring unusual circumstances.

The hearing is an opportunity for the Parties to address the Hearing Panel in person, to question the other Party and/or witnesses, and for the Hearing Panel to obtain information following the investigation that is necessary to make a determination of whether a Sexual Misconduct Policy violation occurred.

Hearing Panel/Decision-maker

The process may divert directly to the Decision-maker if all parties opt to waive the hearing.[14] The process may also divert to either the faculty and/or student conduct process for a hearing, if necessary.

In regard to cases that do proceed to a hearing process, the Title IX Coordinator will appoint three members from the available Pool to the Hearing Panel. One person from the Hearing Panel will be appointed Chair over the Hearing Panel and the hearing process. The Hearing Panel will not have had previous involvement with the allegation.[15] An alternate will sit in throughout the process if needed or at the discretion of the Chair.

Those who have served as investigators will be witnesses in the hearing of the allegation and therefore may not serve as Hearing Panel members/Decision-makers. Those who are serving as advisors for either party may not serve as Hearing Panel members/Decision-makers in that matter. The Title IX Coordinator may not serve as a voting Hearing Panel member/Decision-maker in that matter. The hearing will convene at a time determined by the Hearing Panel Chair.

Evidentiary Considerations

Any evidence that the Hearing Panel/Decision-maker believes is relevant and credible may be considered, including an individual's prior misconduct history, as well as evidence indicating a pattern of misconduct. When prior misconduct is related to the current allegations, the prior misconduct may be considered at the findings stage of the

[14] The Decision-maker in cases not proceeding to hearings is the Title IX Coordinator for the University.
[15] Members on the Hearing Panel will be distinct from the Title IX Coordinator and Investigators involved with the case.

process; unrelated prior misconduct (e.g. alcohol abuse) will only be considered during sanctioning. The Hearing Panel/Decision-maker may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

While previous conduct violations by the responding party are not generally admissible as information supporting the current allegation, the investigator(s) may supply the Hearing Panel/Decision-maker with information about previous good faith allegations and/or findings, when that information suggests potential pattern and/or predatory conduct.

Previous disciplinary action of any kind involving the responding party may be considered in determining the appropriate sanction, because the University uses a progressive discipline system.

The Hearing Panel/Decision-maker renders a determination based on the preponderance of the evidence, i.e., whether it is more likely than not that the responding party violated policy.

Notice of Hearing

Ten (10) days prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the Chair will send a letter of notice to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The letter will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities. If any party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an advisor of their choosing at the hearing (See Section 6. Advisors of Title IX Policy).

Hearings for possible violations that occur near or after the end of an academic term and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the sixty (60) day goal for resolution.

Pre-Hearing

The Chair, after consultation with the parties as necessary, will provide the names of witnesses who will be participating in the hearing, all pertinent[16] documentary evidence, and the investigation report between the parties at least ten (10) days prior to the hearing. Any witness scheduled to participate in the hearing must have been interviewed first by investigators or have proffered a written statement, unless all parties consent to the witness' participation in the hearing.

[16] Pertinent documentary evidence is both relevant and irrelevant evidence. Parties will be provided an opportunity to review all pertinent documentary evidence as part of the investigation and prior to the hearing.

The parties will be given a list of the names of all Hearing Panel members/the Decision-maker at least ten (10) days in advance of the hearing. All objections to any panelist/Decision-maker must be raised in writing and submitted to the Title IX Coordinator as soon as possible. Hearing panel members/Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation.

The Hearing Panelists/Decision-maker will be given a list of the names of all parties and witnesses at least seven (7) days in advance of the hearing. Any Panelist/Chair/Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties and all witnesses in advance of the hearing. If a Panelist/Chair/Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

The Chair/Decision-maker, in consultation with the parties and investigators, may decide in advance of the hearing that certain witnesses do not need to be physically present if their testimony can be adequately summarized by the investigator(s) in the investigation report or during the hearing. Otherwise, all parties will have the opportunity to present witnesses at the hearing, to present facts and arguments in full, and to question witnesses and party(ies) during the hearing. Procedures below describe the questioning mechanisms permitted.

Alternative Hearing Options

If a party or parties prefer not to attend the hearing in person, the parties should request alternative arrangements from the Title IX Coordinator at least two (2) days prior to the hearing. The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing.

Hearing Procedures

Hearings will usually be convened 10-14 days from the completion of the investigation and will be conducted in private. The Hearing Panel/Decision-maker has the authority to hear all allegations of discrimination, harassment, and retaliation and may also hear any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment, and Nondiscrimination.

Participants will include the three (3) members of the Hearing Panel/ Decision-maker, the investigator(s) who conducted the investigation, the reporting and responding parties, advisors to the parties, and any called witnesses.

Investigator Presents the Report

The Chair of the Hearing Panel/Decision-Maker explains the procedures and introduces the participants.
The investigator(s) will then present the redacted report of the investigation and will be subject to questioning by the parties and the Hearing Panel/Decision-maker. The investigator(s) will be present during the entire hearing process, but not during deliberations. The investigators' analysis and/or recommendation(s) are not admissible at the hearing. The investigators, advisors, and parties will refrain from discussion of the investigation's recommended findings, analysis, or credibility assessments. If such information is introduced, the Chair will direct the Hearing Panel/administrator to disregard it. Once the investigator(s) present their report and are questioned, the parties may

provide relevant information in turn and the Chair/Decision-maker will permit questioning of and by the parties and witnesses.

Participation in Panel Hearing

The reporting and responding parties have the right to be present at the hearing. If, despite being notified of the date, time, and location of the hearing, any party is not in attendance, the hearing may proceed as described below. Neither party is required to participate in the hearing in order for the hearing to proceed. Investigators will be present, unless the Chair permits an absence under extenuating circumstances.

Questioning

There are three options for questioning:

- The default is to permit full questioning of investigators, parties, and witnesses by the advisors to each party and the Hearing Panel/Decision-maker. If any party does not have an advisor, the Title IX Coordinator will appoint one from the Pool. If the party chooses not to have an advisor in the hearing, they waive the opportunity to pose questions, and only questions from parties with advisors, or from the Hearing Panel/Decision-maker will be permitted.

- If all parties assent in advance, an alternative questioning approach can be approved by the Chair. The parties are able to submit written questions of the other party(ies), witnesses, and investigators to the Hearing Panel/Decision-maker. Questions may be submitted in advance of the hearing or during the hearing proceeding itself. The Hearing Panel/Decision-maker may also pose their own questions during the hearing. If this approach is selected, parties and/or advisors may not pose live questions directly.

- If all parties assent in advance, a third questioning option can be approved by the Chair, permitting the parties to pose all questions to other parties, witnesses, and investigators directly.

The Chair has absolute discretion to determine which questions are relevant to the determination and may decline to pose or permit certain questions.

The rationale for all questions submitted in writing by the parties which are rejected by the Chair and/or *not* posed by the Hearing Panel/Decision-maker will be explained in writing to the party who submitted the question(s) within two (2) days of the conclusion of the hearing proceeding.

The Chair may also direct that certain live questions, once posed, are not appropriate and should not be answered. In such instances, the Chair will provide the questioning advisor with a rationale for their exclusion of the specific question(s). The Chair is responsible for ensuring that neither abusive nor inappropriate questioning occurs. The Chair may consult with legal counsel, when needed, to help to assess the appropriateness of specific questions. If any party or advisor is disrespectful of or disruptive to the proceedings, the Chair will take actions they deem appropriate to impose appropriate decorum.

Evidence Presented at the Hearing

Formal rules of evidence do not apply. Any evidence that the panel believes is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct. The Chair is responsible for addressing any evidentiary concerns prior to and/or during the hearing, may exclude irrelevant or immaterial evidence, and may ask the Hearing Panel/Decision-maker to disregard evidence lacking in credibility or that is improperly prejudicial. The Chair will determine all questions of procedure and evidence. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

Unless the Chair determines it is appropriate, no one will present information or raise questions concerning: (1) incidents not directly related to the possible violation, unless they evidence a pattern, (2) the sexual history of the parties (though there may be a limited exception with respect to pattern, the sexual history between the parties, or where evidence regarding the reporting party's sexual history is offered to prove that someone other than the responding party engaged in the reported misconduct), if relevant, (3) or the character of the parties. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators may supply the Hearing Panel/Decision-maker with information about previous findings to consider as possible evidence of pattern and/or predatory conduct.

There will be no observers in the hearing unless an exception is granted by the Chair. The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Hearing Panel/Decision-maker or the parties involved, and then be excused.

In hearings involving more than one responding party or in which two (2) or more reporting parties have accused the same individual of substantially similar conduct, the standard procedure will be to hear the allegations jointly; however, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each responding party to be conducted separately, if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each responding party.

Hearings (except for deliberations) are recorded for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. Hearing Panelists/Decision-makers, the parties, their advisors and appropriate administrative officers of the University will be allowed to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

Deliberation and Decision-making

The Hearing Panel/Decision-maker will deliberate in closed session to determine whether the responding party is responsible or not responsible for the policy violation(s) in question. The Hearing Panel/Decision-maker will base the determination(s) on a preponderance of the evidence (i.e. whether it is more likely than not that the responding party committed each alleged violation). A majority vote of the Hearing Panel is required to determine the finding.

When there is a finding of responsibility on one or more of the allegations, the parties will then be invited to submit a statement to the Hearing Panel/Decision-maker for consideration in determining an appropriate sanction(s). The reporting party may submit a written statement describing the impact of the conduct and expressing a preference about the sanction(s) to be imposed. The Hearing Panel/Decision-maker may – at their discretion – consider the reporting party's preference, but it is not binding.

The responding party may submit a written statement explaining any factors that they believe should mitigate or otherwise be considered in determining the sanction(s) imposed. The Chair will ensure that each of the parties has an opportunity to review any statement submitted by the other party(ies).

The Hearing Panel/Decision-maker will review the impact statements and will recommend/implement the appropriate sanction(s). The Chair, in collaboration with the Hearing Panel/Decision-maker, will then prepare a written deliberation report and deliver it to the Title IX Coordinator, detailing the finding, the information used in support of its recommendation, and any information the Hearing Panel/Decision-maker excluded from its consideration and why. The report should conclude with any sanctions. This report typically should not exceed three (3) pages in length and must be submitted to the Title IX Coordinator within two (2) days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

Using the deliberation report, the Title IX Coordinator will prepare a letter of outcome and will share the letter, including the final determination and applicable sanction(s), within three (3) days of receiving the Hearing Panel's/Decision-maker's deliberation report. The letter of outcome will be shared with the parties without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official University records, or emailed to the parties' Vanguard University-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

The letter of outcome will identify the specific policy(ies) reported to have been violated, including the relevant policy section and will contain a description of the procedural steps taken by the University from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties, and witnesses, site visits, methods used to obtain evidence, and hearings held. The letter will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the University is permitted to share such information under state or federal law; any sanctions issued which the University is permitted to share according to state or federal law; and any remedies provided to the reporting party designed to ensure access to the University's educational or employment program or activity, to the extent the University is permitted to share such information under state or federal law. The notification will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any appeals options that are available.

USE AND ADAPTATION OF THIS MODEL WITH CITATION TO ATIXA IS PERMITTED
THROUGH A LIMITED LICENSE
TO VANGUARD UNIVERSITY.

BT.30.I.001.3
TITLE IX POLICY FOR ALL STUDENTS AND UNIVERSITY PERSONNEL

Policy

MAINTAINED BY: Student Affairs Committee

APPROVED: October 17, 2018

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REVISION

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator. The University reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Title IX Coordinator may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form. This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

This policy and procedure was implemented in September 2019.

HISTORY

(v5): Amendment A was included and approved by the Executive Committee of the Board of Trustees on September 26, 2019 with implementation to take place immediately.
(v4): This policy and procedure revision was approved by the Board of Trustees on October 27, 2018 with implementation to take place immediately. Revisions include alignment with current organizational chart, reflections transition in director oversight of Title IX responsibilities, and insertion of new section titled "Violation of Law and University Discipline".
(v3): This policy and procedure revision was approved by the Board of Trustees on October 19, 2016 with implementation to take place in August 2017. NOTE: Policy was reviewed in August 2017 and minor revisions in language made for compliance with best practices.
(v2): Minor revisions made to language under POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS so that it is consistent with language in other organizational policies. Revision approved by the President's Cabinet on July 23, 2015.
(v1): This policy and procedure was approved by the Board of Trustees on March 27, 2015 (via electronic vote) with implementation to take place immediately upon approval.