



TITLE IX SEXUAL HARASSMENT POLICY

THE TEMPLE: A Paul Mitchell Partner School (THE TEMPLE School) is committed to providing a work and school environment free of unlawful harassment or discrimination. To enforce this commitment, all future professionals and employees are required to take the mandatory sexual harassment and prevention training upon starting in school. Future professionals are further required to re-take the training every academic year.

In accordance with **Title IX of the Education Amendments of 1972**, THE TEMPLE School does not discriminate on the basis of sex in its education programs or activities, which extends to admission and employment. THE TEMPLE School also prohibits Sexual Harassment (as defined below) committed against persons in the United States as part of its education programs or activities.

THE TEMPLE School reserves the right to make changes to this policy as necessary, and once those changes are posted online, they are in effect. If government laws, regulations or court decisions change requirements in a way that affects this policy, the policy will be construed to comply with the most recent government regulations or holdings.

STATEMENT OF NON-DISCRIMINATION

THE TEMPLE School's policy prohibits harassment or discrimination based on race, religion, creed, color, national origin, ancestry, sex (including pregnancy, childbirth, or related medical conditions), military or veteran status, physical or mental disability, medical condition, marital status, age, sexual orientation, gender, gender identity or expression, genetic information, or any other basis protected by the federal, state, or local law. If you believe you have experienced or witnessed harassment, intimidation, bullying or discrimination, please see the **Harassment, Intimidation, Bullying and Discrimination Policy** in THE TEMPLE School catalog.

THE TEMPLE School does not discriminate in its employment practices or in its educational programs or activities on the basis of sex. THE TEMPLE School also prohibits retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process internally or externally. Reports of misconduct, questions regarding Title IX, and concerns about noncompliance should be directed to the Title IX Coordinator. For more information, please contact the Title IX Coordinator or the Assistant Secretary of Education within the Office for Civil Rights (OCR) <https://www2.ed.gov/about/offices/list/ocr/contactus2.html>.

Title IX applies to THE TEMPLE School's educational programs and activities, whether such programs or activities occur on-campus or at an off-campus events. Any individual who violates this policy will be subject to disciplinary action.

DEFINITIONS REGARDING SEX DISCRIMINATION

Dating Violence is defined in 34 U.S.C. 12291(a)(10) as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

Domestic Violence is defined in 34 U.S.C. 12291(a)(8) and includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Sex Discrimination is treating individuals differently on the basis of sex with regard to any aspect of services, benefits, or opportunities THE TEMPLE School provides, such as:

- a. Treating a person differently in determining whether he or she satisfies any requirement or condition for the provision of an aid, benefit, or service.
- b. Providing different aid, benefits, or services, or providing aid, benefits, or services in a different manner.
- c. Denying any person an aid, benefit, or service.
- d. Subjecting any person to separate or different rules of behavior, sanctions, or other treatment in providing an aid, benefit, or service.
- e. Aiding or perpetuating discrimination against any person by providing significant assistance to any agency, organization, or person, which discriminates on the basis of sex in providing any aid, benefit, or service to students or employees.
- f. Otherwise limiting any person in the enjoyment of any right, privilege, advantage, or opportunity.

Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:

- a. An employee of THE TEMPLE School conditioning the provision of an aid, benefit, or service of THE TEMPLE School on an individual's participation in unwelcome sexual conduct (i.e. quid pro quo);
- b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to THE TEMPLE School's education program or activity; or
- c. "Sexual Assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "Dating Violence" as defined in 34 U.S.C. 12291(a)(10), "Domestic Violence" as defined in 34 U.S.C. 12291(a)(8), or "Stalking" as defined in 34 U.S.C. 12291(a)(30) (collectively referred to as Sexual Violence). The federal definitions identified in this paragraph are included as a part of THE TEMPLE School's policy.

Sexual Assault is defined in 20 U.S.C 1092(f)(6)(A)(v) as an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sexual assault occurs when a physical sexual activity is engaged in without the consent of the other person or when the other person is unable to consent to the activity. The activity or conduct may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, and taking advantage of the other person's incapacitation (including voluntary intoxication).

Stalking is defined in 34 U.S.C. 12291(a)(30) as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

GENERAL DEFINITIONS

Actual knowledge means notice of Sexual Harassment or allegations of Sexual Harassment to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient.

Advisor means an individual chosen by a party to accompany the party to meetings related to the resolution process, to advise the party on that process and to conduct cross-examination for the party at any hearing, if any. If a party does not have an Advisor at the hearing portion of the Grievance Process, THE TEMPLE School will appoint an advisor.

Campus is defined as any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).

Clery Act refers to the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (20 U.S.C. Section 1092(f); 34 C.F.R. Part 668.46). In accordance with the Clery Act, THE TEMPLE School publishes required crime statistics and policy statements in its annual security report on or before October 1st of each year.

Complainant is defined as an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment. A Complainant must be the alleged victim unless a parent or legal guardian has a legal right to act on the alleged victim's behalf.

Consent is informed, voluntary, and revocable. Consent is an affirmative, unambiguous, and conscious decision by each participant to engage in mutually agreed-upon sexual activity. It must be given without coercion, force, threats, or intimidation. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately.

Formal Complaint is defined as a document (hardcopy or electronic) filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that THE TEMPLE School investigate the allegation of Sexual Harassment.

Non-campus building or property is defined as any building or property owned or controlled by a student organization recognized by the institution; and any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution. Educational programs or activities, whether such programs or activities occur on-campus or off-campus. THE TEMPLE School may address sexual harassment affecting its students or employees that falls outside Title IX's jurisdiction in any manner THE TEMPLE School chooses, including providing supportive measures or pursuing discipline.

Program or Activity means on or off campus locations, events or circumstances over which THE TEMPLE School exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurred.

Public property is defined as all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.

Respondent is defined as an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Supportive measures are defined as individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

Rape Shield Protections limit or prohibit the use of evidence of a victim's past sexual history to undermine that victim's credibility. The purpose of rape shield laws is to protect victims from the emotional distress of being cross-examined about their sexual history on the witness stand. Rape shield protections are applied to Complainants, deeming irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged Sexual Harassment or offered to prove consent.

VAWA refers to the Violence Against Women Reauthorization Act of 2013 (34 CFR Part 668).

PROHIBITED CONDUCT

Title IX protects students' rights to educational opportunities free from sex discrimination, including Sexual Harassment and Sexual Violence (Sexual Assault, Dating Violence, Domestic Violence and Stalking, as defined above).

COMPLAINT/GRIEVANCE PROCEDURE

If you believe that you have experienced or witnessed Sexual Harassment (including Sexual Violence) discrimination or retaliation, THE TEMPLE School encourages you to notify the Title IX Coordinator as soon as possible after the incident.

Any person may report sex discrimination, including Sexual Harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address, listed below for the Title IX Coordinator. Only a complainant may file a formal complaint that initiates a Title IX grievance procedure.

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to THE TEMPLE School's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

REPORTING CONSIDERATIONS:

In order to make informed choices, it is important to be aware of confidentiality and reporting requirements when consulting THE TEMPLE School's resources. THE TEMPLE School Director or Education Leader will share knowledge, notice and/or reports of Sexual Harassment (including Sexual Violence), discrimination and/or retaliation with the Title IX Coordinator. Other school employees, including educators, will only report instances of Sexual Harassment (including Sexual Violence), discrimination or retaliation to the Title IX Coordinator with the Complainant's consent.

THE TEMPLE School will keep confidential the identity of the Complainant, Respondent, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out the Grievance Process.

The Title IX Coordinator is listed below and has the responsibility of Intaking reports and complaints, initiating the formal complaint process, and providing supportive measures.

If THE TEMPLE School has actual knowledge of sexual harassment in an educational program or activity at THE TEMPLE School, against a person in the United States, THE TEMPLE School will respond promptly in a manner that is not deliberately indifferent. The grievant/complainant may use THE TEMPLE School's Title IX Grievance Form, but it is not required, to file a Title IX discrimination complaint. THE TEMPLE School's Title IX Coordinator is:

Ingrid Nielson
22 W Church Street
Frederick, MD 21701
ingridn@pmthetemple.edu
240-680-9356

THE TEMPLE School ensures that its Title IX Coordinator(s), Investigator(s), Decision-Maker(s), and Informal Resolution Facilitator(s) have adequate training on what constitutes sexual harassment, including sexual violence, dating violence, domestic violence, sex discrimination, and stalking, and that they understand how THE TEMPLE School's grievance procedures operate. Please refer to the end of this policy for a listing of the various roles of individuals involved in the Title IX process, their responsibilities, and training requirements.

CONFIDENTIAL RESOURCES:

An individual who seeks completely confidential assistance may do so by speaking with professionals who have legally protected confidentiality. THE TEMPLE School does not have confidential reporting resources, such as pastoral or professional counselors on campus. Crisis, mental health and victim resource hotline information is available in THE TEMPLE School's **Campus Safety and Security Policy**, located on the bottom of the main page of our web site. Information shared with confidential resources will not be shared with THE TEMPLE School (including the Title IX Coordinator) or anyone else without express, written permission of the individual seeking services unless required by law or court order.

FORMAL COMPLAINT:

A "formal complaint" is defined as a document (hardcopy or electronic) filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that THE TEMPLE School investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of THE TEMPLE School. A formal complaint may be filed with THE TEMPLE School's Title IX Coordinator in person, by mail, or by electronic mail, by

using the contact information located in THE TEMPLE School's policy. The phrase "document filed by a complainant" means a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

The Title IX Coordinator will meet with the complainant to explain the process of filing a formal complaint. The Complainant must be the alleged victim unless the parent or legal guardian has a legal right to act on their behalf. Anyone may report a Title IX violation; however, only a complainant may file a formal complaint that initiates a Title IX grievance procedure. The Title IX Coordinator will defer to the complainant's wishes as to whether or not they want to file a formal complaint.

If the Title IX Coordinator is the one who signs and initiates a formal complaint, the Title IX Coordinator is not a Complainant or a party during a grievance process and must comply with requirements for Title IX personnel to be free from conflicts of interest and bias.

THE TEMPLE School's Title IX Policy provides for a consistent, transparent grievance process for resolving formal complaints of Sexual Harassment. THE TEMPLE School's policy is required to treat complainants equitably by providing remedies any time a Respondent is found responsible and treat respondents equitably by not imposing disciplinary sanctions without following the grievance process prescribed in THE TEMPLE School's policy. Any remedies, which are required to be provided to a complainant when a respondent is found responsible, will be designed to maintain the complainant's equal access to education and may include the same individualized services described as supportive measures; however, any remedies imposed do not need to be non-disciplinary or non-punitive and need not avoid burdening the respondent.

Once a formal complaint has been filed, THE TEMPLE School will provide a written notice (Notice of Investigation) to each of the parties involved, which will include a copy of THE TEMPLE School's written Grievance Process, a list of the allegations, including specific information regarding the allegations, and a notice that the parties have a right to an advisor. If during the investigation additional allegations are investigated, then a new notice must be provided to the parties, which identifies the new issues.

SUPPORTIVE MEASURES:

The Title IX Coordinator will provide Supportive Measures as necessary. Supportive Measures are individualized services reasonably available to ensure equal educational access, protect safety or deter prohibited conduct. Supportive Measures are available, as appropriate, to either or both the Complainant and Respondent and are non-punitive, non-disciplinary and not unreasonably burdensome to the other party. Examples include counseling, extensions of time or other course-related adjustments, modifications to work or class schedules, campus escort services, restrictions on contact between the Parties, leave of absence, increased security and monitoring of certain areas on campus, and other similar accommodation. The Supportive Measures needed by the Complainant and/or Respondent may change over time, and the Title IX Coordinator will communicate with each party to ensure that any Supportive Measures are necessary and effective based on evolving needs.

Victims of Sexual Violence will also be provided with written notification about existing counseling, health and/or mental health services, victim advocacy, legal assistance, visa and immigration assistance, safety planning, timely warnings, student financial aid and other services available to victims within THE TEMPLE School and in the community.

Once the Title IX Coordinator receives a report, the Title IX Coordinator will promptly contact the Complainant confidentially to discuss the availability of Supportive Measures (available with or without filing a Formal Complaint) and explain the process for filing a Formal Complaint and provide a copy of this policy. The Title IX Coordinator will consider the Complainant's wishes with respect to Supportive Measures.

THE TEMPLE School will keep confidential the identity of the victim of the Complainant, Respondent and witnesses, except as permitted by FERPA, as required by law, or as necessary to carry out the Title IX Grievance Process. THE TEMPLE School's Title IX Coordinator is responsible for coordinating the effective implementation of all Supportive Measures that will be provided before sanctions in any grievance procedure are imposed.

GRIEVANCE PROCEDURE:

THE TEMPLE School utilizes a prompt, equitable and impartial grievance procedure to evaluate Formal Complaints. Title IX personnel (Title IX Coordinators, Investigators, Decision-Makers, and people who facilitate any informal resolution process) will be free from conflicts of interest or bias for or against complainants or respondents. Title IX personnel will objectively evaluate all relevant evidence and avoid credibility determinations based on a person's status as a Complainant, Respondent or witness. In order to accomplish this, we have put into place the following requirements.

- a. All Title IX personnel will be trained on the definition of Sexual Harassment, the scope of THE TEMPLE School's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
- b. THE TEMPLE School provides all decision-makers with training on any technology to be used at a live hearing. In addition, THE TEMPLE School's decision-makers and investigators receive training on issues of relevance, including how to apply the rape shield protections provided (only for complainants), prior to participating in any Title IX investigation.
- c. The federal regulations governing Title IX allegations requires that there is a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- d. THE TEMPLE School may remove (entirely or partially) a respondent from the recipient's educational program or activity on an emergency basis, provided that THE TEMPLE School undertakes an individualized safety and risk analysis, and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. In cases where an emergency removal is imposed, the Respondent will be given notice and an opportunity to challenge the decision immediately following the removal. In the case of a school employee, THE TEMPLE School may place the individual on mandatory administrative leave. THE TEMPLE School will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns.
- e. Materials THE TEMPLE School uses to train Title IX personnel are located on THE TEMPLE School's website under the Required Disclosures section on the home page.

TITLE IX COORDINATOR TRAINING CLASS

<https://player.vimeo.com/video/447212758>

TITLE IX INVESTIGATOR TRAINING MATERIALS

<https://pmthetemple.edu/wp-content/uploads/Title-IX-Clery-Act-Annual-Training-09-15-20.pdf>

- f. Once the hearing takes place, the Decision-Maker determine disciplinary action on a case-by-case basis, including: place the individual on probation; suspend the individual; terminate the individual; require the individual to go to counseling; change the respondent's schedule; or require the individual to retake the Title IX training. (See Disciplinary Actions section of this policy).
- g. If there is a finding of responsibility, THE TEMPLE School may provide remedies to a complainant, including: an escort; removal from shared classes; academic support services, such as tutoring; and medical or counseling services.
- h. THE TEMPLE School will utilize the preponderance of the evidence standard, for all formal complaints of sexual harassment (including where employees and faculty are respondents).
- i. Upon completion of the Title IX process, either party may file an appeal of the decision. THE TEMPLE School's appeal process is outlined below.
- j. Throughout the grievance process THE TEMPLE School will not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- k. All provisions, rules, or practices that are a part of THE TEMPLE School's grievance process for handling formal complaints of sexual harassment apply equally to both parties.

To initiate a criminal investigation, reports of sexual violence should be made to "911" or local law enforcement. A complaint can be made to either or both the police and the Title IX Coordinator. The criminal process is separate from THE TEMPLE School's grievance process. Complainants have the option to notify law enforcement directly or be assisted in doing so. If requested, THE TEMPLE School will assist a victim of Sexual Violence in contacting the police. A Complainant is not required to contact the police in order to pursue THE TEMPLE School's grievance process.

THE TEMPLE School will make appropriate referrals to law enforcement. THE TEMPLE School will also notify complainants of the right to proceed with a criminal investigation and a Title IX complaint simultaneously. THE TEMPLE School will not wait for the criminal investigation or criminal proceeding to be concluded before beginning its own investigation.

ADVISORS:

A party may be accompanied by an Advisor of their choice during the grievance process. The parties may choose Advisors from inside or outside THE TEMPLE School. If the Complainant or Respondent does not have an Advisor present at the live hearing, THE TEMPLE School will select and provide an Advisor, without fee or charge, to conduct cross-examination of witnesses on behalf of that party. A party may reject a school-appointed Advisor and choose their own Advisor, but they may not proceed without an Advisor. The Complainant and Respondent may not conduct cross-examination.

Choosing an Advisor who is a witness in the grievance process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-Maker.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the grievance process. Advisors are expected to advise without disrupting proceedings. For example, advisors should not address school officials in a meeting or interview unless invited to. An Advisor

may not make a presentation during any meeting or proceeding and may not speak on behalf of the party to the investigation or other Decision-Maker except during a live hearing, during cross-examination. If an Advisor is disruptive or otherwise fails to respect the limits of the Advisor role, the meeting or interview may be ended.

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by THE TEMPLE School. THE TEMPLE School 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 TEMPLE School's privacy expectations.

INVESTIGATION OF FORMAL COMPLAINTS:

THE TEMPLE School will investigate Sexual Harassment (including Sexual Violence) allegations in a Formal Complaint filed by a Complainant or signed by the Title IX Coordinator. The Title IX Coordinator will respect the Complainant's wishes as to whether THE TEMPLE School investigates an allegation of Sexual Harassment, unless the Title IX Coordinator determines that not investigating would be deliberately indifferent or harmful to THE TEMPLE School community. THE TEMPLE School may consolidate Formal Complaints where the allegations arise out of the same facts. THE TEMPLE School will follow its written grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures, against a respondent. During this process THE TEMPLE School will not restrict an individual's rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX.

If the allegations in a formal complaint do not meet the definition of Sexual Harassment, or did not occur in THE TEMPLE School's education program or activity against a person in the United States, THE TEMPLE School must dismiss such allegations for purposes of Title IX but may still address the allegations under other applicable school policies including the **Harassment, Intimidation, Bullying and Discrimination Policy**. THE TEMPLE School may also dismiss a complaint if:

- a. the complainant withdraws the complaint;
- b. if the respondent is no longer enrolled or employed at THE TEMPLE School;
- c. or if circumstances prevent institution from being able to investigate the complaint allegations. If a Formal Complaint is dismissed, each party will be notified in writing that the complaint has been dismissed and the reasons for dismissal.

Generally, the grievance process consists of a Formal Complaint, investigation, Live Hearing, determination, disciplinary actions, remedies and appeal (if applicable). The Grievance Process, barring extenuating circumstance, will conclude within ninety (90) days from the date a Formal Complaint is filed.

For all Formal Complaints of Sexual Harassment (including where employees are Respondents), THE TEMPLE School utilizes the preponderance of the evidence standard. Meaning, THE TEMPLE School will evaluate whether it is more likely than not that the alleged conduct occurred.

Upon receipt of a Formal Complaint, written notice will be sent to the parties. The Notice of Investigation will include:

- a. details of the allegations (including identities of the parties involved, specific section of the policy alleged to have been violated, the conduct that would be considered Sexual Harassment, the date of the incident(s) and the location of the incident(s));

- b. a statement that the Respondent is presumed to be not responsible for the alleged conduct until a determination is made according to THE TEMPLE School's Grievance Process;
- c. a statement that the parties may have an Advisor of their choice;
- d. and a reminder of the expectation of truthfulness including consequences for submitting false information.

The parties will also be provided with separate written notice of any investigative interview, meeting or hearing. Interview/meeting notices will include the date, time, location, participants and purpose of the investigative interview or meeting.

The Title IX Coordinator has the responsibility of investigating the Formal Complaint; however, if it is in the best interest of the parties involved THE TEMPLE School may choose another employee or hire a third-party to conduct the investigation.

During the grievance process, including investigating the Formal Complaint, THE TEMPLE School will abide by the following procedures:

- a. THE TEMPLE School will apply a presumption that the respondent is not responsible during the grievance process (presumption of innocence). The burden of gathering evidence and burden of proof is the responsibility of THE TEMPLE School, not on the individual parties.
- b. THE TEMPLE School will provide equal opportunity for the parties involved to present fact and expert witnesses and other inculpatory and exculpatory evidence. Witnesses cannot be anonymous.
- c. THE TEMPLE School will not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no "gag orders") to support their case.
- d. Both parties to the complaint will have the same opportunity to select an advisor of the party's choice who may be, but need not be, an attorney.
- e. THE TEMPLE School as a part of the investigative process will send written notice of any investigative interviews, meetings, or hearings to both parties. Any interviews that occur can have both parties' advisors present.
- f. THE TEMPLE Schools will send the parties, and their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence provided. The investigator will consider the responses received before issuing the investigative report.
- g. Once the investigation has concluded, THE TEMPLE School will send the parties, and their advisors, an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, at least 10 days prior to a Live Hearing. The parties may provide a written response to the investigative report.
- h. THE TEMPLE School will dismiss allegations of conduct that do not meet the definition of sexual harassment or did not occur in a school's educational program or activity against a person in the U.S. Such dismissal is only for Title IX purposes and does not preclude THE TEMPLE School from addressing the conduct in any manner THE TEMPLE School deems appropriate.

- i. THE TEMPLE School may, in their discretion, dismiss a formal complaint or allegations therein if the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein, if the respondent is no longer enrolled or employed by THE TEMPLE School, or if specific circumstances prevent THE TEMPLE School from gathering sufficient evidence to reach a determination.
- j. THE TEMPLE School will give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.
- k. THE TEMPLE School may, in their discretion, consolidate formal complaints where the allegations arise out of the same facts or circumstances, whether it is complaints against multiple respondents or by multiple complainants.
- l. THE TEMPLE School will protect the privacy of a party's medical, psychological, and similar treatment records by stating that THE TEMPLE School cannot access or use such records unless THE TEMPLE School obtains the party's voluntary, written consent to do so.
- m. Formal Complaints involving employees will also be referred to Charles Riser Jr. and simultaneously evaluated under conduct policies and procedures.

LIVE HEARINGS:

If a Formal Complaint is not or cannot be resolved through informal resolution, THE TEMPLE School will conduct a live hearing. If the complaint goes to a live hearing, then each party must have an advisor. The appointed Decision-Maker (separate from the Title IX Coordinator or investigator) is the individual who will be conducting the hearing. The following conditions will apply for a live hearing:

- a. The Decision-Maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those that challenge credibility.
- b. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor and never by either the complainant or respondent personally.
- c. At the request of either party, THE TEMPLE School will provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.
- d. Only relevant cross-examination and other questions may be asked of a party or witness. Before complainant, respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant.
- e. The live hearing provides for the opportunity for all parties' advisors to examine and cross-examine witnesses, including challenging the credibility of witnesses. Hearsay statements and irrelevant information is are not permitted.
- f. THE TEMPLE School's process provides for rape shield protections for complainants deeming irrelevant questions and evidence about a complainant's prior sexual behavior unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent.
- g. If either party does not have an advisor present at the live hearing, THE TEMPLE School will provide, at no cost to that party, an advisor of THE TEMPLE School's choice to conduct cross- examination on behalf of that party. Only the advisor may cross-examine the witnesses.

- h. If a party or witness does not submit to cross-examination at the live hearing, the Decision-Maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- i. Live hearings may be conducted with all parties physically present in the same geographic location or, at THE TEMPLE School's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually.
- j. As a part of the process, THE TEMPLE School will create an audio or audiovisual recording, or transcript, of any live hearing, as a part of the record.

DISCIPLINARY ACTIONS:

Disciplinary Actions against the Respondent will not be imposed before completion of THE TEMPLE School's grievance process. Following a determination of responsibility, appropriate corrective action will be taken, and THE TEMPLE School will take steps to prevent recurrence. Disciplinary Actions taken will be determined on a case-by-case basis. Factors considered when determining Disciplinary Action may include but are not limited to: Nature, severity of, and circumstances surrounding the violation(s); Respondent's disciplinary history; Previous allegations or allegations involving similar conduct; Need for disciplinary action to bring an end/prevent future reoccurrence of the violation; Need for disciplinary action to remedy the effects on the Complainant and school community; Impact on the parties; Any other information deemed relevant by the Decision-Maker.

Disciplinary Action for student-related claims may include, but are not limited to, additional training, a restriction on contact, warning, suspension, or termination. Disciplinary Action will be placed in a student's permanent academic file. Any employee determined by THE TEMPLE School to be responsible for an act of Sexual Harassment will be subject to appropriate Disciplinary Action, up to and including termination. Disciplinary Action will be placed in an employee's permanent personnel file. Employees are also subject to processes and discipline as stated within the employee handbook. The employee process is separate and apart from the Title IX process and not constrained by the outcome of the Title IX process.

Failure to abide by imposed Disciplinary Actions (whether by refusal, neglect or any other reason), may result in additional Disciplinary Action, including suspension or termination.

Remedies are provided to a Complainant whenever a Respondent is found responsible. Remedies are implemented by the Title IX Coordinator and may be disciplinary and punitive. Student Remedies are designed to maintain the Complainant's equal access to education. Remedies will be determined on a case-by-case basis and may include supportive measures.

Individuals who make a materially false statement in bad faith in the course of a Title IX Grievance Process will be subject to THE TEMPLE School's conduct policies, including the Coaching and Corrective Action policy.

WRITTEN DETERMINATION:

THE TEMPLE School's grievance process uses the preponderance of the evidence standard to determine responsibility. THE TEMPLE School's grievance process uses the same standard of evidence for all formal complaints of sexual harassment whether the respondent is a student or an employee (including faculty member). The Decision-Maker(s) in the process are required to objectively evaluate all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a complainant, respondent, or witness.

The Decision-Maker cannot be the Title IX Coordinator or the investigator. The Decision-Maker will issue a written determination regarding responsibility with findings of fact to include the following:

- a. Must identify the standard of evidence used based on THE TEMPLE School's written policy.
- b. Identify the allegations that constitute sexual harassment.
- c. Describe the procedures THE TEMPLE School used from the filing of the formal complaint through the hearing process.
- d. Make findings of fact and conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation.
- e. Include the imposition of any sanctions or disciplinary actions imposed on the respondent, and whether any remedies will be provided to the complainant.
- f. State the procedures to file an appeal and the allowable bases for an individual to appeal the decision.
- g. Upon conclusion the written determination will be sent simultaneously to the parties.
- h. The Title IX Coordinator is responsible for implementation of any remedies imposed by the Decision-Maker.

APPEAL PROCESS:

THE TEMPLE School will allow either or both parties the opportunity to appeal the Decision-Maker's determination regarding responsibility from a school's dismissal of a formal complaint or any allegations therein. Either party can appeal based on the following:

- a. Procedural irregularity that affected the outcome of the matter;
- b. Newly discovered evidence that could affect the outcome of the matter; and/or
- c. The Title IX personnel had a conflict of interest or bias, that affected the outcome of the decision.

An appeal must be submitted in writing to the Title IX Coordinator within thirty (30) days of the delivery of the Written Determination.

INFORMAL RESOLUTION:

THE TEMPLE School provides the opportunity for the parties involved in the formal complaint allegations to facilitate an informal resolution, such as mediation, so long as both parties give voluntary, informed, written consent to attempt an informal resolution. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. THE TEMPLE School will provide written notice to the parties of the allegations, requirements of the resolution process, and any limitations.

It is not necessary to pursue informal resolution first in order to pursue THE TEMPLE School's grievance process. If the complaint allegations are in regard to an employee of THE TEMPLE School sexually harassing a student, the opportunity for an informal resolution is not available.

BIAS AND CONFLICT OF INTEREST:

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact Charles Riser Jr. at 22 W Church Street Frederick, MD 21701 / charles@pmthetemple.edu / 301-682-7550. Concerns of bias or potential conflict of interest by any other Title IX personnel should be raised with the Title IX Coordinator.

RETALIATION PROHIBITED:

THE TEMPLE School prohibits any form of retaliation, intimidation, threats, coercion, discrimination, or harassment against any individual who filed or otherwise participated in the filing or investigation of a complaint of discrimination. Actions do not have to be on the basis of sex or involve sexual harassment to constitute retaliation. Retaliation complaints may use the same grievance process as sexual harassment complaints. Any individual who believes he or she has been subjected to retaliation may file a separate complaint under this procedure. THE TEMPLE School will keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding, which does not constitute retaliation.

The following circumstances do not constitute retaliation, including:

- a. Exercising one's rights protected under the First Amendment.
- b. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.
- c. Charging an individual with code of conduct violations that do not involve sexual harassment but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment; however, for the purpose of interfering with any right or privilege secured by Title IX does constitute retaliation.

REPORTING REQUIREMENTS:

Victims of sexual misconduct should be aware that school administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to other members of the campus community. THE TEMPLE School will make every effort to 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 danger. THE TEMPLE School reserves the right to notify parents/guardians of dependent students regarding any health or safety risk or a change in student status. THE TEMPLE School will also notify the local police department of any crimes that have been brought to their attention.

Any allegations or violations of Title IX will be reported to THE TEMPLE School's Clery Act coordinator to be included in THE TEMPLE School's annual reporting requirements. Personally identifiable information for victims of Sexual Assault, Dating Violence, Domestic Violence and Stalking will not be included in any publicly available recordkeeping, including Clery Act Reporting and disclosures such as the annual security report.

RECORD KEEPING:

All records of the Title IX formal complaint including, the investigation, evidence, decision making process, hearings, and decision letters will be maintained by THE TEMPLE School for at least 7 years. Information is shared internally between administrators who need to know in order to complete their job duties. When information must be shared to permit the investigation to move forward, the parties will be informed. Privacy of the records specific to the investigation is maintained in accordance with state law and the federal FERPA statute. Any public release of information needed to comply with the timely warning provisions of the Clery Act will not include the names of Complainant or information that could easily lead to a Complainant's identification. Irrespective of state law or public records access provisions, information about Complainants is maintained privately in accordance with Title IX and FERPA.

REQUIRED TRAINING:

THE TEMPLE School ensures that its Title IX personnel have adequate Title IX training, including annual training on issues related to Sexual Assault, Dating Violence, Domestic Violence and Stalking. THE TEMPLE School's Title IX Coordinator, Investigator, Decision-Maker, or any person designated by THE TEMPLE School to facilitate an informal resolution process, must not have a conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent. Each individual that is part of the Title IX process is required to take training that includes how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Part of the required training is to ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment, the scope of THE TEMPLE School's education program or activity, how to serve impartially, how to make relevancy determinations, how to conduct an investigation and grievance process including hearings, appeals and informal resolution.

THE TEMPLE School will provide the Decision-Maker(s) with training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. THE TEMPLE School will also ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Informal resolution facilitations are trained on the informal resolution process.

Materials used to train Title IX personnel are posted on THE TEMPLE School's website:

TITLE IX COORDINATOR TRAINING CLASS

<https://player.vimeo.com/video/447212758>

TITLE IX INVESTIGATOR TRAINING MATERIALS

<https://pmthetemple.edu/wp-content/uploads/Title-IX-Clery-Act-Annual-Training-09-15-20.pdf>

ADDITIONAL INFORMATION:

Employees and students may contact the Title IX coordinator with any questions related to this policy. In addition, the U.S. Department of Education Office for Civil Rights (“OCR”) investigates complaints of unlawful harassment of students in educational programs or activities. This agency may serve as a neutral fact finder and will attempt to facilitate the voluntary resolution of disputes with the parties. For more information, visit the OCR website at:

<http://www2.ed.gov/about/offices/list/ocr/index.html>

To the extent that an employee or contract worker is not satisfied with THE TEMPLE School’s handling of a complaint, he or she may also contact the appropriate state or federal enforcement agency for relief.

SEXUAL VIOLENCE – IMMEDIATE CARE AND PRESEVATION OF EVIDENCE:

If you experience Sexual Violence, some or all of these safety suggestions may guide you after an incident has occurred:

1. Go to a safe place. If there is any immediate danger call 911.
2. Consider securing immediate professional support (e.g., counseling, victim advocacy, medical services, etc.) to assist you. THE TEMPLE School does not have a confidential counselor but local resources are available that can provide confidential assistance. These resources are listed in THE TEMPLE School’s **Campus Safety and Security Policy**, located on the bottom of the main page of our web site.
3. For your safety and well-being, immediate medical attention is encouraged. Further, being examined (through a forensic examination) as soon as possible, ideally within one-hundred and twenty (120) hours, is important in the case of rape or Sexual Assault. Completing a forensic examination does not require someone to file a police report. To find a location near you that performs free forensic examinations, call the **National Sexual Assault Hotline at (800) 656-4673**.

Resources are also available through the Rape Abuse & Incest National Network (RAINN):

www.RAINN.org.

- To preserve evidence, it is recommended that you do not bathe, shower, douche, eat, drink, smoke, brush your teeth, urinate, defecate, or change clothes before receiving medical attention. Even if you have already taken any of these actions, you are still encouraged to have prompt medical care, and evidence may still be recoverable.
- Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. They will gather bedding, linens or unlaundered clothing, and any other pertinent items that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence, such as to the hospital, secure them in a clean paper bag or clean bedsheet to avoid contamination.

- If you have physical injuries, photograph or have them photographed, with a date stamp on the photo.
- Record the names of any witnesses and their contact information. This information may be helpful as proof of a crime, to obtain an order of protection, or to offer proof of a school policy violation.
- Try to memorize details (e.g., physical description, names, license plate number, car description, etc.), or even better, write notes to remind you of details, if you have time and the ability to do so.

PREVENTION AND EDUCATION:

In accordance with the Clery Act and VAWA, THE TEMPLE School offers a range of campaigns, strategies, and initiatives to promote awareness, education, risk reduction, and prevention in an effort to reduce the frequency of sex or gender-based discrimination, harassment, and violence amongst members of the campus community.

THE TEMPLE School offers programming to identify and prevent Sexual Assault, Dating Violence, Domestic Violence (including stranger and known offender assaults), and Stalking each year. Educational programs are offered to raise awareness for all incoming students and employees and are often conducted during new student and new employee orientation.

Programs and other campaigns offered throughout the year to students and employees include information regarding awareness and primary prevention (including normative messaging, environmental management, and bystander intervention), and discuss THE TEMPLE School's policies. Programs also offer information on risk reduction that strives to empower individuals who experience these incidents, how to recognize warning signs, and how to avoid potential attacks, and do so without biased approaches.

Bystander engagement is encouraged through safe and positive intervention techniques and by empowering third-party intervention and prevention such as calling for help, using intervention-based apps, identifying allies, and/or creating distractions. Bystander empowerment training highlights the need for those who intervene to ensure their own safety in the intervention techniques they choose and motivates them to intervene as stakeholders in the safety of THE TEMPLE School community when others might choose to be bystanders.