

# **National Aviation Academy | Title IX Sexual Harassment Policy AND Procedure**

November 6, 2023

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**TABLE OF CONTENTS**

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<b>INTRODUCTION AND OVERVIEW.....</b>	<b>3</b>
TITLE IX SEXUAL HARASSMENT AND NAA SEXUAL HARASSMENT .....	3
NAA’S TITLE IX COORDINATOR .....	4
<b>POLICIES AND PROCEDURES RELATING TO TITLE IX SEXUAL HARASSMENT.....</b>	<b>6</b>
PROHIBITION AGAINST TITLE IX SEXUAL HARASSMENT AND RETALIATION .....	6
EMERGENCY AND MEDICAL ASSISTANCE FOR INDIVIDUALS WHO HAVE EXPERIENCED TITLE IX SEXUAL HARASSMENT	6
REPORTING INCIDENTS OF TITLE IX SEXUAL HARASSMENT TO NAA.....	7
LEGAL CONFIDENTIALITY AND PRIVACY OF REPORTS MADE TO NAA.....	7
REPORTING TITLE IX SEXUAL HARASSMENT TO LAW ENFORCEMENT .....	7
ANONYMOUS REPORTING OF TITLE IX SEXUAL HARASSMENT .....	8
AMNESTY FOR INDIVIDUALS REPORTING SEXUAL HARASSMENT INVOLVING VIOLATIONS OF ALCOHOL OR DRUG POLICIES.....	8
EMPLOYEE OBLIGATIONS UPON RECEIVING A REPORT OF TITLE IX SEXUAL HARASSMENT.....	8
RESPONDING TO AND RESOLVING REPORTS OF TITLE IX SEXUAL HARASSMENT .....	8
INITIAL RESPONSE AND ASSESSMENT .....	9
SUPPORTIVE MEASURES.....	10
ADMINISTRATIVE LEAVE AND EMERGENCY REMOVAL.....	10
INITIATING A FORMAL COMPLAINT OF TITLE IX SEXUAL HARASSMENT .....	10
INITIAL REVIEW OF A FORMAL COMPLAINT AND PROCEDURAL DETERMINATION .....	11
CONSOLIDATION OF FORMAL COMPLAINTS.....	12
INFORMAL RESOLUTION OF A FORMAL COMPLAINT .....	12
INVESTIGATION OF A FORMAL COMPLAINT .....	12
PRE-HEARING PREPARATIONS .....	15
HEARING SETTING AND STANDARDS .....	16
HEARING FORMAT AND CROSS-EXAMINATION .....	17
DETERMINATION AND SANCTIONS; NOTICE OF OUTCOME .....	18
RIGHT TO APPEAL .....	19
RECORDKEEPING .....	20
DISCLOSURE OF OUTCOME.....	20
SPECIAL PROCEDURE CONCERNING COMPLAINTS AGAINST A TITLE IX COORDINATOR OR SENIOR ADMINISTRATOR ..	21
<b>GLOSSARY OF TERMS.....</b>	<b>21</b>

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## **INTRODUCTION AND OVERVIEW**

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National Aviation Academy (“NAA”) is committed to protecting the safety, health, and well-being of its students, employees, and all people who come into contact with the NAA community. In support of this commitment, and as required by Title IX of the Education Amendments of 1972 (“Title IX”) and other applicable federal and state laws, NAA has created this policy that prohibits Title IX Sexual Harassment, as well as Retaliation against an individual for making a good faith report under this policy.

This policy applies to NAA’s New England and Tampa Bay campuses. This policy also informs the campus community of the NAA’s procedures for reporting incidents of Title IX Sexual Harassment, and for the investigation and remediation of such reports. NAA will take prompt and equitable action to address allegations of Title IX Sexual Harassment, to prevent its recurrence, and to remediate its effects.<sup>1</sup> NAA also conducts prevention, awareness, and training programs for students and employees to facilitate the goals of this policy.

This policy supersedes all prior policies and guidance relating to the topics discussed herein. It applies to all members of NAA community, including students, faculty, staff, visitors, guests, applicants for admission or employment, contractors, vendors, and others engaged in business with NAA (collectively referred to as “Covered Parties”). The protections in this policy apply regardless of race, color, ethnicity, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

Like NAA’s Annual Security Report, this policy is designed to comply with Title IX and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”), and the implementing regulations and guidance issued in connection with such laws. This policy also is designed to comply with applicable state laws and standards. The definitions of key terms used in this policy are included in the final section titled “Glossary of Terms.”

This policy, as it may be amended from time to time, is available on NAA’s website at <https://www.naa.edu/consumer-information/>. Notice of the Policy’s availability is distributed to all prospective students and employees prior to enrollment or employment, as applicable. In addition, the policy is distributed annually to all current students and employees and is featured in NAA’s training and outreach efforts relating to sex-based discrimination.

### **Title IX Sexual Harassment and NAA Sexual Harassment**

This policy applies to Title IX Sexual Harassment. Title IX Sexual Harassment is a particular form of sexual misconduct defined in regulations published by the U.S. Department of Education under Title IX. These regulations, which took effect August 14, 2020, require institutions to use specific definitions and processes when addressing alleged misconduct that constitutes Title IX Sexual Harassment. These regulations also make clear that alleged misconduct falling outside of the specific definition of Title IX Sexual Harassment is not covered by the Title IX regulations and should not be treated as such.

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<sup>1</sup> NAA also will respond promptly and equitably to reports of sex-based discrimination that do not include an allegation of Title IX Sexual Harassment in accordance with the grievance policies and procedures articulated in the Student Handbook and Employee Handbook, as applicable.

Conduct that is prohibited by the Student Catalog but does not fall within the definition of Title IX Sexual Harassment or meet Title IX's jurisdictional requirements is "NAA Sexual Harassment."

The specific policies and procedures NAA follows will depend on whether the alleged misconduct constitutes Title IX Sexual Harassment or NAA Sexual Harassment. Any alleged sexual misconduct will be treated as Title IX Sexual Harassment unless and until a determination is made by NAA that it does not qualify as Title IX Sexual Harassment. If NAA determines that the alleged misconduct does not constitute Title IX Sexual Harassment, but does qualify as NAA Sexual Harassment, from that point forward it will be treated as NAA Sexual Harassment, and will be addressed by the Student Catalog.

If the alleged misconduct includes a combination of Title IX Sexual Harassment and NAA Sexual Harassment, NAA may follow the policies and procedures that apply to Title IX Sexual Harassment for purposes of investigating and resolving the entire incident.

### **NAA's Title IX Coordinator**

NAA's designated Title IX Coordinator is responsible for administering this policy and ensuring that the campus community is educated regarding the various obligations detailed herein. In fulfilling their role, the Title IX Coordinator oversees NAA's management of reports and complaints that involve allegations of Title IX Sexual Harassment, monitor outcomes of policy and training efforts, identify and address any patterns, and assess effects on the campus climate. In addition, the Title IX Coordinator carries out training for students and employees, assist individuals who have experienced Title IX Sexual Harassment, including on an emergency basis, oversee the provision of accommodations and interim measures, and carry out monitoring and advising activities. Contact information for NAA's Title IX Coordinator is set out below:

Title IX Coordinator	
<b>Name</b>	Nannette Worlinsky
<b>Title</b>	Sr. Vice President of Compliance
<b>Street 1</b>	6225 Ulmerton Road
<b>Street 2</b>	Clearwater
<b>State</b>	FL
<b>Zip</b>	33760
<b>Phone</b>	727.531.2080
<b>Email</b>	<a href="mailto:nworlinsky@naa.edu">nworlinsky@naa.edu</a>

Individuals may contact a Title IX Coordinator for a number of purposes, including to:

- Ask questions regarding the information or procedures set out in this policy.
- Ask questions about Title IX or the related regulations of the U.S. Department of Education.
- File a Formal Complaint or otherwise make a report of alleged Title IX Sexual Harassment or Retaliation.
- Seek information or training about students' rights and courses of action available to resolve reports or complaints that involve potential sex discrimination.
- Notify NAA of an incident or other issue that may raise potential concerns under this policy.
- Obtain information about available resources (including confidential resources) and support services.

Questions about Title IX or the related regulations of the U.S. Department of Education also may be referred to the Department of Education's Office for Civil Rights at 400 Maryland Avenue, SW, Washington DC 20202 or (800) 421-3481.

### **NAA's Campus Security**

Contact information for NAA's campus security is set out below:

<b>NAA's Campus Security</b>	
<b>Name</b>	Markus Weatherwax, Corporate Security Oversight
<b>Street</b>	6225 Ulmerton Road
<b>City/State</b>	Clearwater FL 33760
<b>Phone</b>	727.531.2080
<b>Email</b>	Mweatherwax@naa.edu

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**POLICIES AND PROCEDURES RELATING TO TITLE IX SEXUAL HARASSMENT**

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**Prohibition against Title IX Sexual Harassment and Retaliation**

As required by Title IX and other applicable federal and state laws, NAA strictly and expressly prohibits Title IX Sexual Harassment in any educational, extracurricular, athletic, or other program or activity that it operates. This prohibition extends to all aspects of NAA’s operations, including admission and employment, and applies to Title IX Sexual Harassment committed by or against members of NAA community.

NAA also strictly and expressly prohibits Retaliation. Reports of Retaliation will be investigated, and such conduct may result in disciplinary action independent of the sanction(s) or interim remedies imposed in response to allegations of Title IX Sexual Harassment.

Covered Parties are encouraged to report any acts of Title IX Sexual Harassment or Retaliation that violate this policy to NAA’s Title IX Coordinator (reporting options and obligations are discussed in more detail below).

**Emergency and Medical Assistance for Individuals who have Experienced Title IX Sexual Harassment**

If any Covered Party believes that he or she has experienced Title IX Sexual Harassment, it is important to (1) locate a place of safety and (2) to obtain any necessary medical treatment. In instances involving physical assault or injury, NAA strongly encourages the individual to obtain a medical examination immediately to determine the extent of any injuries and to ensure the preservation of evidence.<sup>2</sup> It is important to understand that time is a critical factor for evidence collection and preservation, and that preserving evidence may be necessary to prove that a form of Title IX Sexual Harassment occurred, or to obtain a protection order.

Below is a brief list of emergency and medical assistance providers within a reasonable distance of NAA that provide a medical forensic examination at no charge. If any individual requires assistance obtaining emergency and medical assistance, NAA’s Title IX Coordinator can assist. In addition, NAA’s Title IX Coordinator can provide information for additional resources, as well as information regarding rights and options for moving forward.

Information for sexual assault crisis centers is set forth below:

Sexual Assault Crisis Centers			
Name of Organization	Address	Telephone No.	Website
Suncoast Center, Inc.	2188 58th St N, Clearwater, FL 33760	(727) 530- 7273	<a href="https://www.suncoastcenter.org/">https://www.suncoastcenter.org/</a>
The Center for Hope and Healing	15 Hurd St Lowell, MA 01852	Hotline: (800) 542- 5212	<a href="https://chhinc.org/">https://chhinc.org/</a>

Under the federal Violence Against Women Act (VAWA), all patients are eligible to have the cost of their forensic examination covered by the state.

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<sup>2</sup> A hospital, with the individual’s permission, will collect physical evidence by conducting a medical examination. Hospitals are required by law to preserve such evidence for a minimum period of time. Consenting to an examination does not obligate the individual to pursue criminal charges.

### Reporting Incidents of Title IX Sexual Harassment to NAA

Any person may report Title IX Sexual Harassment (or any other form of sex discrimination) to NAA, without regard to whether the person reporting is the person alleged to be the victim. NAA encourages individuals to report Title IX Sexual Harassment to NAA's Title IX Coordinator.<sup>3</sup> There is no time limit for reporting Title IX Sexual Harassment to NAA under this policy. However, individuals are encouraged to report alleged Title IX Sexual Harassment as soon as possible in order to maximize NAA's ability to obtain evidence and to conduct a timely, thorough, impartial, and reliable investigation. Reports may be made in person, by mail, by telephone, or by electronic mail, using the contact information below, or by any other means that results in a 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. Contact information for NAA's Title IX Coordinator is located above in the "Introduction and Overview" section of this document.

In the event that an individual, for any reason, does not wish to make a report with one of NAA's Title IX Coordinator, he or she is encouraged to make a report to the individuals listed below.

Alternative Contact for Reporting Title IX Sexual Harassment to NAA	
<b>Name</b>	Eileen Morey
<b>Title</b>	Deputy Title IX Coordinator
<b>Campus</b>	Corporate
<b>Street 1</b>	6225 Ulmerton Road
<b>Street 2</b>	Clearwater
<b>State</b>	FL
<b>Zip</b>	33760
<b>Phone</b>	727.531.2080
<b>Email</b>	emory@naa.edu

### Legal Confidentiality and Privacy of Reports Made to NAA

There is an important distinction between "Legal Confidentiality" and "Privacy." Legal Confidentiality may only be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials (*e.g.*, licensed mental health counselors, medical providers, or pastoral counselors). In contrast, an individual who is required by policy or law to report incidents of Title IX Sexual Harassment can only offer Privacy, meaning that they will not disclose information learned from a reporting individual or bystander any more than is necessary to comply with legal and policy obligations. Information reported to NAA employees will be treated as Private will be relayed only as necessary for NAA to investigate and, if applicable, seek a resolution.

Prior to making a report, individuals seeking Legal Confidentiality are encouraged to verify with any individual that he or she can indeed offer Legal Confidentiality.

### Reporting Title IX Sexual Harassment to Law Enforcement

Subsequent to securing safety and medical care, NAA also encourages any individual who believes that he or she has experienced potentially criminal Title IX Sexual Harassment to report the incident to law

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<sup>3</sup> Though encouraged to do so, Covered Parties are not required to report incidents of Title IX Sexual Harassment to NAA.

enforcement.<sup>4</sup> As indicated in the chart above, emergencies may be reported to local law enforcement in person or via telephone at 911. Non-emergencies may be reported to local law enforcement in person or via telephone using the contact information below. If any individual requires assistance notifying local law enforcement, NAA's Title IX Coordinator will assist.

Local Law Enforcement	
<b>Name</b>	Pinellas County Sheriff's Office
<b>Street</b>	10750 Ulmerton Road
<b>City/State</b>	Largo FL 33778
<b>Phone</b>	727 582 6200
<b>Name</b>	Concord Police Department
<b>Street</b>	219 Walden Street
<b>City/State</b>	Concord, MA 01742
<b>Phone</b>	978 318 3400

### **Anonymous Reporting of Title IX Sexual Harassment**

NAA recognizes that under certain circumstances individuals who believe that they have experienced or witnessed Title IX Sexual Harassment may wish to make an anonymous report. If NAA receives a report of Title IX Sexual Harassment from an anonymous source, NAA will respond to the report of Title IX Sexual Harassment as if the individual who experienced the Title IX Sexual Harassment made the initial report (assuming the individual is identified). However, due to the nature of the anonymous reports, NAA's ability to take responsive action may be limited.

### **Amnesty for Individuals Reporting Sexual Harassment Involving Violations of Alcohol or Drug Policies**

The health and safety of every student at NAA is of utmost importance. NAA recognizes that students who have been drinking or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to Title IX Sexual Harassment occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. NAA strongly encourages students to report Title IX Sexual Harassment to NAA officials. A Covered Party acting in good faith who discloses any incident of Title IX Sexual Harassment to NAA's officials or law enforcement will not be subject to action for violations of NAA's alcohol or drug use policies occurring at or near the time of the commission of the Title IX Sexual Harassment.

### **Employee Obligations upon Receiving a Report of Title IX Sexual Harassment**

At the first report of Title IX Sexual Harassment to any NAA employee, the employee should inform the reporting individual that he or she has the right (1) to report the incident to NAA's Title IX Coordinator; (2) to make a report to campus security, local law enforcement, or state police, or to choose not to report; (3) to be protected by NAA from Retaliation for reporting an incident; and (4) to receive assistance and resources from NAA. The employee then should promptly report the incident to NAA's Title IX Coordinator.

### **Responding to and Resolving Reports of Title IX Sexual Harassment**

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<sup>4</sup> Though encouraged to do so, Covered Parties are not required to report incidents of Title IX Sexual Harassment to law enforcement.



When NAA receives a report, NAA will take appropriate steps to respond to the reported conduct and to resolve the matter promptly and equitably.<sup>5</sup> As noted in the Introduction and Overview, alleged sexual misconduct will be treated as Title IX Sexual Harassment unless and until a determination is made by NAA that it does not qualify as Title IX Sexual Harassment. If NAA determines that the alleged misconduct does not constitute Title IX Sexual Harassment, but does qualify as NAA Sexual Harassment, from that point forward it will be treated as NAA Sexual Harassment, and will be addressed pursuant to the Title IX Sexual Harassment Policy.

NAA will seek to complete the investigation and adjudication of a reported incident of Title IX Sexual Harassment within 120 calendar days after the Investigators' first interview of the Complainant. This time frame may be extended for Informal Resolution (discussed below) and also may be extended for good cause.<sup>6</sup> Any extension of timeframes, other than for Informal Resolution, and the reason for the extension, will be shared with the parties in writing. Delays should not last more than 10 calendar days except when law enforcement specifically requests and justifies a longer delay.

### **Initial Response and Assessment**

Upon receipt of a report of Title IX Sexual Harassment, the Title IX Coordinator will promptly contact the Complainant and carry out an initial response and assessment.<sup>7</sup> The primary goals of this process are to address immediate health and safety needs, to gather critical information, and to educate the Complainant regarding resources and options for moving forward. This process will include:

- Explaining which authorities are able to offer "Privacy" or "Legal Confidentiality" and the distinction between the two.
- Dialoguing with the Complainant to more fully assess the nature and circumstances of the report.
- Addressing any immediate needs for physical safety and emotional well-being.
- Encouraging medical treatment, if appropriate, and describing the importance of preserving evidence and obtaining a sexual assault forensic examination.
- Reviewing this policy and providing a copy.
- Discussing the availability of Supportive Measures and considering the Complainant's wishes with respect to Supportive Measures, informing the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint, and explaining to the Complainant the process for filing a Formal Complaint.
- Explaining that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated criminal law should be addressed to law enforcement or to the district attorney.
- Discussing the Complainant's preferences for resolution and any barriers to proceeding in accordance with those preferences.
- Advising the Complainant of the prohibition against Retaliation.

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<sup>5</sup> NAA is deemed to have received a report of Title IX Sexual Harassment when NAA has Actual Knowledge.

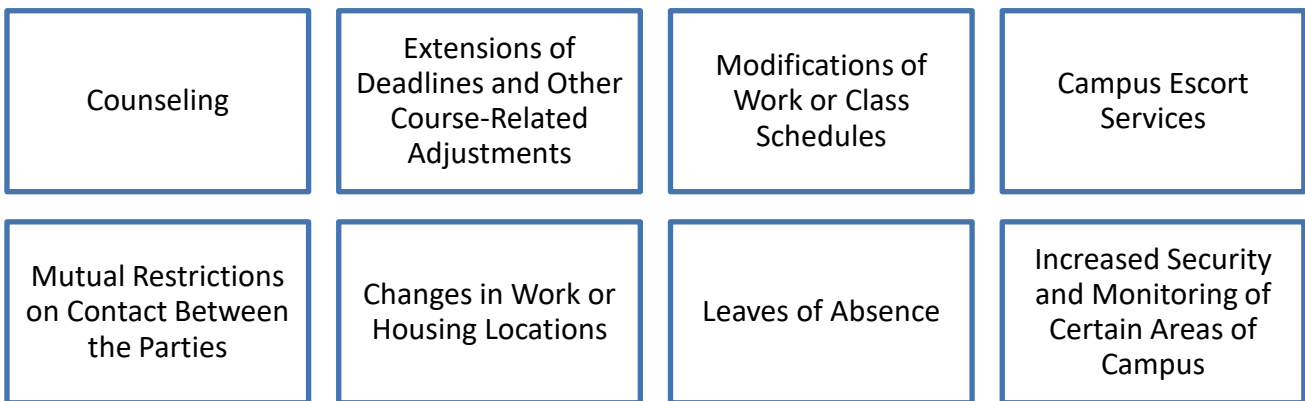
<sup>6</sup> Extending for "good cause" would include extending to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for NAA breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons.

<sup>7</sup> NAA will not investigate Title IX Sexual Harassment disclosed during a public awareness event such as candlelight vigils, protests, or other public events. However, NAA may use the information provided at such an event to inform its efforts for additional education and prevention efforts.

Complainants alleging student violation of this policy shall have the opportunity to request that the complaint resolution procedure begin promptly and proceed in a timely manner.

### Supportive Measures

At any time following a report of Title IX Sexual Harassment, Supportive Measures are available for both the Complainant and the Respondent. Such measures are designed to restore or preserve equal access to NAA’s Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of the parties or NAA’s educational environment, or to deter Title IX Sexual Harassment. NAA will maintain as Private any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such Privacy would not impair the ability of NAA to provide the Supportive Measures. The following graphic sets out examples of available Supportive Measures.



### Administrative Leave and Emergency Removal

NAA will follow the Formal Complaint process described below before any disciplinary sanctions or other actions that are not Supportive Measures are imposed against a Respondent. However, NAA may place a non-student employee Respondent on administrative leave during the pendency of the Formal Complaint process.

NAA also may remove a Respondent from NAA’s Education Program or Activity on an emergency basis if NAA undertakes an individualized safety and risk analysis and determines, as a result of the analysis, that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Sexual Harassment justifies removal. In the case of a student Respondent, if such a determination is made, the Title IX Coordinator will provide written notice to the student. In the case of an employee Respondent, if such a determination is made the Title IX Coordinator will provide written notice to the employee. In all cases, the written notice will contain the basis for the decision, the terms of the emergency removal, and the procedure for challenging the decision.

### Initiating a Formal Complaint of Title IX Sexual Harassment

A Complainant may file a Formal Complaint with NAA’s Title IX Coordinator at any time. The Complainant also may request that no further investigation take place, or that the matter be resolved through Informal Resolution (with the agreement of the Respondent and NAA).

In furtherance of NAA's obligation to ensure a safe, non-discriminatory environment, the Formal Complaint process also may be initiated by the Title IX Coordinator, even if a Formal Complaint has not been filed by a Complainant, or a Complainant has requested that no further investigation take place. When considering whether to initiate the Formal Complaint process when a Complainant does not wish to file a Formal Complaint, the Title IX Coordinator will consider a range of factors, including:

- Whether there have been other allegations of sexual misconduct made against the Respondent.
- Whether the Title IX Sexual Harassment was perpetrated with a weapon or other forms of violence.
- Whether the Title IX Sexual Harassment involved threats.
- Whether the incident represents an escalation in misconduct by the Respondent.
- Whether the Complaint reveals a pattern of sexual misconduct at a given location or by a particular group.
- Whether NAA has alternative means by which to obtain relevant evidence (*e.g.*, security cameras, witnesses).

Where a Formal Complaint process is initiated without a Formal Complaint filed by the Complainant, it will be signed by the Title IX Coordinator who will not be considered a Complainant or otherwise a party.

### **Initial Review of a Formal Complaint and Procedural Determination**

Upon receipt of a Formal Complaint, NAA will conduct a prompt and careful review to confirm that the conduct alleged in the Formal Complaint constitutes Title IX Sexual Harassment and should be resolved under this policy. If NAA determines that the conduct alleged in a Formal Complaint includes a combination of Title IX Sexual Harassment and NAA Sexual Harassment, NAA may continue to follow the policies and procedures in this policy for purposes of investigating and resolving the entire complaint.

If NAA determines that the conduct alleged in the Formal Complaint (1) would not constitute Title IX Sexual Harassment even if proved, (2) did not occur in NAA's Education Program or Activity, or (3) did not occur against a person in the United States, the Formal Complaint will be dismissed as a Formal Complaint of Title IX Sexual Harassment, and the Title IX Coordinator will proceed to determine whether the conduct can appropriately be adjudicated as NAA Sexual Harassment.

A Formal Complaint of Title IX Sexual Harassment or any of its allegations also may be dismissed if:

- The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any of its allegations;
- The Respondent is no longer enrolled or employed by NAA; or
- Specific circumstances prevent NAA from gathering evidence sufficient to reach a determination as to the Formal Complaint or its allegations.

Following its initial review of the Formal Complaint, the Title IX Coordinator will notify the parties of the alleged conduct, and of the Title IX Coordinator's procedural determination regarding the policies under which the alleged conduct falls. As applicable, this notice will specify whether the Formal Complaint has been dismissed as a Formal Complaint of Title IX Sexual Harassment, and whether the Title IX Coordinator has determined that conduct may be addressed as NAA Sexual Harassment pursuant to the Student Catalog.

Either party may appeal this procedural determination on any of the following bases:

- A procedural irregularity that affected the outcome;

- New evidence that was not reasonably available at the time the determination or dismissal was made and could affect the outcome; or
- The Title IX Coordinator had a conflict of interest or bias that affected the outcome of the matter.

Both parties may submit a written statement in support of or appealing the outcome to President of NAA via email, within 5 calendar days of receipt of the determination. When a statement in support or appeal is filed, the other party will be notified in writing.

Statements in support or appeal should be no more than 5 pages and must be submitted by the Complainant or Respondent (not by an advisor).<sup>8</sup> Following his or her review, the appeal officer will simultaneously issue a written decision to both parties describing the result of the appeal and the rationale for the result. The decision on the appeal is final and shall be conveyed in writing to both parties.

### **Consolidation of Formal Complaints**

NAA may consolidate Formal Complaints of Title IX Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances.

### **Informal Resolution of a Formal Complaint**

After a Formal Complaint of Title IX Sexual Harassment is filed, and at any time prior to reaching a determination regarding responsibility, a party may request that the matter be resolved through Informal Resolution. Informal Resolution is a completely voluntary process and requires the written consent of the Complainant and Respondent and the approval of the Title IX Coordinator or designee to proceed. Informal Resolution is not available to resolve allegations that an employee committed Title IX Sexual Harassment against a student. At any time prior to reaching a resolution, any party has the right to withdraw from the Informal Resolution process and to resume the Formal Complaint process.<sup>9</sup>

Prior to engaging in the Informal Resolution process, NAA will provide a written notice to the parties disclosing the allegations, the requirements of the Informal Resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participation in the Informal Resolution process, including the records that will be maintained or could be shared.

The terms of an Informal Resolution, if successful, may include any of the Supportive Measures discussed above, as well as other arrangements agreed to by the parties. If an agreement acceptable to NAA, the Complainant, and the Respondent is reached through Informal Resolution, the matter is considered to be resolved and the terms are implemented. NAA will endeavor to conclude the Informal Resolution process within 45 calendar days of its initiation.

### **Investigation of a Formal Complaint**

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<sup>8</sup> All appeal officers will satisfy the training requirements mandated by applicable federal and state laws and be free of bias and conflicts of interest for or against Complainants or Respondents generally or an individual Complainant or Respondent. The appeal officer will not be same person as the adjudicator that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator

<sup>9</sup> Any individual facilitating an Informal Resolution will satisfy the training requirements mandated by applicable federal and state laws and be free of bias and conflicts of interest for or against Complainants or Respondents generally or an individual Complainant or Respondent.

Once NAA has determined that all or part of the conduct alleged in the Formal Complaint constitutes Title IX Sexual Harassment, it will promptly initiate an investigation. The investigation of a Formal Complaint of Title IX Sexual Harassment will proceed in accordance with the following parameters:

- **Designation of an Investigator.** As a first step, the Title IX Coordinator will designate an internal or external investigator (“Investigator”) to conduct a prompt, thorough, and impartial investigation of the reported Title IX Sexual Harassment. The Title IX Coordinator may consult with NAA’s senior administrators regarding the designation of the Investigator.<sup>10</sup>
- **Initial Notice of Investigation.** NAA will provide an initial, written notice to the parties who are known that includes at least the following: (1) a discussion of the applicable process, including any option for Informal Resolution; (2) a sufficiently detailed statement of allegations, which includes the identities of the parties, if known, the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the alleged incident, if known; (3) a statement that the Respondent is presumed innocent and that a determination of responsibility is made at the conclusion of the process; (4) a statement regarding each party’s right to an advisor and to review and inspect evidence; and (5) a statement regarding NAA’s prohibition against knowingly making false statements or knowingly submitting false information during the Formal Complaint Process.
- **Ongoing Notice.** As the investigation progresses, NAA will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all interviews or other meetings, with sufficient time for the party to prepare to participate. Such notice also will include any applicable rules of order and decorum. If, in the course of an investigation, NAA decides to investigate allegations about the Complainant or Respondent that were not included in the original notice provided to the parties, NAA must provide notice of the additional allegations to the parties whose identities are known.
- **Burden of Proof and Burden of Gathering Evidence.** The burden of proof and burden of gathering evidence sufficient to reach a determination is the responsibility of NAA, provided that NAA cannot and will not access, consider, disclose, or otherwise use a party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional’s or paraprofessional’s capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless NAA obtains that party’s voluntary, written consent to do so for a grievance process.
- **Fact-Finding.** The Investigator will seek to meet with all parties and witnesses separately and also will gather other evidence and information relevant to the determination as to whether or not a policy violation has occurred. The investigation may include, to the extent relevant, interviews of other witnesses and the review of pertinent documentation (*e.g.*, student or personnel files, relevant law enforcement documents). At all points during the fact-finding aspect of the investigation, the process will remain impartial and balanced.
- **Opportunity to be Heard.** The Complainant and Respondent will have an equal opportunity to be heard, to present inculpatory and exculpatory evidence, and to identify witnesses, including fact and

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<sup>10</sup> Any individual designated as an Investigator will satisfy the training requirements mandated by applicable federal and state laws and be free of bias and conflicts of interest for or against Complainants or Respondents generally or an individual Complainant or Respondent.

expert witnesses. NAA will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

- **Review of Evidence.** All relevant evidence, including both inculpatory and exculpatory evidence, will be objectively evaluated. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.
- **Advisors During an Investigation.** Throughout the investigation process, the Complainant and Respondent both have the right to be accompanied and counseled by an advisor of his or her choice.<sup>11</sup> The parties may be accompanied by their respective advisors (at the party's own expense if the advisor is a paid advisor) at any meeting or proceeding related to the investigation and resolution of a complaint. The advisor cannot actively participate or speak on behalf of the Complainant or Respondent. The Title IX Coordinator and Investigator must be advised in writing that an advisor will be present at least 24 hours before any scheduled meeting or proceeding.<sup>12</sup> NAA reserves the right to have its own legal counsel present. If any advisor's conduct is not consistent with these guidelines, or any other applicable rules of order and decorum, he or she may be excluded from the process.
- **Coordination with Local Law Enforcement.** The standards for finding a violation of this policy are different from the standards used by local law enforcement to determine whether criminal conduct may have occurred. Conduct that constitutes Title IX Sexual Harassment under this policy may not constitute sufficient evidence of a crime, and law enforcement may choose to decline investigating or prosecuting it as a crime. In the event local law enforcement does investigate allegations of Title IX Sexual Harassment, any such investigation is independent of any investigation by NAA. NAA typically will not wait for the conclusion of any criminal investigation or proceeding to commence its own investigation (or to institute any Supportive Measures), and will make its determinations in accordance with this policy.<sup>13</sup> However, NAA may elect to temporarily delay its investigation to enable law enforcement to gather evidence and engage in a preliminary investigation if, for example, NAA believes such delay would benefit NAA's own investigation. When applicable and appropriate, NAA may contact and coordinate with law enforcement.
- **Access to Evidence.** Both the Complainant and Respondent will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint. Such evidence may include redactions of personally identifiable information in accordance with the Family Educational Rights and Privacy Act (FERPA) and other applicable privacy regulations. Prior to completion of the investigative report, the Investigator will send to each party and the party's advisor, if any, such evidence in an electronic format or a hard copy, and provide the parties at least 10 calendar days to submit a written response, which the Investigator will consider prior to completion of the investigative report.
- **Legal Privilege:** The Investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

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<sup>11</sup> NAA may require advisors to agree to a Non-Disclosure Agreement as a condition of participating in the investigation and hearing process.

<sup>12</sup> This notification should include the full name and title of the advisor of choice, as well as contact information (phone, email and address.)

<sup>13</sup> At the request of law enforcement, NAA may agree to defer its investigation until after the initial stages of a criminal investigation. In such instances, NAA will promptly resume its investigation as soon as it is notified by law enforcement that there is no longer a need to delay, or NAA otherwise determines that it must proceed.

- **Investigation Report.** The Investigator will prepare an investigation report that fairly summarizes relevant evidence. The report will be limited to a summary of the facts disclosed during the investigation and will not include conclusions as to responsibility. The Investigator has the discretion to determine the relevance of any proffered evidence and may determine what factual evidence is to be included in the investigation report. .

Once the investigation is complete and the investigation report has been finalized, it will be provided to the Title IX Coordinator, consistent with the procedures set out below.

### **Pre-Hearing Preparations**

The Investigator will issue the investigative report to the Title IX Coordinator. Upon review, the Title IX Coordinator may accept the report as rendered or may request that the Investigator conduct additional interviews or seek out other evidence as deemed to be appropriate. The Investigator will complete any additional investigation, and any supplemental or revised report, as promptly as is reasonable. The following pre-hearing preparations also will be carried out:

- **Selection of Adjudicator.**<sup>14</sup> The Title IX Coordinator will either designate an internal adjudicator or refer the matter to an external adjudicator with appropriate experience (in either case, the “Adjudicator”).<sup>15</sup> At least 10 calendar days before the hearing, the parties will be provided notice of the names of any individuals with authority to make a finding or impose a sanction. The parties may request a substitution if the participation of an individual with authority to make a finding or impose a sanction poses a conflict of interest. The request will be considered by the Title IX Coordinator.

The Adjudicator will conduct a hearing on the matter as described more fully below. Neither NAA’s Title IX Coordinator, nor the Investigator, may serve as the Adjudicator.<sup>16</sup>

- **Initial Notice of Hearing.** At least 7 calendar days before the hearing, the Adjudicator will provide an initial, written notice to the parties that includes the following: (1) the date, time, and location of the hearing; (2) the charges to be reviewed by the Adjudicator; (3) the factual allegations concerning the violation; (4) the provisions of NAA’s policy alleged to have been violated; (4) the sanctions that may be imposed; and (5) the specific rules and procedures for the hearing, including any rules of order or decorum.
- **Pre-Hearing Review of Documents.** At least 10 calendar days in advance of the hearing, the Complainant and Respondent will each have the opportunity to review and respond to the final investigation report, including any supplemental report, and any relevant documents that will be provided to the Adjudicator. The Adjudicator will be provided with the same set of materials. Responses to the final investigative report must be submitted by the Complainant or Respondent (not by an advisor) to the Adjudicator within 10 calendar days. Absent a good cause showing, additional information will not be considered by the Adjudicator at this juncture if such information could have

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<sup>14</sup> NAA may, at its discretion, designate more than one Adjudicator.

<sup>15</sup> Reasons for referring a hearing to an external adjudicator include but are not limited to the presence of a conflict of interest or if a matter presents complex evidentiary issues.

<sup>16</sup> Any individual designated as a decision-maker will satisfy the training requirements mandated by applicable federal and state laws and be free of bias and conflicts of interest for or against Complainants or Respondents generally or an individual Complainant or Respondent.

been provided to the Investigator during the investigation (meaning that during the investigation it was discoverable through the exercise of due diligence).

- **List of Witnesses.** The Adjudicator will identify any witnesses that he or she wishes to hear from at the hearing based on a review of the investigation report. Also, the Complainant and Respondent each have the right to request the presence of any additional witnesses at the hearing, provided such witnesses were identified and interviewed as part of the investigation. The Adjudicator may permit the participation of a witness who was not interviewed during the investigation only if the Adjudicator determines that the new witness' participation at the hearing is relevant and appropriate under the circumstances. In such cases, the Adjudicator will refer the matter to the Investigator for additional investigation, and direct the Investigator to prepare a supplemental report, which may delay the timing of the hearing. NAA cannot compel the attendance of any witness.
- **Timing.** The date, time, or location of a hearing may be changed for good cause, at the discretion of the Title IX Coordinator. Good cause may include, but is not limited to: the availability of the parties; the availability of witnesses; the timing of NAA breaks; efforts to utilize Informal Resolution; to comply with a request by external law enforcement; to account for complexities of a case including the number of witnesses and volume of information provided by the parties; or, to address other legitimate reasons. Any change to the date, time, or location of a hearing will be shared with the parties in writing and will include the reason for the extension. Delays should not last more than 10 calendar days except when law enforcement specifically requests and justifies a longer delay.

### Hearing Setting and Standards

Any hearing involving allegations of Title IX Sexual Harassment will be carried out in accordance with the following standards, so as to ensure that it is fair, impartial and provides a meaningful opportunity to be heard:

- **Setting.** Any hearing involving allegations of Title IX Sexual Harassment will be live. At the request of either party, the live hearing will occur with the parties located in separate rooms with technology enabling the Adjudicator and parties to simultaneously see and hear the party or the witness answering questions.
- **Advisors During the Hearing.** The Complainant and the Respondent both have the right to be accompanied and advised by an advisor of their choice at the hearing and any related meetings. NAA reserves the right to have its own legal counsel present during the hearing. An Advisor must comport himself or herself in a manner that is not disruptive to the hearing and act with appropriate decorum.<sup>17</sup> Proceedings will be closed to non-participants and to the public, including friends and NAA personnel without an official interest in the case.
- **Standard of Evidence.** The Preponderance of the Evidence standard is used to determine whether this policy has been violated. This standard is used for Formal Complaints against students and employees alike, including faculty. Preponderance of the Evidence means that it is more likely than not that a policy violation occurred.

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<sup>17</sup> Whether an advisor is comporting him or herself in a manner that is not disruptive or acting with appropriate decorum to the hearing or meetings is determined in the sole discretion of the Adjudicator.



- **Rules of Evidence.** Formal rules of process, procedure, and technical rules of evidence, such as applied in criminal or civil court, are not used in these proceedings.
- **Review of Evidence.** All relevant evidence, including both inculpatory and exculpatory evidence, will be objectively evaluated. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.
- **Presumption of Non-Responsibility.** The Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Formal Complaint process.
- **Truthful Information.** The Complainant, the Respondent, and the witnesses and other individuals sharing information are expected to provide truthful information.
- **Sexual Predisposition and Prior Sexual Behavior.** Questions and evidence about a Complainant's sexual predisposition are not relevant. Questions and evidence of a Complainant's prior sexual behavior are not relevant, unless such questions and evidence: (1) are offered to prove that someone other than the Respondent committed the alleged conduct; or (2) concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- **Recording or Transcript.** NAA will create an audio or audiovisual recording, or transcript, of the hearing and make it available to the parties for inspection and review. Issues that result in no recording, a limited recording, or an inaudible recording are not considered procedural errors for the purposes of an appeal.
- **Legal Privilege.** Adjudicators will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

### Hearing Format and Cross-Examination

The following hearing format will apply in all adjudications involving a Formal Complaint of Title IX Sexual Harassment:<sup>18</sup>

- The Adjudicator will explain the hearing process, provide an opportunity to all parties to ask questions about procedures, and read the charges.
- The Investigator will provide a brief statement summarizing the investigation. The Adjudicator may then pose questions to the Investigator. After the Adjudicator has concluded asking questions, the Complainant's advisor may then cross-examine the Investigator. After the Complainant's cross-examination has concluded, the Respondent's advisor may then cross-examine the Investigator.
- The Complainant may provide an opening statement. The Adjudicator may then pose questions to the Complainant. After the Adjudicator has concluded asking questions, the Respondent's advisor may cross-examine the Complainant.
- The Respondent may provide an opening statement. The Adjudicator may then pose questions to the Respondent. After the Adjudicator has concluded asking questions, the Complainant's advisor may cross-examine the Respondent.

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<sup>18</sup> The Adjudicator has the discretion to supplement this required format with additional procedures. Any such procedures will be consistent with the required format and applied equally to all parties.

- The Adjudicator will hear from witnesses that the Adjudicator determined to have information that is relevant to the matter, first on behalf of the Complainant and then on behalf of the Respondent. Invited witnesses may provide statements. When each witness is called, the Adjudicator may pose questions. After the Adjudicator has concluded asking questions to a witness, the Complainant's advisor may cross-examine the witness. After the Complainant's cross-examination has concluded, the Respondent's advisor may cross-examine the witness.
- The Complainant may provide a closing statement. The Adjudicator may then pose questions to the Complainant. After the Adjudicator has concluded asking questions, the Respondent's advisor may cross-examine the Complainant regarding any new statements made by the Complainant during the Complainant's closing statement.
- The Respondent may provide a closing statement. The Adjudicator may then pose questions to the Respondent. After the Adjudicator has concluded asking questions, the Complainant's advisor may cross-examine the Respondent regarding any new statements made by the Respondent during the Respondent closing statement.

This format ensures that during the live hearing, each party's advisor shall have an opportunity to cross-examine the other party and any witnesses. Cross-examination shall be conducted directly, orally, and in real time. Cross-examination must be conducted by the party's advisor and never by the party personally. If a party does not have an advisor to conduct cross-examination, NAA will provide an advisor to that party free of charge.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a party or witness answers a cross-examination or other question, the Adjudicator must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. There may be no discussion or argument regarding relevance determinations with the Adjudicator at the hearing.

If the Complainant, the Respondent, or a witness informs NAA that they will not attend the hearing (or will attend but refuse to be cross-examined), the Title IX Coordinator may determine that the hearing may still proceed. The Adjudicator may not, however, draw any adverse inference in reaching a determination regarding responsibility based solely on the individual's absence from the hearing (or their refusal to be cross-examined).

### **Determination and Sanctions; Notice of Outcome**

At the conclusion of the hearing, the Adjudicator will objectively weigh the evidence that has been presented and, based on a preponderance of such evidence, conclude whether the Respondent violated this policy.

If the Respondent is not found responsible for violating this policy, the Adjudicator will issue a written determination (described below).

If the Respondent is found responsible for violating this policy, the Adjudicator will determine sanctions and remedies. In determining the appropriate sanctions and remedies, the Adjudicator may consider a number of factors, including:

- The nature of the conduct at issue, including whether it involved violence.
- The impact of the conduct on the Complainant.
- The impact of conduct on NAA community.
- The ability of NAA, going forward, to maintain a safe and respectful environment conducive to learning.

- Any previous conduct violations by the Respondent, both at NAA or elsewhere, as well as any criminal convictions.

Remedies must be designed to restore or preserve equal access to NAA's Education Program or Activity and need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

Potential sanctions and remedies against a student for a violation of this policy include, but are not limited to: reprimand or warning; educational reflection assignment; change to academic schedule or housing; disciplinary probation; postponement of degree conferral; revocation of honor awards; restriction of access to NAA facilities or activities; issuance of a No Contact Order or requiring that such an order remain in place; suspension (limited time or indefinite); or expulsion. Sanctions and remedies may be issued individually or as combination.

Potential sanctions and remedies against an employee for a violation of this policy include, but are not limited to: reprimand or warning; change to teaching schedule; disciplinary probation; revocation of titles or honors; restriction of access to NAA facilities or activities; issuance of a No Contact Order or requiring that such an order remain in place; suspension (limited time or indefinite); or termination of employment. Sanctions and remedies may be issued individually, or as combination of sanctions may be imposed.

The Complainant and Respondent will be notified simultaneously in writing (which may include email), generally within 7 calendar days of the hearing, of the written determination which will include:

- An identification of the allegations.
- A recitation of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
- Findings of fact supporting the determination.
- Conclusions regarding the application of this policy to the facts.
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the school imposes on the Respondent, and whether remedies designed to restore or preserve equal access to NAA's Education Program or Activity will be provided by NAA to the Complainant.
- Procedures and permissible bases for appeal.

The written determination becomes final either on the date that NAA provides the parties with the written determination of the result of any appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

### **Right to Appeal**

Either party may appeal the determination regarding responsibility on any of the following bases:

- A procedural irregularity that affected the outcome;
- New evidence that was not reasonably available at the time the determination was made and could affect the outcome;
- The Title IX Coordinator, Investigator, or decision-maker had a conflict of interest or bias that affected the outcome of the matter; or
- The sanction is disproportionate with the violation.

Each party may submit a written statement in support of or appealing the outcome to President of NAA via email or Mail within 5 calendar days of receipt of the determination. Statements in support or appeal should be no more than 3 pages and must be submitted by the Complainant or Respondent (not by an advisor).<sup>19</sup> When a statement in support or appeal is filed, the other party will be notified in writing.

Following his or her review, the appeal officer will simultaneously issue a written decision to both parties describing the result of the appeal and the rationale for the result. Generally, the appeal officer may either: (i) affirm the adjudicator's determination; (ii) alter the sanctions rendered; or, (iii) send the matter back to an Adjudicator for further proceedings consistent with its decision. The decision on the appeal is final and shall be conveyed in writing to both parties, normally within 7 calendar days of receipt.

### **Recordkeeping**

For any report or Formal Complaint of Title IX Sexual Harassment, NAA will maintain records for 7 years that include:

- Records of any actions, including any Supportive Measures, taken in response to the report or Formal Complaint of Title IX Sexual Harassment.
- The bases for NAA's conclusion that its response was not deliberately indifferent.
- Documentation that NAA took measures designed to restore or preserve equal access.
- If NAA did not provide Supportive Measures, the reasons why such a response was not clearly unreasonable in light of the known circumstances.

If the report or Formal Complaint of Title IX Sexual Harassment was subject to an adjudication pursuant to the Formal Complaint process outlined above, NAA's record will also contain:

- Any determination regarding responsibility.
- Any audio or audiovisual recording or transcript.
- Any disciplinary sanctions imposed on the Respondent.
- Any remedies provided to the Complainant.
- Any appeal and the result.
- Any informal resolution and the result.

For a period of 7 years, NAA also will keep all materials used to train Title IX Coordinator, investigators, adjudicators, and any person who facilitates an informal resolution process. Further, NAA will make these training materials publicly available on its website.

### **Disclosure of Outcome**

NAA will not share information obtained during the course of a proceeding with parties external to NAA unless compelled to do so, such as by receipt of a lawfully issued subpoena. NAA may share information about the proceeding internally with "school officials" with a "legitimate educational interest" consistent with FERPA. The parties to the proceeding choose whether they will disclose or discuss the outcome of a Title IX Sexual Harassment proceeding.

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<sup>19</sup> All appeal officers will satisfy the training requirements mandated by applicable federal and state laws and be free of bias and conflicts of interest for or against Complainants or Respondents generally or an individual Complainant or Respondent. The appeal officer will not be same person as the adjudicator that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.

### **Special Procedure Concerning Complaints against a Title IX Coordinator or Senior Administrator**

If a report of Title IX Sexual Harassment alleges Title IX Sexual Harassment on the part of the Title IX Coordinator or senior administrator, the Sr. Executive Vice President of Human Resources will designate the Investigator and oversee all Supportive Measures. The investigation, adjudication, and resolution process will otherwise follow this policy.

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### **GLOSSARY OF TERMS**

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**Actual Knowledge** means notice of Title IX Sexual Harassment or allegations of Title IX Sexual Harassment to NAA's Title IX Coordinator or any official of NAA who has authority to institute corrective measures on behalf of NAA.

**Consent** is informed, freely given, mutually understandable words or actions that indicate a willingness to participate in sexual activity.

Effective consent may never be obtained when there is a threat of force or violence, or any other form of coercion, intimidation, force or threat of harm. Silence or lack of resistance, in and of itself, does not demonstrate consent. A person's manner of dress does not constitute consent. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent can be revoked at any time by expressing in words or actions that they no longer want the sexual activity to continue. When consent is withdrawn or can no longer be given, sexual activity must stop. Consent cannot be obtained from someone legally prevented from giving consent by their age, from someone who is unable to understand or who cannot communicate a lack of consent, or someone who is Incapacitated. Voluntary intoxication is not an excuse for failure to obtain consent.

The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.

**Complainant** means an individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.

**Educational Program or Activity** includes locations, events, or circumstances over which the recipient exercised substantial control over both the Respondent and the context in which the Title IX Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by NAA.

**Formal Complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that NAA investigate the allegation of Title IX Sexual Harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in an Education Program or Activity of NAA.

**Incapacitation** means the inability, temporarily or permanently, to give Consent, because an individual is mentally and/or physically helpless, asleep, involuntarily restrained, unconscious, or unaware that sexual activity is occurring. Depending on the degree of intoxication, someone under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. Warning signs that a person may be approaching incapacitation may include, but are not limited to, vomiting, incoherent speech, and difficulty walking or standing up. The perspective of a sober, reasonable person in the position of the Respondent will be the basis for determining whether a Respondent should have been aware that the Complainant was incapacitated and therefore unable to Consent.

**No Contact Order** means a directive prohibiting contact between or among designated individuals through any means, direct or indirect, including personal contact, email, telephone, text message, social media, or by means of a third party.

**Party** means either the Complainant or the Respondent. **Parties** means the Complainant and the Respondent.

**Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment.

**Retaliation** means intimidating, threatening, coercing, or in any way discriminating against an individual for exercising any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.

**Supportive Measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed.

**Title IX Sexual Harassment**<sup>20</sup> means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of NAA conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to NAA's Education Program or Activity;
3. **Sexual Assault**, as defined in 20 U.S.C. 1092(f)(6)(A)(v), which means one of the following offenses:
  - *Rape* is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the victim. (Note: this definition also includes offenses of sodomy and sexual assault with an object).
  - *Fondling* is the touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances where the victim

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<sup>20</sup> In the event of a conflict between the statutes and regulations cited and the text of the policy definitions, the statutes and regulations control.

is incapable of giving Consent because of his/her age or because of his/her temporary or permanent mental incapacity.

- *Incest* is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - *Statutory rape* is sexual intercourse with a person who is under the statutory age of consent.
4. **Dating Violence**, as defined in 34 U.S.C. 12291(a)(10), which means violence committed by an individual—
- A. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - B. where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - i. The length of the relationship.
    - ii. The type of relationship.
    - iii. The frequency of interaction between the persons involved in the relationship.
- For state law definitions covering dating violence see:
- [Florida Statutes §784.06](#)
  - [Massachusetts Law §MGLc.209A](#)
5. **Domestic Violence**, as defined in 34 U.S.C. 12291(a)(8), which means 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.
- For state law definitions covering domestic violence see:
- A. [Florida Statutes §741.28](#)
  - B. [Massachusetts Law §MGLc.209A](#)
6. **Stalking**, as defined in 34 U.S.C. 12291(a)(30), which means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
- A. fear for his or her safety or the safety of others; or
  - B. suffer substantial emotional distress.
- For state law definitions of stalking see:
- [Florida Statutes §784.048](#)
  - [Massachusetts Law §MGLc.209A](#)

**NAA Sexual Harassment** means conduct that is prohibited by the Student Catalog does not fall within the definition of Title IX Sexual Harassment or meet Title IX's jurisdictional requirements.