



		Policy Section:	Institutional Support
Policy Number:	5501-02	Policy Title:	Sexual Misconduct
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**I. Policy Statement**

Cairn University is committed to promoting and maintaining a safe and respectful environment for the campus community. The University seeks to build and maintain a community honoring the principles of Biblical teaching on sexuality and human relationships. Due to the unique mission of Cairn University and our Community Life Covenant with which community members are asked to conform, the University affirms the biblical statements that God intends sexual activity to take place within the bond of a monogamous heterosexual marriage. Sexual activity apart and/or outside a marital relationship is a violation of Biblical teachings and therefore a violation of Cairn community standards.

Cairn will not tolerate inappropriate sexual contact including but not limited to sexual harassment, sexual violence, domestic violence, dating violence, or stalking (collectively “Sexual Misconduct”) perpetrated by or against any university students, university employees, participants in university programs and activities, or visitors to its campus. This policy prohibits Sexual Misconduct by university employees (which include all faculty, staff, and administrative employees) and students, whether the behavior occurs on or off campus. This policy also prohibits Sexual Misconduct by or against visitors to the university (such as independent contractors, vendors, visiting lecturers, and visiting student-athletes).

Cairn will take immediate and appropriate steps to stop Sexual Misconduct, prevent its recurrence, address its effects, and prohibit retaliation. Any person who violates this policy may be subject to discipline up to and including termination of employment, suspension, dismissal, and a ban from campus, depending on the circumstances and the severity of the violation and the violator’s status as an employee, student, or visitor.

Cairn will work to prevent Sexual Misconduct and address reports of Sexual Misconduct by:

- educating members of the Cairn community about this policy and applicable laws in the employee and student orientations, and with continued educational reminders;
- promptly addressing and resolving reports of Sexual Misconduct in accordance with this policy;
- protecting the rights of both the complaining and responsible parties involved in a complaint;
- imposing appropriate discipline against those who have engaged in Sexual Misconduct.

**II. Further Defining Prohibited Misconduct**

As required by **Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act of 1964**, the university prohibits sex discrimination in its educational programs or activities, admission, and employment.

*(“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal assistance.”)*

Discrimination in education includes actions that can be categorized as sexual harassment and/or sexual misconduct. Enforcement of this policy is meant to honor and be consistent with the expectations of the Clery Act, updates to the Violence Against Women Act and the May 2020, Department of Education, Office of Civil Rights regulations.

This policy is designed to comply with federal guidelines of educational institutions identifying sexual misconduct violations of Title IX. Federal guidelines require the university to respond to sexual misconduct, which occurs in the educational and related activities and programs, against a person in the United States, and in any scenario where the University exercises substantial control over both the respondent and the setting or oversight in which the misconduct occurs.

Sexual Misconduct prohibited under this policy includes a range of unwelcome sexual conduct, including verbal and physical sexual harassment, sexual assault, and other forms of sexual violence, each of which is a form of prohibited sex discrimination. Other behavior, such as domestic violence, dating violence, and stalking, that is generally (though not exclusively) sex-based is also considered Sexual Misconduct under this policy. This policy does not address consensual sexual activity prohibited under the Cairn Community Covenant or other kinds of sex discrimination of a non-sexual or non-criminal nature prohibited under the Cairn Nondiscrimination and Equal Opportunity Policy (5501-01).

Community members of Cairn University are to be guarded and sensitive in personal and professional relationships. While, to be defined as harassment, a particular interaction must be severe, pervasive, and objectionably offensive to both a reasonable party and to the victim. Any action that is detrimental to the educational experience of the student, or to the conditions of employment of an employee, may be considered offensive and/or threatening if it meets the severe, pervasive and objectionably offensive threshold.

#### **A. Sexual Harassment**

Sexual harassment is any sexually based unwelcome verbal, non-verbal or physical conduct of a sexual nature and can include unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature. Conduct is unwelcome if the individual toward whom it is directed did not request or invite it and regarded the conduct as undesirable or offensive. The unwelcome behavior may be based on threats or promises from someone in a position of power or authority, the creation of a hostile environment, or retaliation for reporting misconduct.

Under Title IX guidelines, Sexual Harassment means conduct on the basis of sex satisfying one or more of the following:

- A university employee conditioning educational benefits on participation in unwelcome sexual conduct. (Quid Pro Quo); or
- Unwelcome conduct that a reasonable person would determine is so severe, pervasive and objectionably offensive it effectively denies a person equal access to the school's educational program or activity; or
- Sexual assault (as defined by the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence against Women Act (VAWA).

A wide variety of sexual conduct may constitute sexual harassment depending upon the severity, pervasiveness and offensiveness. Examples of sexual harassment include, but are not limited to, the following:

- An attempt to coerce an unwilling person into a sexual relationship
- Sexually suggestive or offensive joking, flirting, or comments
- Unwelcome and intentional touching
- Sexually oriented verbal abuse
- Sexually oriented comments about an individual's body
- Displaying objects or pictures that are sexual in nature
- Sending sexually explicit or offensive text messages (sexting) or other communications
- Posting revealing and/or inappropriate pictures of a sexual nature with or without a person's consent.

Sexual harassment in higher education generally falls within one of two categories:

1. **Quid Pro Quo, sexual harassment**—when submission to or rejection of the unwelcome sexual conduct is used as a basis for employment decisions affecting an employee, or when a teacher or other employee conditions an educational decision or benefit on a student’s submission to unwelcome sexual conduct.
2. **Hostile Environment, sexual harassment**—when the unwelcome sexual conduct is so severe, pervasive, and objectionably offensive it alters the conditions of an employee’s employment and creates a hostile, intimidating, or abusive working environment or it denies or limits a student’s or employee’s ability to participate in or benefit from the university’s programs or activities.

To avoid the possibility or appearance of quid pro quo sexual harassment, employees and students should avoid dating, romantic, or amorous relationships where a power differential exists. Examples of such relationships include, but are not limited to, a professor or teaching assistant involved in a relationship with his or her student, or a supervisor involved in a relationship with a subordinate employee. If such a relationship exists, it must be approved by both parties with the appropriate supervisor(s), who should document the disclosure of the relationship, confirm with the parties that the relationship is voluntary, and not unwelcome to either party. As a general rule, dating, romantic, or amorous relationships should not be entered into or continued while one individual in the relationship has the power to either reward or penalize the other in work or in school.

Sexual harassment that creates a hostile environment is more common than quid pro quo harassment, but it is more difficult to identify. In order for behavior to be deemed as sexual harassment the actions must be severe, and pervasive, thereby creating a hostile environment. The complaining party must subjectively consider the environment to be hostile or abusive and the conduct would also have to be objectionably offensive, that is reasonable people in the employee or student’s position would also find the conduct to be offensive, considering the circumstances.

The fact someone did not intend to sexually harass an individual is generally not a defense to a complaint of sexual harassment. In most cases, determining whether the behavior has created a hostile environment depends on the effect the behavior has on the victim (including its effect on an employee’s job performance or a student’s education) and the surrounding circumstances (such as the type, frequency, and duration of the conduct; the relationship between the alleged perpetrator and victim; the number of people involved in the conduct; and the location and context of the incidents).

Unwelcome sexual conduct that is mildly offensive and isolated, incidental or sporadic does may not rise to the level of unlawful sexual harassment under Title IX or Title VII, even though it may still be considered a violation of the Cairn Community Covenant and this policy.

#### **B. Sexual Violence, Domestic Violence, Dating Violence, and Stalking**

Sexual violence is a form of sexual harassment and refers to physical sexual acts perpetrated against a person who has not consented or who is incapable of giving consent. Examples of sexual violence include, but are not limited to, rape, sexual assault, sexual battery, and sexual abuse. Such acts of sexual violence, in addition to being criminal offenses prohibited under the Pennsylvania Criminal Code, also constitute Sexual Misconduct prohibited under this policy. A single act of sexual violence may be sufficiently severe to create a hostile environment.

Domestic violence, dating violence, and stalking are likewise criminal offenses under the Pennsylvania Criminal Code and are considered Sexual Misconduct prohibited under this policy, even when the criminal behavior is not specifically sexual in nature.

**Domestic violence** is a violent crime committed by a current or former spouse or intimate partner (or someone similarly situated) or any other person against a victim who is protected from that person’s acts

under state domestic or family violence laws. **Dating violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. **Stalking** is 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 to suffer substantial emotional distress.

Consent is a voluntary agreement to engage in sexual activity and is determined by the relevant facts and circumstances. Consent cannot be given by someone who is incapacitated for any reason (i.e., because of the victim's age, disability, unconsciousness, or use of drugs or alcohol).

Additionally, consent cannot be implied by silence, or past consent with the same or another person. Consent to engage in further sexual activity can be withdrawn at any time. Consent is invalid where it is given under coercion, force, or threats.

### **III. Reporting Incidents**

The vast majority of Cairn University employees have a duty under this policy to report Sexual Misconduct. All persons in the Cairn community are encouraged to voluntarily report incidents of Sexual Misconduct to the Title IX Coordinator. Pennsylvania law imposes additional reporting obligations related to sexual abuse of a child. Victims of Sexual Misconduct are strongly encouraged to report incidents of Sexual Misconduct.

#### **A. Individuals with a Duty to Report**

##### **1. Responsible Employees**

Cairn University considers employees to be "Responsible Employees" with the exception of those working in the University Health Center and Oasis Counseling Center. Responsible Employees are individuals who 1) have the duty to report any type of misconduct or detrimental behavior to appropriate officials; 2) have the authority to take corrective measures on behalf of the university, and/or 3) would be someone a student would reasonably believe has such authority or responsibility.

Every "Responsible Employee" who becomes aware of or reasonably suspects any incidents of Sexual Misconduct must promptly report all relevant information to the Title IX Coordinator. A "Responsible Employee" who receives a report of Sexual Misconduct should inform the reporting individual that the employee must report the incident, and the employee should then promptly make the report to the Title IX Coordinator. Responsible Employees with information regarding an incident of Sexual Misconduct who fail to report relevant information or to cooperate in an investigation will be subject to disciplinary action.

##### **2. Child Abuse Reporters**

PA state law along with this policy and the University Minors on Campus Policy (5401-10) require any person who has reason to believe a minor/child (anyone under 18 years old) has been subjected to sexual violence or other forms of abuse or neglect, or who observes a minor/child being subjected to conditions or circumstances which would reasonably result in such abuse or neglect, to report the situation to the Pennsylvania Department of Human Services. This can be done electronically on the DHS website or by calling PA ChildLine at 1-800-932-0313.

##### **3. Campus Security Authorities (CSA)**

CSAs are persons who have responsibility for campus security or who have significant responsibility for student and campus activities. Such persons include, but are not limited to, security staff, vice presidents, athletic directors, coaches, deans, directors, managers, and Residence Life Directors. A university employee who has been designated as a CSA and who receives a report of Sexual Misconduct must relay statistical information about incidents of sexual assault, dating violence, domestic violence, and stalking to the university Office of Safety & Security. Federal law requires that the university prepare and distribute an annual security report containing crime statistics reported to

CSAs. The university must also issue timely warnings about crimes posing a threat to students and employees. CSA reporting and the annual security report are core aspects of the Clery Act.

#### **4. Victims of Sexual Misconduct**

In order to protect their own and others' safety, individuals who believe they have been subjected to Sexual Misconduct are encouraged to make a report even if they have simultaneously been involved in other violations of Cairn University policy, such as use of alcohol or drugs. Violations of the Cairn Community Life Covenant do not make a victim at fault for sexual violence or other forms of Sexual Misconduct.

##### Amnesty for Victims and Witnesses

Recognizing students may be reluctant to report incidents of sexual assault or sexual harassment involving drugs or alcohol because of the potential consequences related to violating the Student Standards of Conduct, Cairn University has established an amnesty policy for Title IX incidents. Any victim or witness of sexual misconduct, who reports the incident in good faith, will not be sanctioned by the University for violating the Student Standards of Conduct regarding drugs, alcohol or sexual activity in connection with the reported incident.

##### Rape Shield Protections

Students who have been sexually harassed or assaulted, or experienced dating or domestic violence or stalking, often demonstrate confusion over to whom they should speak and what is done with information shared in the course of a conversation. This sexual misconduct policy allows for students who are victims of sexual harassment or assault, dating or domestic violence, or stalking to choose how and to whom they should report such an incident as part of common rape shield protections.

In the event the student desires the incident be kept confidential, they should speak only with those individuals who are not designated as Responsible Employees or those who can legally maintain confidentiality. On the Cairn campus, those who can maintain confidentiality are those working in the Oasis Counseling Center and the University Health Center. Students can also speak with off-campus rape crisis resources, lawyers, or members of the clergy who will keep reports made to them confidential.

To be considered as having the privilege of confidentiality, Cairn faculty and staff must be:

- Licensed
- Working in the job for which they are licensed
- Engaged in that work when they hear of the allegation or incident
- Willing to inform the student of the confidential nature of the conversation
- Able to have the person sign an intake form

In addition, the online Title IX incident reporting form allows the form to be completed without revealing names. It should be noted that anonymous reports or those completed without naming individuals involved would be treated seriously even if names and details have not been revealed in the original notice.

#### **B. How and Where to Report**

Members of the Cairn community who believe they have been subjected to any form of discrimination, harassment, or misconduct in violation of this policy should follow the procedures outlined below to report or give "notice" of these concerns. The process involves an immediate intake "preliminary investigation" to determine if there is reasonable and sufficient evidence to believe the Sexual Misconduct Policy has been violated. If reasonable and sufficient evidence exists, the University will

explore whether mediation or the launching of a prompt, thorough, and impartial formal investigation is the best course of action.

Each step of mediation or investigation is designed to provide fair and reliable determination about whether policy has been violated and how to introduce appropriate supportive measures. In the event the University determines the misconduct policy and/ or expectations of Title IX has been violated, the University implements a prompt and effective remedy designed to end the discrimination/harassment, prevent its reoccurrence, and address its effects. The University does not tolerate retaliation against any student or employee who complains of sexual misconduct, discrimination or harassment or provides information in connection with any such complaint.

Scope:

All reports of sexual misconduct will be accepted and examined. To be considered a violation of Title IX; the complaining party must be participating in or attempting to participate in the educational program or activity of the University, in buildings or property owned by Cairn, online when using Cairn networks and e-resources or at events under the domain and sponsorship of the University at the time of filing a formal complaint.

**1. Internal Cairn University Report of Sexual Misconduct**

In the event an individual within the University community desires to make a formal report of an incident, they should be directed to the "Make a Report" link on the Title IX section of the Cairn Website. Cairn's on line reporting does allow the complaining party to remain anonymous. Reports can also be made verbally or in writing to any "Responsible Employee" who will then forward the incident to the Title IX Coordinator within an expected window of 24-48 hours. In addition, the report can be made directly to designated members of the University Title IX Team.

Cairn University Title IX Coordinator  
Scott Cawood, Senior Vice President for Student Affairs & Administration  
200 Manor Avenue, Langhorne, PA 19047-2990  
Smith Admin Building, AD212  
Email: [scawood@cairn.edu](mailto:scawood@cairn.edu); Phone : 215-702-4216

Cairn University Office of Safety and Security  
Kevin Cornetto, Director  
200 Manor Avenue, Langhorne, PA 19047-2990  
Email: [clloyd@cairn.edu](mailto:clloyd@cairn.edu); Phone : 215-702-4536

Cairn University Title IX Deputy Coordinator & Equal Employment Opportunity Manager  
Mary Boyer, V.P. of Human Resources  
200 Manor Avenue, Langhorne, PA 19047-2990  
Email: [mboyer@cairn.edu](mailto:mboyer@cairn.edu); Phone:215-702-4541

**2. External Report of Sexual Misconduct**

Many forms of sexual misconduct can also be violations of the Title IX rights of the student. Therefore, it should be noted that students who first make an internal report of an incident of misconduct and believe the University or employees therein have not taken their report seriously could also file a report with the Department of Education.

Department of Education  
Office for Civil Rights (OCR)  
400 Maryland Avenue, SW

Washington DC 20201-1100  
Customer Service Hotline #: (800)-421-3481  
Fax: (202)-453-6012; TDD# (877)-521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov); Web: <http://www.ed.gov/ocr>

### **3. Reporting Sexual Misconduct involving Employees and not Students**

In the event that an incident of sexual misconduct is between employees, a report can be submitted to the Vice President of Human Resources who will likewise begin an investigation from a Title VII / Equal Employment Opportunity Manager perspective.

Mary Boyer  
V.P. of Human Resources  
200 Manor Avenue, Langhorne, PA 19047-2990  
Email: [mboyer@cairn.edu](mailto:mboyer@cairn.edu); Phone: 215-702-4541

Employees with complaints of employment-related discrimination also have the right to file a formal complaint with state or federal government:

<b>Pennsylvania Human Relations Commission</b>	<b>Equal Employment Opportunities Comm.</b>
Philadelphia Regional Office	Philadelphia District Office
110 North 8th Street, Suite 501	801 Market Street, Suite 1000
Philadelphia, PA 19107	Philadelphia, PA 19107-3127
(215) 560-2496	1-800-669-4000
(215) 560-3599 TTY users only	1-800-669-6820 TTY users only

### **C. Providing Supportive Measures for Victims who Make a Report**

A student or employee who reports to the University that he or she has been a victim of sexual misconduct including but not limited to hazing, e-harassment, dating violence, domestic violence, sexual assault, or stalking—even if the offense occurred off campus—will be informed of a victims’ rights and options for supportive measures as follows:

- Individualized service reasonably available which is 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
- Procedures victims should follow, including information about preserving evidence, and reporting the offense.
- Existing counseling, health, mental health, victim advocacy, and other services available for victims, both within the university and in the community.
- Options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures.

This is available in printed and e-formats.

In situations where criminal conduct is involved or personal safety is a concern, it is important that victims of Sexual Misconduct preserve evidence as necessary to prove the crime or secure a protective order through the court system. Victims may choose to seek medical treatment in order to preserve evidence, treat injuries, or prevent sexually transmitted diseases. It is also possible to get a rape kit or find a Sexual Assault Nurse Examiner (SANE) through law enforcement or local hospitals.

### **D. Preventing Retaliation**

Retaliation or intimidation against an individual who has made a “Report” (provided information) or refused to participate in connection with an investigation of Sexual Misconduct is strictly prohibited. Retaliation is any

adverse action taken against an individual by the university, or member of the university community, because he or she has engaged in a legally protected action opposing Sexual Misconduct or participating in a Sexual Misconduct proceeding if the adverse action is reasonably likely to deter the person or others from pursuing their rights. Similarly, intimidation is any adverse action or threat of action reasonably likely to prevent or dissuade an individual from making a "Report" or providing information in connection with a Sexual Misconduct investigation. Individuals who participate in a Sexual Misconduct investigation should be advised that university policy and federal law prohibit retaliation against them or against individuals closely associated with them and should be assured Cairn University will take steps to prevent retaliation and will take strong responsive action to any act of retaliation of which it becomes aware.

Retaliation includes but is not limited to direct threats to an individual, indirect threats to an individual, witness intimidation, creating a hostile atmosphere, demonstrating repeated physical presence, filing frivolous counter claims.

To assist our community members to comprehend the serious nature of retaliation, Cairn often immediately encourages a non-communication approach to both the Complaining Party and the Responding Party. Cairn does not use gag orders, which strictly prohibit any conversation or contact about the incident. This is not done with any perceived or actual judgement but as a means of deterring emotional responses from having the effect of a retaliatory response.

#### **E. Providing Immediate Remedy and Support**

Cairn University officials will examine what immediate steps should be taken to prevent further incident or contact between parties stated to be involved in the incident. In the event the incident involved assault, the University will determine if they have a responsibility to warn others in the community as dictated by Clery legislation.

In most cases, the immediate remedy involves housing adjustments, class adjustments, work schedule adjustments as possible in a small community; along with protective measures, non-communication requests and notice of investigation. In situations deemed to be extreme or dangerous, the Dean of Students may take interim action against the Responsible Party, up to and including a temporary removal from campus. In such cases, both parties will receive simultaneous written notification and the removed party must still have educational access. Remedy at the onset of a report being given is not perceived as actual judgement and is not to be considered a sanction or violation of the respondent's protections.

### **IV. Resolution Process for Reports of Sexual Misconduct and Harassment**

The following procedures are designed to provide for the prompt and equitable investigation and resolution of reports of Sexual Misconduct perpetrated by or against university employees, students, or campus visitors. These procedures will include a prompt, fair, and impartial process for both reporting and alleged responsible parties, from the initial investigation to the final result. Additionally, these procedures will be conducted by officials who do not have a conflict of interest or bias for or against the parties, and who receive ongoing training on conducting informal and formal investigations, mediation if desired and how to conduct a hearing process that protects both parties and promotes accountability.

#### **A. Preliminary Intake**

Upon receipt of a "complaint" (notice) the Title IX Coordinator will commence an intake assessment. The first step is to determine whether the alleged incident is a misconduct issue to be handled under the Community Life Covenant or as a potential Title IX violation. Not all incidents referred for Title IX investigation are Title IX violations, but could still be serious violations of the university and/or a breach of State law. At the point in time at which an intake assessment commences, the terms "Complaining Party" and "Responding Party" are used.

The Coordinator:



- Consults with the Office of Safety and Security as needed to determine if
  - local, state, or federal laws have been broken
  - Clery Act reporting requirements are applicable including “duty to warn”
  - evidence exists to establish the complaint is founded
  - evidence needs to be protected
- Begins preliminary assessment through initial brief interviews and conversations.
- Examines whether informal dispute resolution (mediation) could be constructive to resolve the issue between the grieved parties.
  - The goal of informal resolution is to conclude the matter to the satisfaction of both parties quickly and confidentially. Either Party may enlist the assistance of the Title IX Coordinator or the Equal Opportunity Manager or a direct supervisor in this effort. If satisfactory resolution is not reached during mediation or if either the complaining or responding party believes informal resolution is not possible or may be unsafe, he or she may forego the informal resolution process or discontinue it at any time and address the concern using the formal resolution process described below. Consent for informal resolution by both parties is to be recorded in written record.
  - Informal resolution is not required and is not appropriate, even on a voluntary basis, in instances of sexual violence or other criminal behavior, or when an employee has been accused of sexually harassing a student.
- If at the conclusion of the intake assessment there is not reasonable and sufficient evidence to believe a violation occurred, no further action will be taken and both the complaining and responding party will be informed the incident has been considered and will not be investigated further.
- When an intake assessment reveals that there is reasonable and sufficient evidence to pursue action, the individuals are informed and if the incident is perceived to be a Title IX violation, it is referred to the Title IX Investigators for a prompt and thorough investigation to be commenced.

#### **B. Formal Investigation and Resolution**

Formal investigations begin with a declaration statement from the Title IX Coordinator or the Equal Employment Opportunity Manager that sufficient evidence exists to warrant a full investigation.

Upon receiving a “Report”, the Title IX Coordinator will notify the lead investigator who will in turn select a qualified member of the Title IX Team to promptly investigate the allegations. Generally, the role of Dean of Students is the person who will serve as the “Lead Investigator” for allegations against a student or against a campus visitor if the alleged victim is a student. The Equal Opportunity Manager will generally serve as the lead “Investigator” for allegations against university employees, including student employees unless the alleged misconduct occurred outside the student employment context. The Equal Opportunity Manager will also generally serve as the Investigator for allegations against visitors to campus if the alleged victim is a university employee or another visitor to campus. The Title IX Coordinator will consider any conflicts of interest, time constraints, or other relevant factors in selecting an Investigator.

The Complaining Party and the Responding Party may each raise issues regarding bias or a potential conflict of interest of investigators or others involved in the resolution process by contacting the Title IX coordinator.

#### **C. Statement on Confidentiality**

Given the sensitive nature of Sexual Misconduct allegations and the potential for damage to the parties’ personal reputations, all reports will be investigated as confidentially as reasonably possible. All participants in the investigation—including the Complaining and Responding Parties, the Investigator, and individuals interviewed by the Investigator—should keep the allegations and proceedings confidential, and should provide information only to those university and governmental employees who are authorized to investigate the report or who otherwise have a legitimate need to know.

Records kept by the University relating to Sexual Misconduct allegations are not publicly available and are kept in network data files with restricted access to Title IX team members. In the event the University is required to make any such records publicly available, any identifying information about the Complainant Party will be excluded, to the extent permissible by law, to protect the Complainant Party's identity.

Notwithstanding the foregoing confidentiality provisions, Complainant Parties and any witnesses who participate in an investigation of Sexual Misconduct should be advised their confidentiality will be preserved only to the extent it does not interfere with the university's ability to investigate the report and take corrective action, and if the investigation results in litigation, the university may be legally required to disclose any information it has received.

If a Complainant Party requests his or her identity be kept anonymous, or asks the university not to pursue an investigation, the university's ability to investigate and respond to the Report may be limited by such a request. The University will take reasonable steps to investigate and respond to a Report consistent with the Complainant Party's request for anonymity. However, without conducting a full investigation or disclosing the full nature of the Report (including its source) to the Responding Party, the university may be unable to impose any discipline, and its corrective actions might be limited to informing the Responding Party that allegations of discriminatory behavior have been made against him or her, preserving a record of the discrimination allegation in the Responding Party's employment or student disciplinary file, and pursuing other steps to limit the effects of the alleged harassment and prevent its recurrence, such as training or surveys in the affected area or department.

The Complainant Party should also be advised the university might not be able to honor a request for confidentiality or to forego an investigation if such a request would prevent the university from meeting its responsibility to provide federally required crime stats and conduct incident investigations.

#### **D. Written and Oral Statements**

Each of the parties involved will be asked by the investigator to provide initial statements of complaint for the Complainant Party, response for the Responding Party, or support material from a witness. If any of these individuals desires to submit a statement in writing they can do so provided they

- Sign and date the submission
- Hand it in within five calendar days of the launch of an investigation
- Recognize the university will consider this to be an honest account of the incident and each person can be found responsible for submitting information later deemed to be false.

Both the Complainant and Responding Parties shall be sent written notice of the investigation commencing and immediately followed by the compilation of a brief *Summary of Accusation*. The Complainant Party will be asked to review the *Summary*, make any necessary corrections, and affirm it with a signature. If the Complainant Party refuses to sign the *Summary*, the Investigator may either (a) note that the allegations have been withdrawn and terminate the investigation, or (b) note that the Complainant Party has refused to sign the *Summary*, but the investigation will nevertheless proceed informally to determine what occurred and to protect the university's interest in maintaining an environment free from sex discrimination.

A copy of the *Summary* will be provided to the Responding Party as quickly as enough substance has been determined to provide the responding party with clear knowledge of what is being reported and/or alleged. The Investigator, in consultation with the Title IX Coordinator, may redact the *Summary* copy before providing it to the Responding Party to protect the identity or safety of the Complainant Party or any witnesses or for any other reason as the Investigator deems advisable and permissible by federal and state guidelines.

The *Response* of the Responding Party should indicate whether the Responding Party understands, admits or denies the allegations in the *Summary*, and should provide any exculpatory facts or evidence, including the

names of other individuals who may have information relevant to the allegations and other materials in response to the *Summary*. The *Response* may also include an explanation as to why the Responding Party believes any admitted conduct was lawful or was not in violation of university policy.

#### **E. Cooperation with University Officials and False Statements**

Employees or students who fail to cooperate in an investigation, including those who knowingly or recklessly misrepresent any facts or who withhold pertinent information, may be subject to disciplinary action up to and including suspension or dismissal from the university or termination of university employment.

Likewise, the filing of a false report related to Title IX or any other community life scenario will be considered a significant event and would be subject to disciplinary action up to and including suspension or dismissal from the university or termination of university employment.

#### **F. Concurrent Investigations**

An investigation conducted under these procedures will be conducted independent of any associated criminal investigation or any other university investigation or procedures. If the university determines the issues raised in this investigation may be relevant to its determination in another non-criminal investigation or another process is simultaneously pending at the university, it may direct the other investigation or process be suspended until this investigation and any appeals or administrative reviews are concluded. However, an investigation under these procedures will not be suspended pending the conclusion of a criminal investigation or any other investigation, though the fact-finding portion of the investigation may be delayed temporarily while the police are gathering evidence. While the findings and conclusions of one investigation will not determine the outcome of any other, any evidence or findings developed in any university or non-university investigation may be shared with and considered in any other university investigation.

#### **G. Support Person**

The Complaining and Responding Parties may be accompanied by one support person. A Party's support person may attend for purposes of observation and offering support and advice. A support person may be immediately excluded from the proceedings if he or she disrupts or prevents the course of the investigation.

#### **H. The Formal Investigation and Outcome Process**

The investigation should be thorough, prompt, adequate, reliable, and impartial. The university will, in good faith, attempt to conclude the investigation and resolution within sixty calendar days of the Title IX Coordinator receiving the Report. If, as a result of the complexity of the case, unavailability of witnesses, or other extenuating facts and circumstances, the investigation cannot reasonably be concluded within the sixty-day period, the Complaining and Responding Parties will be notified of the reason for the delay.

During the investigation, the Investigator will consider the initial Complaint Summary and Respondent Response, conduct interviews, and review any other documents or evidence submitted by the parties or discovered during the investigation. An investigation under these procedures is an internal university employment or student disciplinary matter.

At any time during the investigation, either of the Parties or the Investigator may propose a mediated resolution of the matter as long as the incident does not involve an employee versus a student. If both the Complaining and the Responding Parties are satisfied with this proposed resolution, and if the Investigator, Title IX Coordinator, and the Responsible Administrator are satisfied that the University's responsibilities are protected, the matter may be resolved as proposed. Incidents involving sexual violence must go through a complete investigative process and a judicial conduct hearing for resolution.

Upon completion of all related interviews and collection of evidence, the investigator weighs the evidence to ensure that it is credible and relevant. Evidence that meets the standard is compiled into a list of Directly

Related Evidence (DRE). The investigator writes a final report of the investigation. The Investigator will promptly communicate findings and a recommendation of:

- there not being enough evidence of the complaint or
- the appropriate mediated resolution or
- the need for a judicial conduct hearing to take place to determine outcome and possible sanctions.

### **1. Steps of the Investigation Process**

- Activation of an investigation team by the Title IX Coordinator.  
Upon receipt of a notice, the Title IX Coordinator will assess the nature of the notice, contact the Title IX Lead Investigator and if needed prompt the investigator to establish an investigation team.
- The Lead investigator will create the case file kept in a secured network drive with access limited to the Title IX team.
- Files are generally organized by:
  - a file for email and correspondence,
  - a file for interviews and notes,
  - a file for evidence and a file for official Cairn documentation.
  - (Lead investigator and Title IX coordinator have the authority to organize as best fits the case)
- A standard of equal communication is expected by the lead investigator. The Complaining and Responding Parties should receive notices and updates within the same timeframe.
- Specific details of the investigation process are found on the Cairn University Sexual Misconduct flowchart attached to this policy.
- Cairn University has trained investigators who consistently use a systematic format of investigation for Title IX complaints. The determination of “finding” (final ruling) and sanctions will depend on the nature of the complaint/report, as follows:
  - During the course of the investigation sexual misconduct cases determined to be legitimate allegations will be presented to a Conduct Hearing for a fair and impartial hearing in which determination of finding and assessing of any sanctions assure that the decision is made by a panel of trained Title IX personnel.
  - Cases, which involve other types of discrimination or harassment, will be fully investigated and be presented to the Equal Employment Opportunity Manager and or Title IX Coordinator for final ruling and sanctions.
- The respective administrator, Title IX coordinator (if the Responding Party is a student), and the Equal Employment Opportunity Manager (if the Responding Party is an employee), will be responsible for the final communication of determination. Both parties will be communicated with and are permitted to know the outcome.
- Investigations and potential hearings broaden the amount of campus community members that are aware of the alleged incident. Cairn University makes use of repeated warnings to all parties and in some situations agreements of confidentiality to ensure the matter stay amongst only those who need to know. All parties involved need to acknowledge that the larger the incident and the more time needed to conduct an investigation it is likely more community members will become officially aware of the investigation.

### **2. Judicial Conduct Hearings**

At the point a complaint of sexual misconduct has been investigated and recommended to proceed to a hearing, the Title IX Coordinator will begin the steps needed for a hearing to be scheduled. Specific policy is found in policy (5401-18) Judicial Conduct Hearing.

### **3. Determination of Outcome and Sanctions**

When the hearing and/or investigation is complete the Title IX Coordinator or the Title VII Coordinator as applicable will communicate the findings to the respective parties. This will be done in writing and when possible reviewed in person. Both parties are to receive communications on the same day.

- Any student or employee determined to have engaged in discriminatory behavior shall receive sanctions ranging from the minor to major infractions published in the Student Handbook or Employment Handbook. Sanctions are determined by examining the immediate incident and/or repeated incidents, which create a hostile environment. Sanctions may be more severe when taking previous violations, complaints, and sanctions into account.
- Any student or employee violating the Community Life Covenant standards on sexual activity, or found responsible for sexual harassment, sexual violence, dating violence, domestic violence, or stalking, shall receive sanctions ranging from the minor to major infractions published in the Student Handbook or Employment Handbook. Sanctions are determined by the immediate incident yet can be made more severe when taking previous violations, complaints, and sanctions into account.
- When a non-student/non-employee who in the course of interactions in connection with the University's locale, events, programs or activities subjects a student or an employee to harassment, the university will take appropriate steps to notify such individual of its policies, prevent future occurrences, or prohibit the person from further such interactions as deemed necessary.
- The university may also report findings of potential criminal misconduct to the police.
- Possible protective measures that may be imposed following the investigation include the following: making interim support measures permanent, offering remedies and accommodations to either party, implementing changes in programs or activities, or providing training for the campus community or specific groups or individuals.

#### **4. Appeals**

At the end of the investigative process, the Complaining and Responding Parties are able to appeal the outcome. Cairn utilizes an appeals process for sexual misconduct that is the same as traditional student and employee grievance and appeals. Prescribed time frames and procedures must be followed.

In the event the appeal involves a case coming from a hearing panel, the appeals officer (Provost) can send the case back to the panel for re-evaluation if new evidence or procedural error is found. It is also possible the appeals officer may ask a new hearing panel to re-examine the case if sending back to the same panel raises questions of bias.

Final decisions of the appeal officer and/or hearing panel are the final appeal. Results are to be communicated within 72 hours of the appeal being heard/presented.

Appeals are granted only on the basis of:

1. A procedural error occurred in the investigation stage or actual hearing, which significantly influenced the outcome.
2. New evidence has become available which would substantially affect the outcome of the hearing or the sanction(s).
3. Sanctions are not proportionate to the severity of the findings

The appeals officer will be:

- The Provost if the person appealing is a student
- The respective overseeing VP if the person is an employee

#### **V. Prevention and Training**

The university will seek to make employees and students familiar with the contents of this policy. Administrators, deans, chairs, directors, managers, and supervisors are responsible to ensure that employees within their areas of stewardship are properly trained on their obligations under this policy and applicable laws.

The Title IX Coordinator will develop and oversee training and education programs to promote the awareness of harassment, sexual misconduct, rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking.

#### Specific Training for Employees

- Employees are provided with the Employee Handbook when an employment offer is made and additional training at the onset of employment during orientation. At that time, pertinent details are shared on the expectations of proper relationships with other employees and with students.
- Employees take part in periodic training. Topics are wide ranging and include many of the policies and procedures involved in anti-discrimination, harassment, and sexual misconduct.
- At established intervals, employees go through mandatory training. This is done for specific employees working in settings where compliance and knowledge of the law is required as a university, state or federal expectation.
- Employees are notified of the annual Clery report and are made aware of their responsibility regarding issues of sexual harassment, and sexual misconduct for their own well-being as well as that of students.

#### Specific Training for Cairn Students

- Students go through an orientation at the onset of their first semester as part of entry into the Cairn community.
- Orientation Seminars for Langhorne Manor Campus and OneLife typically include a detailed slide show and opportunities for peer-to-peer response and/or role-play.
- Online orientations are brief and most of the content directs viewers through links and references to the Cairn Title IX web pages.
- In addition, Resident Life orientations cover expectations for community living with emphasis on student relationships.
- Students are made aware of the annual Clery report and of the resources available to students on and off campus.
- The University Health Center and the Oasis Counseling Center conduct seminars as needed and conduct wellness events relating to student relationships.
- The university sends periodic emails to the students reminding them of services and prevention efforts.
- The university uses climate surveys to monitor student awareness of sexual misconduct and the Cairn response to complaints.

Signed: \_\_\_\_\_  
President's Cabinet Member

Date: \_\_\_\_\_

#### ADDENDUMS ON FOLLOWING PAGES:

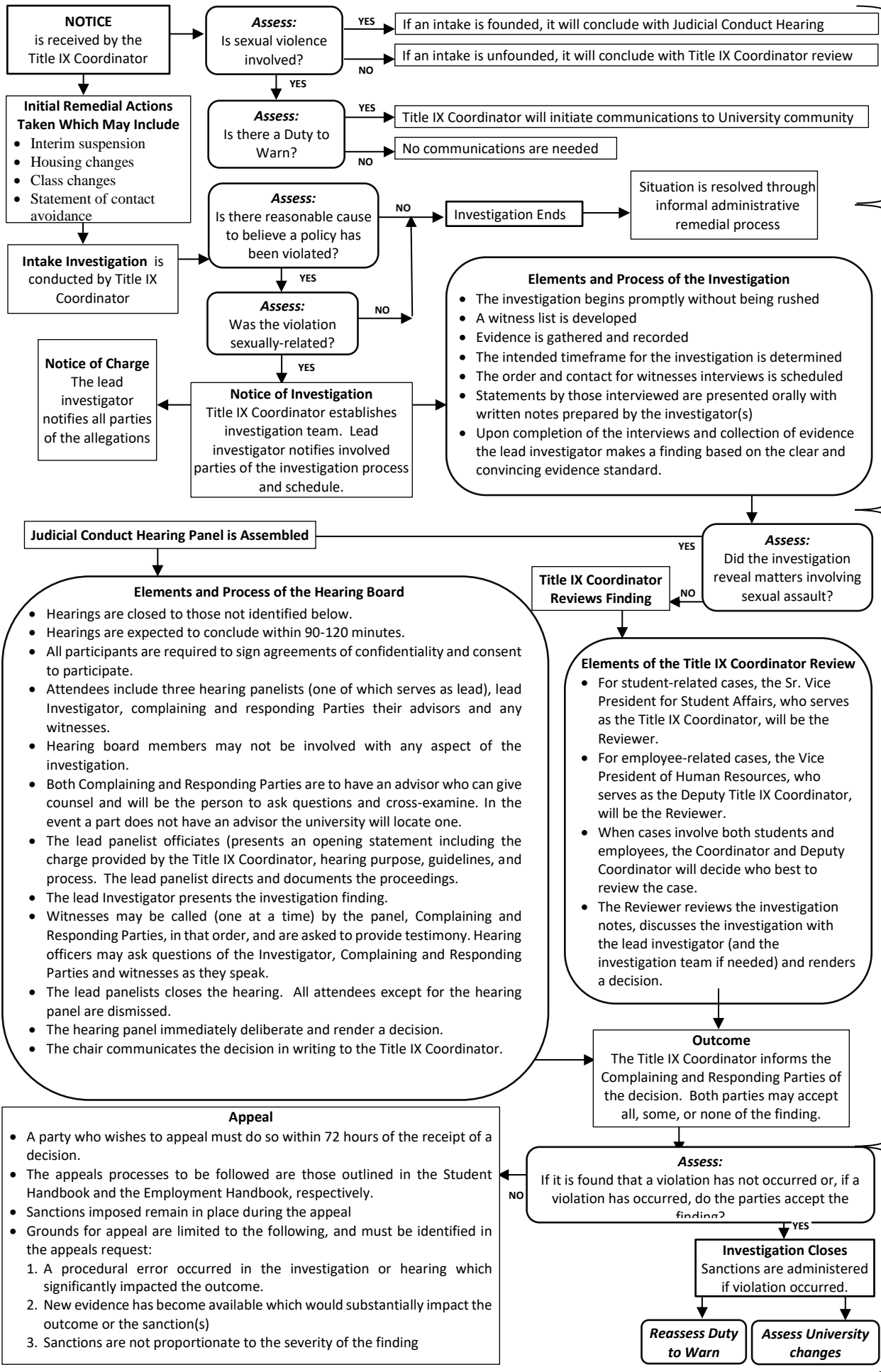
- Investigation Chart
- Definitions

INITIAL ASSESSMENT

INVESTIGATION PHASE

DECISION PHASE

CONCLUSION



## DEFINITIONS ADDENDUM

While not all addressed within the context of this policy, following are terms used in the investigation, implementation, and training of matters related to sexual misconduct, harassment and assault. Students and employees should be familiar with these terms and their definitions.

### Allegations

Accusations or claims of discrimination, misconduct, or harassment.

### Appeal

In a Title IX investigation, an appeal may be made when either party rejects the results of an investigation or a hearing.

### Assault

Threatening behavior in the form of physical contact, and nonphysical behavior such as verbal threats, intimidation, and indecent exposure, or the intension to cause an apprehension of harmful or offensive contact.

### Bystander Intervention

An expectation that students and employees would be willing to step into a situation where one individual might be taking advantage of another individual for sexual gratification whether that person is incapacitated or not.

### Complainant or Complaining Party

An individual who makes a statement or claim about another person's actions and is seeking for the action to stop and the incident(s) to be investigated. Often (or sometimes) also seen as the victim. Person(s) alleging discrimination or another violation. A Complainant may also be referred to as the complaining party.

### Complaint

A complaint is a notice or report of alleged sexual misconduct, sexual harassment or assault, or other type of discriminatory or illegal activity given directly or indirectly to a Responsible Employee. A complaint may be made by a complainant, a witness, or a concerned person. and can be submitted anonymously.

### Coercion

Unreasonable pressure on a person to perform an action or force the person to cooperate with advances. This can be in the form of threats both implied and stated. The lack of physical resistance on the part of the coerced person is not the measure of whether force or coercion has taken place.

### Consent

Communication that is voluntarily expressed through words or actions making it clear that permission can be given to engage in sexual activity.

- Consent can be obtained or denied through clear expression of "yes, I want to do this" or "no, I don't want to do this."
- Silence is not a guarantee of consent
- Consent to one activity or one event in time does not imply consent to future sexual actions
- In order to give consent, one must be of legal age
- A person can not give consent when they are mentally or physically incapacitated.

### Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic nature with the victim. This violence includes but is not limited to sexual, physical abuse, or abusive taunting and threats.

### Discrimination

Any distinction, preference, advantage for or detriment to an individual compared to others that is based upon an individual's gender, race, color, age, national or ethnic origin, physical or mental disability, veteran status, pregnancy status or other protected status, that is so severe, persistent, or objectionably offensive that it unreasonably interferes with or limits a student's ability to participate in or benefit from the University's educational program or activities, or an employee's ability to benefit from a safe and non-discriminatory workplace.

### Discriminatory Harassment:

Discriminatory harassment includes verbal or physical conduct designed to belittle, threaten, intimidate, or coerce an individual. These actions prevent students from participating or benefitting from the university's educational



program or activities and interfere with (or prevent, or hinder) employees ability to do their jobs. Harassment can include, but is not limited, to actions such as:

- Hostile, threatening or intimidating actions or gestures
- Physical interference with normal work or movement
- Slurs
- Taunting
- Verbal Abuse
- Degrading comments or jokes
- Display of derogatory objects, cartoons, postings, drawings, or pictures in print or electronic form.
- Creating a hostile environment that prevents participation in academics or interferes with the work place

#### Domestic Violence

Violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child, or by a person who is cohabitating with or has cohabitated with the victim.

#### Duty to Warn

Under Title IX and the Clery Act, the legal requirement for colleges and universities to promptly alert the campus community of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees on campus. A duty to warn is determined by the Director of the Office of Safety and Security and the Title IX Coordinator or Deputy Title IX Coordinator.

#### Finding

A conclusion of judgement reached by evaluating substantiated facts.

#### Grounds for Appeal

Cairn's policy on judicial appeals allow for appeals when one or more of the following grounds exist:

- A procedural error occurred in the investigation or hearing which significantly impacted the outcome
- New evidence has become available which would substantially impact the outcome or the sanction(s)

- Sanctions are not proportionate to the severity of the findings.

#### Incapacitated Person

A person who is impaired due to drugs, alcohol, injury, illness, sleep, physical restraint, or the taking of medications.

#### Informal Dispute Resolution

In the context of Title IX, the mediation method used to resolve a complaint that does not involve a violation qualifying as an assault or an employee versus a student. Informal dispute resolution requires the cooperation and participation of the complainant and respondent.

#### Intake

The initial assessment conducted by the title IX Coordinator or Lead Investigator to determine if a Title IX allegation has initial merit and validity, which then informs what process should be used from that point forward in the investigation.

#### Investigation

A systematic format followed to gather and assess information once notice is received of an alleged violation.

#### Judicial Conduct Hearing

As systematic formal hearing used for Title IX when informal dispute resolution is not possible.

#### Non-Consensual Contact

Any intentional sexual touching, however limited or slight, with any object, by a man or a woman upon a man or a woman, that is performed without consent being given, or by force. This would include intentional contact with the breasts, buttock, groin, or genitals, or touching a person with these body parts, or making a person touch another or themselves with these body parts. This can also include touching that does not involve these specific body parts but is done in an overtly sexual manner.

#### Non-Consensual Sexual Intercourse

Any sexual intercourse, however limited or slight, with any object, by a man or a woman, upon a man or a woman, that is without consent having been given, or by force. This would include penetration of any orifice or genital area

by a body part or any object, no matter how slight or limited the contact.

Notice - See Complaint.

#### Remedy; Remedial Steps

Steps taken to alleviate further contact between Complaining and Responding Parties prior to and during an investigation, or following the conclusion of mediation or a formal hearing.

#### Report

In the context of Title IX, any notice or information provided, directly or indirectly, about an incident of sexual harassment or assault. Also referred to as “notice” or “complaint”.

#### Respondent(s)

Individual(s) accused of a violation. May also be referred to as “accused” or “responsible party.”

#### Responsible Employees

In the context of Title IX, Individuals who 1) have the duty to report any type of misconduct or detrimental behavior to appropriate officials; 2) have the ability to take action to stop or prevent continued harassment, and/or 3) would be someone a student would reasonably believe has such authority or responsibility.

#### Retaliation; Retaliatory Harassment

Any adverse action taken against an individual because they have alleged harassment supported a party bringing a grievance, or assisted in providing information relevant to a claim of harassment or civil rights grievance.

#### Sanctions

Consequences imposed on individuals found to have been in violation of a rule or standard. Sanctions may be minor or major such as probation, suspension, dismissal, permanent expulsion, and termination of employment. Sanctions are made considering both the immediate incident as well as previous violations.

#### Sexual Exploitation

Persons sexually exploit other persons when they take non-consensual sexual advantage of others to gain their own advantage or the

advantage of a third party. This behavior would not normally fall under the other defined terms of sexual misconduct or violence. Examples could include:

- Invasion of sexual privacy
- Non-consensual video or audio-taping of sexual activity involving another person
- Engaging in voyeurism or exhibitionism
- Exposing one’s genitals, breasts, or buttocks, or inducing another person to expose their own genitals, breasts, or buttocks
- Stalking of a sexual nature where the conduct is aimed at a person or group of people, is unwelcome, and causes the victim(s) to have reasonable fear for their safety.

#### Sexual Harassment

Sexual harassment is unwelcome verbal, non-verbal or physical conduct of a sexual nature and can include unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature. Conduct is unwelcome if the individual toward whom it is directed did not request or invite it and regarded the conduct as undesirable or offensive. The unwelcome behavior may be based on threats or promises from someone in a position of power or authority, the creation of a hostile environment, or retaliation for reporting misconduct. Under Title IX, Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning educational benefits on participation in unwelcome sexual conduct (quid pro quo); or
- Unwelcome conduct that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies a person equal access to the school’s educational program or activity; or
- Sexual assault (as defined by the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence against Women Act (VAWA).

#### Sexual Misconduct

Any form of sexual contact between two or more individuals that is considered to be outside of the

parameters of a healthy and appropriate sexual relationship described in the Bible; that being a relationship between a married man and woman.

#### Sexual Violence

The actual, attempted, or threatened unwanted sexual act, whether by an acquaintance or by a stranger, accomplished (1) against a person's will by means of force (express or implied), violence, duress, menace, fear, or fraud, or (2) when a person is incapacitated or unaware of the nature of the act due to unconsciousness, sleep, and/or intoxicating substances.

#### Stalking

Engaging in a course of conduct directed at a person that would cause a reasonable person to fear of his or her safety or the safety of others, or suffer substantial emotional distress.

#### Standard of Evidence

Legal term for the evidentiary status that must be reached to find a person responsible for the accusations leveled their way. Cairn utilizes a clear and convincing evidence standard.

#### Title IX

The 1972 amendments to the Higher Education Act of 1965 which states, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance."

#### Title IX Coordinator; Deputy Coordinator

The Coordinator is the person at Cairn responsible to oversee Title IX matters and investigations. The Coordinator is the primary lead on investigations involving students; the Deputy Coordinator is the primary lead on investigations involving non-student employment-related discrimination. Except where specifically delineated, the Coordinator's responsibilities are assumed by the Deputy Coordinator when needed.

#### Title IX Investigator

One of several individuals specifically trained to lead or assist in an investigation of an alleged Title IX violation.

#### Violation

A finding, based on a preponderance of evidence, that a behavior breached a rule or standard.

#### Violence

Threatening behavior in the form of physical contact, and nonphysical behavior such as verbal threats, intimidation, and indecent exposure, intended to cause an apprehension of harmful or offensive contact.

#### Witness

Any person who is able to provide first-hand information regarding a complaint, allegation, or dispute

