

Policy on Prohibited Discrimination, Harassment, and Related Misconduct

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Policy on Prohibited Discrimination, Harassment, and Related Misconduct

Adopted: August 14, 2020

I. Introduction

Duke University and Duke University Health System (“Duke”) are committed to encouraging and sustaining a learning and work community free from discrimination, harassment, and related misconduct. Duke is committed to an inclusive community that respects and values all of its members, including (but not limited to) undergraduate students, graduate and professional students, postdoctoral fellows and medical residents, faculty, and staff (including house staff).

The [Office for Institutional Equity \(OIE\)](#) is responsible for administering the Prohibited Discrimination, Harassment, and Related Misconduct Policy (“Policy”) and its implementing procedures. The Vice President for Institutional Equity is Duke’s designated Coordinator for Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975. The Assistant Vice President, Title IX Compliance is Duke’s designated Coordinator for Title IX of the Education Amendments of 1972. These officers may be contacted at the Office for Institutional Equity, Smith Warehouse, 114 S. Buchanan Blvd., Bay 8, Durham, North Carolina 27708, [919-684-8222](tel:919-684-8222), OIE-help@duke.edu.

II. Policy

This Policy prohibits discrimination and harassment on the basis of age, color, disability, gender, gender expression, gender identity, genetic information, national origin, race, religion, sex (including pregnancy), sexual orientation, or veteran status (collectively, “protected status” or “protected characteristics”). This prohibition includes discrimination and harassment based on the perception of an individual’s protected status, even if that perception is incorrect. The Policy also prohibits related misconduct, such as sexual assault, relationship violence, and stalking. This Policy applies to all operations of Duke University.

The Policy also prohibits retaliation against an individual: (1) who files a complaint or report of discrimination, harassment, or related misconduct; (2) against whom a complaint is filed; (3) who participates in the reporting, investigation, or adjudication of possible violations of this Policy, or exercises any other right under this Policy; or (4) who engages in good faith opposition to what the individual reasonably believes to be discrimination, harassment, or related misconduct under this Policy.

The Policy should be read consistently with all applicable federal and state laws addressing discrimination, harassment, and related misconduct.

This Policy shall be applied in way that is consistent with the University’s principles of academic freedom. Duke University is committed to the free and vigorous discussion of ideas and issues, which the University believes will be protected by this Policy. Academic freedom and the related freedom of expression include, but are not limited to, the civil expressions of ideas – however controversial – in the classroom, residence halls, and other teaching and student living environments.

III. Jurisdiction/Scope

The Policy and associated procedures protect all members of the Duke community (including Duke entities and subsidiary organizations) from discrimination, harassment, and related misconduct while such members are on Duke property or participating in a University education program or activity, whether on or off campus. Duke also retains discretion to determine that conduct that occurs off Duke property and/or outside of a Duke-related education program or activity, including off-campus or online conduct that is not part of a University program or activity, is within the scope of this Policy to address. In making this determination the University will consider the severity of the alleged conduct, the risk of ongoing harm, whether the parties are members of the University community, impact on University programs or activities, and whether off-campus conduct is part of a series of actions that occurred both on and off campus.

Members of the Duke community protected by this Policy include, but are not limited to, full and part-time students and employees, including faculty members, physicians, staff, undergraduate students, graduate and professional students, doctoral students, post-doctoral scholars, student employees, and temporary and contract employees. For purposes of this Policy, student status begins with an individual application to a Duke program and does not conclude until a degree is conferred or the student permanently withdraws or is permanently dismissed. The Policy also applies to third parties, including, but not limited to, applicants for admission and employment, visitors, visiting scholars, patients, employees of Duke contractors, and program participants.

Some types of harassment and related misconduct may be criminal in nature and can also be reported to the [Duke University Police Department](#), 911 (emergencies) or [919-684-2444](tel:919-684-2444) (non-emergencies).

OIE is responsible for resolving, under the procedures referenced in this Policy, all allegations of prohibited discrimination, harassment, and related misconduct.¹

If you are a **Duke student, employee, faculty member, or physician** and have a concern or question regarding this Policy or its implementing procedures, contact [OIE](#) at [919-684-8222](tel:919-684-8222), or oi-help@duke.edu.

If you are a **Duke applicant for employment, applicant for admission, visitor, or patient**, there are resources to assist you with your concern or question. You may contact the office or department with whom you directly interacted or you may contact [OIE](#) at [919-684-8222](tel:919-684-8222). If you are an applicant for employment, you may also contact [Duke Human Resources](#) at [919-684-5600](tel:919-684-5600). If you are an applicant for admission, you may also contact the admissions office of the appropriate school.

Individuals with workplace, academic, or other concerns not covered by this Policy have a number of other resources to address them. For employees (including faculty and staff within the University and all Health System employees), these may include managers within their program, office, or school; [Staff & Labor Relations in Human Resources](#); the [Faculty Ombudspersons and the Faculty Hearing Committee](#)²; the [Personal Assistance Service](#); and union representatives for those in a bargaining unit. For students, this may include their advisors, administrators in their departments or schools, and the

¹ Concerns about the University's application of Title IX under this Policy may be addressed to the United States Department of Education, Office for Civil Rights: ocr@ed.gov, [800-421-3481](tel:800-421-3481).

² The Faculty Ombudspersons (confidential resources) and the Faculty Hearing Committee have jurisdiction to consider complaints from faculty and instructional staff.

[Student Ombudsperson for the University or the Medical School](#).³ For examples, see the OIE Discrimination and Harassment Q&As [to be added at a later date].

Anyone can consult directly with the [Office for Institutional Equity](#) for guidance at [919-684-8222](tel:919-684-8222).

IV. Definitions

PROTECTED CHARACTERISTICS includes the following –

- **Age:** the number of years from the date of a person's birth. With respect to employment, individuals who are forty (40) years of age or older are protected from discrimination and harassment based on age. There is no age threshold for protection from discrimination for students or other participants in educational programs or activities.
- **Color:** an individual's skin tone, complexion, or shade.
- **Disability:** a physical or mental impairment that substantially limits one or more major life activities. Individuals are protected from discrimination if they have such an impairment; have a record of such impairment; or are regarded as having such impairment. A qualified person with a disability must be able to perform the essential functions of the employment or volunteer position or the academic, athletic, or extra-curricular program, with or without reasonable accommodation.
- **Gender:** a socially-constructed set of expectations, roles, behaviors, and activities a given society or culture considers appropriate for individuals generally based on an individual's sex assigned at birth.
- **Gender Expression:** The external appearance of one's gender identity, usually expressed through behavior, clothing, haircut or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.
- **Gender Identity:** One's innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. One's gender identity can be the same as or different from their sex assigned at birth.
- **Genetic Information:** information about (i) an individual's genetic tests, (ii) the genetic tests of family members of such individual, and (iii) the manifestation of a disease or disorder in family members of such individual. Genetic Information includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services by such individual or any family member of such individual.
- **National Origin:** an individual's actual or perceived country or ethnicity of origin.
- **Race:** an individual's actual or perceived racial or ethnic ancestry or physical characteristics associated with a person's race, such as a person's color, hair, facial features, height, and weight.
- **Religion:** all aspects of religious observance and practice, as well as belief.
- **Sex (Assigned at Birth):** a designation at birth (male, female, and intersex) generally based on

³ The Student Ombudspersons (also confidential resources) offer students neutral and confidential guidance on a variety of issues.

external appearance of sex organs; includes pregnancy, childbirth, and medical conditions related to pregnancy or childbirth. Conduct of a sexual nature is by definition based on *Sex* as a *Protected Status*.

- **Sexual Orientation:** one's sexual, romantic, physical, and/or emotional attraction (or lack of attraction) to others.
- **Veteran Status:** covered Veterans include Disabled Veterans, Special Disabled Veterans, Veterans of the Vietnam Era, and other Protected Veterans as defined by federal and state law.

PROHIBITED CONDUCT: This Policy prohibits all of the following conduct, collectively defined as "Prohibited Conduct."

- **Discrimination:** when an individual or group is subjected to an adverse action based upon a [protected status or characteristic](#). Discrimination can occur under this Policy in either an employment or an educational context. Discrimination also includes failing to provide reasonable accommodations to a qualified person with a disability or failing to reasonably accommodate an employee's religious beliefs or practices, as required by state and federal law.
- **Harassment:** a type of discrimination that occurs when unwelcome verbal, visual, physical, electronic, or other conduct, based on an individual's or group's [protected status or characteristic](#), is sufficiently serious to significantly interfere with that individual's or group's ability to participate in or benefit from Duke programs or activities or their terms and conditions of employment. This can include conduct that significantly interferes with the individual's or group's:
 - educational environment (e.g., admission, academic standing, grades, assignment);
 - work environment (e.g., hiring, advancement, assignment);
 - participation in a University program or activity (e.g., campus housing); or
 - receipt of legitimately-requested services (e.g., disability or religious accommodations).

Prohibited harassment includes:

- **Hostile Environment Harassment:** unwelcome conduct based on protected status that is sufficiently severe, persistent, and/or pervasive so as to significantly interfere with or alter the conditions of education, employment, or participation in a program or activity, or creates a hostile working or learning environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive. An isolated incident, unless sufficiently severe, would not create a hostile environment. Harassment is distinguished from behavior that, even though unpleasant or disconcerting, is appropriate to the carrying out of certain instructional, advisory, or supervisory responsibilities.
- **Sexual or Gender-Based Misconduct:** unwelcome conduct based on sex or gender that creates a hostile environment or involves submission to rejection of such conduct as a condition of any aid, benefit, or service in employment, education, or participation in a University program or activity.

- **Sexual Exploitation:** taking sexual advantage of another without consent for one's benefit or the benefit of another party; e.g., by threatening to disclose an individual's sexual orientation, gender identity, or gender expression unless the individual submits to sexual demands; observing or allowing others to observe sexual activity of others without their knowledge or consent; or streaming images of sexual activity without the knowledge or consent of those involved. Sexual exploitation includes causing the incapacitation of another person for the purpose of compromising that person's ability to give consent to sexual activity.
- **Stalking Based on Protected Characteristic:** a course of conduct (including cyberstalking) directed at a specific person, based on that person's protected status/characteristic, that would cause a reasonable person to fear for his/her/their safety or the safety of another, or to suffer substantial emotional distress.
 - A course of conduct means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.
 - Substantial emotional distress means significant mental suffering or anguish.
- **Title IX Sexual Harassment:** conduct on the basis of sex that satisfies one or more of the following –
 - A University employee (including a faculty member) conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct (*quid pro quo*).
 - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's program or activity.
 - **Sexual Assault:** any sexual act directed against another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes and/or genders. This includes the following:
 - **Rape:** The carnal knowledge of a Complainant, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
 - **Sodomy:** Oral or anal sexual intercourse with another Complainant, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
 - **Sexual Assault with an Object:** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of a Complainant, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;

- **Fondling:** The touching of the private body parts of Complainant for the purpose of sexual gratification, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
 - **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
 - **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.
- **Domestic violence:** A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
 - **Dating violence:** Any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant and where the existence of such a relationship is determined based on a consideration of the length, type, and frequency of interactions between the persons involved in the relationship.
 - **Title IX Stalking.** Title IX Stalking means a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of another, or to suffer substantial emotional distress.
- **Violation of Supportive or Remedial Measures:** violation of directives associated with supportive or remedial measures provided to an individual in connection with this Policy.
 - **Retaliation:** an adverse action or other form of negative treatment, including but not limited to intimidation, threats, coercion, discrimination or harassment, carried out in response to: a good-faith reporting of or opposition to discrimination, harassment, or related misconduct; an individual's or group's participation, including testifying or assisting in Duke's complaint process or response to a complaint; an individual's or group's refusal to participate in Duke's complaint process or response to a complaint; or other form of good faith opposition to what an individual reasonably believes to be discrimination, harassment, or related misconduct under this Policy. Individuals as defined above are also protected from retaliation for making good faith requests for accommodations on the basis of religion or disability. To be a Policy violation, the challenged actions or treatment must be sufficiently serious to discourage a reasonable person from further reporting, participation, or opposition. Charging an individual with a Policy violation for making a materially false statement in bad faith in the course of Duke's complaint process or in response to a complaint does not constitute Retaliation.

Additional Defined Terms

Agent of Actual Notice: an official of the University with the authority to institute corrective action on behalf of the University, and notice to whom causes the University to respond to Title IX Sexual Harassment.

Coercion: the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to have sex. When a person decides not to participate in a particular form of sexual activity, decides to stop, or decides not to go beyond a certain sexual interaction, continued pressure can be coercive. In evaluating whether coercion was used, the University will consider: (i) the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure.

Complainant: an individual who is alleged to have experienced Prohibited Conduct.

Consent: an affirmative decision to engage in mutually acceptable sexual activity freely given by clear actions and/or words. Consent may not be inferred from silence, passivity, or lack of active resistance alone.

- 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 is not freely given when the individual is incapacitated (Defined further below). Consent is not freely given when the individual is coerced into sexual activity, such as, for example, through the use of physical force, threat of physical or emotional harm, undue pressure, isolation, or confinement.
- Consent may be withdrawn at any time. Once withdrawn, sexual activity must cease.
- The perspective of a reasonable person will be the basis for determining whether a Respondent knew, or reasonably should have known, whether a Complainant was able to freely give consent and whether consent was given. Additionally, being intoxicated or incapacitated does not diminish one's responsibility to obtain consent and will not be an excuse for Prohibited Conduct.

Education Program or Activity: includes all operations of the University, including locations, events, and circumstances where the University exercises substantial control and any building owned or controlled by a student organization recognized by the University.

Formal Complaint: a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the University launch an investigation into the allegation of Prohibited Conduct. A Formal Complaint may be filed with OIE and/or the Title IX Coordinator in person, by mail, or by electronic mail.

Incapacitation: Incapacitation is the state of being unable to consent by making informed, deliberate decisions about whether or not to engage in sexual activity. States of incapacitation include, but are not limited to: being mentally and/or physically helpless, asleep, unconscious, intermittently conscious or unaware that sexual activity is occurring.

Alcohol or other drug use is one of the primary causes of Incapacitation. Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily Incapacitated solely as a result of drinking or using drugs; the level of impairment must be significant enough to render a complainant unable to Consent.

Evaluating incapacitation requires an assessment of whether a Respondent knew or should have known of the Complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent's position. Indications that a person may be incapacitated include but are not limited to: slurred speech, unsteady walking, combativeness, emotional volatility, vomiting, and inability to dress or undress

without assistance. Being impaired by alcohol or other drugs is not a defense to any violation of this Policy.

Report: notification, either orally or in writing, and by any individual, that Prohibited Conduct is alleged to have occurred.

Respondent: the person or office, program, department, or group against whom the allegation or complaint is made; i.e., the individual(s), organizational unit(s), or group(s) who have been reported to be the perpetrator of conduct that could constitute Prohibited Conduct.

Responsible Employee: an individual designated by University policy who is required to report information regarding Prohibited Conduct to OIE.

Student: an individual who been selected for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at the University.

V. Resources and Reporting Options

A. Emergency Law Enforcement, Medical, and Crisis Response Resources

Police. As a first priority, Duke encourages all individuals to report Prohibited Conduct that may involve criminal conduct to the Duke University Police Department or, for incidents taking place off-campus, to the appropriate local law enforcement agency. This could include sexual violence, relationship violence, stalking, and conduct that could be a hate crime. In cases of sexual misconduct involving a minor, members of the Duke community are required to report the situation to [Duke University Campus Police](#). Duke Police can be contacted at [919-684-2444](tel:919-684-2444) (non-emergencies), or by calling 911 in emergency situations.

Duke Police will respond to emergencies and non-emergencies to provide assistance by intervening in cases of assault, providing transportation to the Emergency Department, taking reports of an assault, and/or investigating and participating in legal or disciplinary action. They are responsible for notifying the community in a case of continuing danger, issuing a trespass order that requires an individual to stay away from campus or a particular area of campus when needed, and providing referrals and information including how to obtain a restraining order. Assaults that occur off campus may fall under the jurisdiction of the [Durham Police Department](#) or other law enforcement agency. Students may contact the Durham Police directly (911) off campus or [919-560-4427](tel:919-560-4427) / [919-560-4609](tel:919-560-4609) or the [Gender Violence Prevention & Intervention \(GVPI\)](#) office or Duke Police can help facilitate reporting. Blind reporting—filing a report without one’s name attached to it—is an available option with both Duke Police and Durham Police. Regardless of whether a Complainant pursues a criminal complaint, the University will take appropriate responsive action to ensure that the educational environment at Duke is free of harassment and to prevent the recurrence of a hostile environment, and, as appropriate, to remedy the effects of the harassment.

Medical concerns. Duke also encourages individuals to seek assistance from a medical provider or crisis response service immediately after an incident that may require medical attention. This provides the opportunity to address physical well-being or health concerns, preserve any available evidence, and begin a timely investigative and remedial response. Emotional care, counseling, and crisis response are

also available on and off campus; e.g., at [Student Health Services 919-681-9355](#), or at [Duke University Hospital Emergency Room, 919-684-2413](#).

For a complete list of law enforcement, medical, and crisis response resources, contact [OIE](#).

B. Resources And Reporting Options

Duke encourages all individuals to seek the support of on- and off-campus resources, regardless of when or where the incident occurred. These resources can provide guidance on reporting options and information about available resources. In general, Duke provides two ways to raise concerns about possible Prohibited Conduct, **Confidential Resources** and **Non-Confidential Reporting Options**.

1. Confidential Resources

The following Duke resources can provide counseling, information, and support in a confidential setting. These confidential resources will not share information about a report of Prohibited Conduct without the individual’s express written permission unless there is a continuing threat of serious harm to the Complainant or to others or there is a legal obligation to reveal such information (e.g., suspected abuse or neglect of a minor). These individuals can also help an individual make a Report to the University.

Resources for Students	Resources for Employees
<p>Student Health Services https://studentaffairs.duke.edu/studenthealth 919-681-9355 919-966-3820 (nurse advice line)</p>	<p>Personal Assistance Service https://pas.duke.edu 919-416-1727; for Duke Raleigh Hospital and Wake County based faculty/staff 800-327-2251</p>
<p>Counseling and Psychological Services https://studentaffairs.duke.edu/caps 919-660-1000</p>	<p>School of Medicine Faculty Ombudsperson https://academiccouncil.duke.edu/ombuds</p>
<p>Office for Gender Violence Prevention and Intervention, Duke Women’s Center https://studentaffairs.duke.edu/wc/gender-violence 919-684-3897 Sexual harassment, sexual violence, relationship violence, and stalking Services are also available via telehealth.</p> <p>Student Ombudsperson https://oie.duke.edu/about-us/ombudsperson School of Medicine Student Ombudsperson https://medschool.duke.edu/education/student-services/office-student-ombudsman</p>	<p>Faculty Ombudsperson https://academiccouncil.duke.edu/ombuds</p>

Clergy/Religious Life https://chapel.duke.edu/student-engagement/religious-life-groups	
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In addition, reports can be made *anonymously* to the [Duke University Compliance and Fraud Hotline](#) at [800-849-9793](tel:800-849-9793) or the [Duke Health Integrity Hotline](#) at [800-826-8109](tel:800-826-8109).

These off-campus resources can also provide counseling, information, and support in a confidential setting to students, faculty and staff:

- Duke University Hospital Emergency Room, <https://www.dukehealth.org/locations/duke-university-hospital-emergency-room> [919-684-2413](tel:919-684-2413)
- Durham Crisis Response Center (issues of sexual violence, relationship violence, and stalking), <https://www.durhamcrisisresponse.org/> [919-403-6562](tel:919-403-6562) (English); [919-519-3735](tel:919-519-3735) (Spanish)
- InterAct Family Safety and Empowerment Center of Wake County, <https://interactofwake.org/> [919-828-7740](tel:919-828-7740) (Domestic Violence); [919-828-3005](tel:919-828-3005) (Sexual Assault); [844-203-8896](tel:844-203-8896) (Spanish)

2. Non-Confidential Reporting Options

Individuals are encouraged to report all Prohibited Conduct, including Title IX Sexual Harassment, to OIE. Making a non-confidential report of Prohibited Conduct means that OIE will contact the Complainant to offer resources and support, and to identify the appropriate action to respond to the report as outlined in this Policy. Only a report to the Title IX Coordinator (or an Agent of Actual Notice), however, will trigger the University's obligation to respond to an allegation of Title IX Sexual Harassment. In the case of a report of Title IX Sexual Harassment, the Title IX Coordinator or designee will contact the Complainant.

OIE oversees the investigation and resolution of all allegations of Prohibited Conduct covered by this Policy. To discuss any aspect of the Policy, individuals are encouraged to contact:

Kimberly Hewitt, Vice President for Institutional Equity and Chief Diversity Officer
Smith Warehouse, Bay 8, 1st Floor
[919-684-8222](tel:919-684-8222) | kimberly.hewitt@duke.edu

For Employees, including Faculty:

Cynthia Clinton, Assistant Vice President,
Harassment and Discrimination Prevention and Compliance
Smith Warehouse, Bay 8, 1st Floor
[919-668-6214](tel:919-668-6214) | cynthia.clinton@duke.edu

For Students:

Victoria Krebs, Associate Dean of Students, Title IX Outreach & Response
208 Crowell Hall
[919-684-6938](tel:919-684-6938) | victoria.krebs@duke.edu

Jayne Grandes, Assistant Vice President, Title IX Compliance
Smith Warehouse, Bay 8, 1st Floor

[919-660-5766](tel:919-660-5766) | jayne.grandes@duke.edu

Any individual can make a report under this Policy to these individuals or any other Agent of Actual Notice. In addition, many University faculty and staff, designated as Responsible Employees, are required to share information with OIE. A report may be made in person, in writing, by telephone, by e-mail, or anonymously. Complaints can also be made through the [Duke University Compliance and Fraud Hotline 800-849-9793](#) or the [Duke Health Integrity Hotline 800-826- 8109](#). Any report involving a minor will be shared with law enforcement agencies and child protective services.

Upon receipt of a report of possible Prohibited Conduct, [OIE](#) will contact the Complainant to discuss reasonable Supportive Measures to provide for the safety of the parties and the campus community and options for addressing the report.

To file a police report for possible criminal conduct, contact the [Duke University Police Department](#) or, for incidents occurring off campus, the appropriate local law enforcement agency.

3. Required Reports by University Employees with Knowledge of Prohibited Conduct

All faculty, employees with teaching or supervisory authority and graduate students with teaching or supervisory authority are Responsible Employees. Members of the Board of Trustees, the President, Vice Presidents, Deans, Directors, Department Chairs, Academic Administrators, Coaches, HR Representatives/Managers, Principal Investigators, Lab Managers, Nurse Managers, and Student Affairs professionals (including Resident Advisors acting within their role), are also Responsible Employees. Confidential Resources are not Responsible Employees.

Responsible Employees are expected to be discreet, but are **required** by the University to promptly consult with OIE, sharing known details of the incident, by telephone, email or the OIE online reporting form. A Responsible Employee's receipt of information will not automatically trigger an obligation to respond to an allegation of Title IX Sexual Harassment. Only a report to the Title IX Coordinator or an Agent of Actual Notice will trigger the University's obligation to respond to an allegation of Title IX Sexual Harassment.

Non-supervisory employees are expected to be discreet, and are **encouraged** by the University to promptly consult with OIE. All other members of the Duke community (including students) are also encouraged to report such incidents.

Upon receipt of a report of possible Prohibited Conduct, OIE will consult with the Complainant to offer Supportive Measures, as addressed below, to provide for the safety of the parties and the campus community.

If you have any question about whether you are a Responsible Employee or questions regarding your Responsible Employee duties, please promptly contact OIE for clarification.

VI. Supportive Measures

Supportive Measures are non-disciplinary, non-punitive individualized services, accommodations, and other assistance that the University offers and may put in place, without fee or charge, after receiving actual notice of possible Prohibited Conduct. Supportive Measures are designed to restore or preserve

access to the University's education programs and activities, protect the safety of all parties and the University's educational environment, or deter Prohibited Conduct, while not being punitive in nature or unreasonably burdening any party.

Supportive Measures are available regardless of whether the matter is reported to the University for the purpose of initiating any formal proceeding and before, after, and regardless of whether a Formal Complaint is filed. A Complainant who requests Supportive Measures retains the right to file a Formal Complaint, either at the time Supportive Measures are requested or at a later date. Any Complainant that requests Supportive Measures will be informed in writing of their right to simultaneously or subsequently file a Formal Complaint pursuant to this Policy.

The Title IX Coordinator, or their designee, will contact a Complainant after receiving notice of possible Prohibited Conduct (1) to discuss the availability of Supportive Measures and (2) to explain that Supportive Measures are available with or without the filing of a Formal Complaint of Prohibited Conduct. The Title IX Coordinator will consider the Complainant's wishes with respect to implementation of Supportive Measures.

Supportive Measures may also be requested by and made available to Respondents, witnesses, and other impacted members of the University Community. OIE will ultimately serve as the point of contact for any individual requesting Supportive Measures under this Policy.

To determine the appropriate Supportive Measure(s) to be implemented, the University conducts an individualized assessment based on the unique facts and circumstances of a situation. Supportive Measures will not be disciplinary or punitive in nature and will not unreasonably burden, or unreasonably interfere with the educational pursuits of, the other party. Whether a possible Supportive Measure would unreasonably burden the other party is a fact-specific determination that takes into account the nature of the educational programs, activities, opportunities and benefits in which an individual is participating.

Examples of Supportive Measures include:

- Academic support services and accommodations, including the ability to reschedule classes, exams and assignments, transfer course sections, or withdraw from courses without penalty;
- Academic schedule modifications (typically to separate Complainant and Respondent);
- Work schedule or job assignment modifications (for University employment);
- Changes in work or housing location;
- An escort to ensure safe movement on campus;
- On-campus counseling services and/or assistance in connecting to community-based counseling services;
- Assistance in connecting to community-based medical services;
- Mutual no contact directives (to instruct individuals to stop all attempts at communication or other interaction with one another);
- Placing temporary limitations on an individual's access to certain University facilities or activities;

- Work schedule or job assignment modifications, including suspending employment with or without pay consistent with any applicable written procedures (for University positions);
- Information about and/or assistance with obtaining personal protection orders;
- Leaves of absences;
- Increased monitoring and security of certain areas of the campus; or
- A combination of any of these measures.

The University will maintain Supportive Measures provided to the Complainant or Respondent as confidential and not disclose the nature of any provided measures to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures.

VII. Emergency Removal and Administrative Leave

Emergency Removal of a Student Respondent. Where there is an immediate threat to the physical health or safety of any students or other individuals arising from a report of Prohibited Conduct, the University can remove a Student Respondent from part or all of the University's education programs or activities and issue any necessary related no-trespass and no-contact orders. OIE will make the decision to remove a Student Respondent from the University's education program or activity based on an individualized assessment and risk analysis in consultation with the appropriate Dean or the Vice President of Student Affairs. If the University makes such a decision, the Student Respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal.

Administrative Leave of an Employee/Faculty Respondent. The University may place an Employee/Faculty Respondent on administrative leave (or a student employee on leave from their employment) upon a report of Prohibited Conduct and/or during the pendency of a Formal Complaint. An employee alleged to have committed Title IX Sexual Harassment will not be placed on administrative leave unless and until a Formal Complaint has been filed with the University. The University, in its discretion and based on the circumstances, will determine whether any administrative leave is imposed with or without pay or benefits.

VIII. Timelines

In order to maintain and support a community that is respectful and free from discrimination, harassment, and related misconduct, and to maximize Duke's ability to respond promptly and effectively, Duke urges individuals to come forward with reports of Prohibited Conduct as soon as possible. Complainants and other reporting individuals are encouraged to seek assistance and utilize available resources if they feel they have been subjected to Prohibited Conduct. The sooner a report is made, the more effectively it can be investigated. There is, however, no time limitation for reporting Prohibited Conduct.

In some cases, e.g., where the individual accused of misconduct is no longer affiliated with Duke, the University may not be able to take disciplinary action. However, Duke will strive to provide other reasonable measures to support the Complainant.

IX. Confidentiality

Duke recognizes that confidentiality is important. Breaches of confidentiality compromise Duke's ability to investigate and resolve claims of Prohibited Conduct. Duke will attempt to protect the confidentiality of the complaint process to the extent reasonably possible. Investigators, advisors, decision-makers, facilitators, and any others participating in the process on behalf of Duke shall keep the information obtained through the process confidential. All other participants in the process (including the Complainant, Respondent, non-Duke advisors, and witnesses) are encouraged to respect the confidentiality of the proceedings and circumstances giving rise to the dispute and to discuss the matter only with those persons who have a genuine need to know.

While Duke is committed to respecting the confidentiality of all parties involved in the process, it cannot guarantee complete confidentiality. Examples of situations in which confidentiality cannot be maintained include:

- When Duke is required by law to disclose information (such as in response to a subpoena or court order).
- When disclosure of information is determined by OIE, Student Affairs and/or the department to be necessary for conducting an effective investigation or hearing of the claim.
- When confidentiality concerns are outweighed by Duke's interest in protecting the safety or rights of others.
- When a Formal Complaint is filed.

X. Filing a Formal Complaint

A Complainant may choose to file a Formal Complaint against a Respondent to request initiation of the University's Procedures to address a report of Prohibited Conduct. In order to file a Formal Complaint, the Complainant should contact OIE and sign the University's Formal Complaint form. This may be done online, in person, or by email by contacting OIE. A Formal Complaint is not required in order for the University to determine that it will pursue an investigation of Prohibited Conduct generally, but a Formal Complaint is required for the University to investigate Title IX Sexual Harassment.

Even if a Complainant does not wish to file a Formal Complaint, OIE may in its discretion file a Formal Complaint by signing the Formal Complaint documentation. When the Title IX Coordinator or another official from OIE signs a Formal Complaint, the Title IX Coordinator or other official is not the Complainant or otherwise a party.

When the conduct being reported is Title IX Sexual Harassment, a Formal Complaint is required to commence the Title IX Sexual Harassment Grievance Procedures. When OIE receives a Formal Complaint alleging conduct, which, if true, would meet the definition for Title IX Sexual Harassment, OIE will evaluate the allegations in the Formal Complaint to determine whether the allegations in the Formal Complaint satisfy the following conditions:

- The conduct is alleged to have been perpetrated against a person in the United States;
- The conduct is alleged to have taken place within the University's programs and activities; and
- At the time of the filing or signing of the Formal Complaint, the Complainant is participating in or

attempting to participate in the University's programs or activities.

If OIE determines that **all** of the above conditions are satisfied, the University will address the Formal Complaint under the Title IX Sexual Harassment Grievance Procedures.

If OIE determines that the allegations in the Formal Complaint do not meet the definition for Title IX Sexual Harassment or less than all of the above conditions are satisfied, the University may address the Formal Complaint of Title Sexual Harassment under either the Complaint Handling Procedures for Discrimination and Harassment Matters Involving a Student as a Respondent or the Complaint Handling Procedures Involving a University Faculty and Non-Faculty Staff as a Respondent, as appropriate.

If OIE investigates a matter as Title IX Sexual Harassment based on the allegations in the Formal Complaint, but, during the course of the investigation, OIE determines that all of the above conditions are no longer satisfied, the University will dismiss the Formal Complaint for Title IX purposes and instead may pursue the matter under either the Complaint Handling Procedures for Discrimination and Harassment Matters Involving a Student as a Respondent or the Complaint Handling Procedures Involving a University Faculty and Non-Faculty Staff as a Respondent, as appropriate and applicable, or will dismiss the Formal Complaint in its entirety. Likewise, if during the course of investigating or resolving a Formal Complaint of Prohibited Conduct generally OIE determines that the alleged conduct constitutes Title IX Sexual Harassment and the above conditions are met, the University will convert its investigation into one under the Title IX Sexual Harassment Grievance Procedures.

As described in the Title IX Sexual Harassment Grievance Procedures, if OIE determines at any time that a Formal Complaint of Title IX Sexual Harassment will not be adjudicated under the Title IX Sexual Harassment Procedures, either party may appeal that decision.

In its discretion and in consultation with Human Resources and/or the Office of Student Conduct, as appropriate, OIE may consolidate multiple Formal Complaints or reports of other Prohibited Conduct for resolution under the Title IX Sexual Harassment Procedures. Consolidation might involve a single Complainant or multiple Complainants, a single Respondent or multiple Respondents, and allegations of conduct that is temporally or logically connected (even where some of that alleged conduct is not Title IX Sexual Harassment or where the above conditions are not met with respect to some of the alleged conduct). If Formal Complaints involving multiple Complainants and/or multiple Respondents are consolidated, each party will have access to all of the information being considered; including as provided by all involved Complainants, all involved Respondents, and all involved witnesses. The decision to consolidate Formal Complaints is not subject to appeal.

XI. Alternative Resolution

Alternative Resolution is a process that usually does not include an investigation or hearing. Remedies may include appropriate and reasonable educational, restorative, and accountability-focused measures as agreed to by the parties and approved by the Title IX Coordinator. In cases where a Complainant alleges conduct that meets the definition for Title IX Sexual Harassment occurring against a person in the United States and within the University's Programs or Activities, a Formal Complaint is necessary to trigger an Informal Resolution process. No Formal Complaint is necessary for the parties to have access to an Informal Resolution process for other forms of Prohibited Conduct.

A description of the options offered by the University for Informal Resolution is available from [OIE](#).

XII. Applicable Procedures

OIE will investigate all reports of Prohibited Conduct. The procedures used to adjudicate Prohibited Conduct may vary based on the identity of the parties and the nature of the Prohibited Conduct. Where more than one procedure may apply based on the parties and/or alleged conduct, the University has discretion to apply the procedure that it determines is most appropriate based on the unique facts and circumstances presented by the allegations, as well as to consolidate multiple sets of allegations into a single investigation and/or adjudication.

- For Formal Complaints alleging Prohibited Conduct against students, including graduate and professional students, the Complaint Handling Procedures for Discrimination and Harassment Matters Involving a Student as a Respondent apply.
- For Formal Complaints alleging Prohibited Conduct generally against faculty and non-faculty employees, the Complaint Handling Procedures Involving a University Faculty and Non-Faculty Staff as a Respondent apply.
- For Formal Complaints alleging Title IX Sexual Harassment by a student or any employee the Title IX Sexual Harassment Grievance Procedures apply.