



## STEPHENS COLLEGE

# Resolution Process for Alleged Violations of the Equal Opportunity, Harassment, and Nondiscrimination Policy

Effective Date: 3/10/2022

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### 1. Overview of Three Procedures

Stephens College will act on any formal notice/complaint of violation of Equal Opportunity, Harassment, and Nondiscrimination Policy (“the Policy”) that is received by the Title IX Coordinator<sup>1</sup>, the Equity + Compliance Team, or any other Official with Authority by applying the appropriate procedures that follow.

Process A procedures apply only to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined in the Equal Opportunity, Harassment, and Nondiscrimination Policy) involving postsecondary students, staff, administrators, or faculty members.

If other policy definitions are invoked, such as policies on protected characteristic harassment or discrimination as defined above, the procedures known as “Process B” will be used for the resolution of such offenses.

Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.

Process C applies when the Respondent is a student in the Children’s School at Stephens College or a minor participating in an educational program at Stephens.

The three procedures below may be used to address alleged collateral misconduct arising by the Respondent from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another) when alleged violations of the Policy are being addressed at the same time. In such cases, the Title IX Coordinator may consult with the campus officials typically overseeing such conduct (e.g., student conduct, academic affairs, human resources, etc.) to provide input as needed. All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the student, faculty, and staff handbooks.

### 1. Process A

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<sup>1</sup> Anywhere this procedure indicates “Title IX Coordinator,” Stephens College may substitute a trained designee.

## A-1. Notice/Complaint

Upon receipt of a complaint or notice of an alleged policy violation by the Title IX Coordinator, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps Stephens College needs to take. The Title IX Coordinator will contact the Complainant to offer supportive measures and determine whether the Complainant wishes to file a Formal Complaint.

The Title IX Coordinator will then initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a Formal Complaint; and/or
- 2) An Informal Resolution (upon submission of a Formal Complaint); and/or
- 3) A Formal Grievance Process including an investigation and a hearing (upon submission of a Formal Complaint).

Stephens College uses a Formal Grievance Process as described below to determine whether or not the Policy has been violated. If so, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, and/or their effects.

## A-2. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator<sup>2</sup> engages in an initial assessment, typically within one to five (1-5) business days. The steps in an initial assessment can include:

- i.) The Title IX Coordinator seeks to determine if the person impacted wishes to make a Formal Complaint, and will assist them to do so, if desired.
  - a. If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint themselves because a Violence Risk Assessment indicates a compelling threat to health and/or safety.
- ii.) If a Formal Complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- iii.) The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- iv.) The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.

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<sup>2</sup> If circumstances require, the President will designate another person to oversee the process should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

- v.) The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an Informal Resolution option, or a formal investigation and grievance process.
  - a. If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their needs, determine appropriate supports, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - b. If an Informal Resolution option is preferred by the Complainant, the Title IX Coordinator assesses whether the complaint is suitable for Informal Resolution and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
  - c. If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the alleged misconduct falls within the scope of the 2020 Title IX Regulations:
    - i. If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address, based on the nature of the complaint:
      - 1. an incident, and/or
      - 2. a pattern of alleged misconduct, and/or
      - 3. a culture/climate issue.
    - ii. If alleged misconduct does not fall within the scope of the Title IX Regulations, the Title IX Coordinator determines that the regulations do not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply and including referring the matter for resolution under Process B if applicable (or if the Respondent is a student in the Stephens College Children’s School or a minor participating in an educational program at Stephens, the matter will be referred for resolution under Process C which is compliant under the 2020 Title IX Regulations for K-12 schools). Please note that dismissing a complaint under the 2020 Title IX Regulations is solely a procedural requirement under the Title IX, which does not limit Stephens College’s authority to address a complaint with an appropriate process and remedies.

**a.) Violence Risk Assessment**

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the Student Safety Assessment Team as part of the initial assessment. A VRA can aid in critical and/or required determinations, including:

- 1) Emergency removal of a Respondent on the basis of immediate threat to and individual or the community's physical health/safety
- 2) Whether the Title IX Coordinator should pursue/sign a Formal Complaint absent a willing/able Complainant
- 3) Whether the scope of the investigation should include an incident, and/or pattern of misconduct, and/or climate of hostility/harassment
- 4) To help identify potential predatory conduct
- 5) To help assess/identify grooming behaviors
- 6) Whether it is reasonable to try to resolve a complaint through Informal Resolution, and if so, what approach may be most successful
- 7) Whether to permit a voluntary withdrawal by the Respondent
- 8) Whether to impose a transcript notation or communicate with a transfer recipient about a Respondent
- 9) Assessment of appropriate sanctions/remedies (to be applied post-hearing)
- 10) Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

More about Stephens College's process for VRA can be found below at [www.stephens.edu/titleix](http://www.stephens.edu/titleix) under the Policies link.

#### **b.) Dismissal (Mandatory and Discretionary)<sup>3</sup>**

Stephens College must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the Formal Complaint would not constitute sexual harassment as defined in the Policy, even if proved

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<sup>3</sup> These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45.

- 2) The conduct did not occur in an educational program or activity controlled by Stephens College (including buildings or property controlled by recognized student organizations), and/or the College does not have control of the Respondent
- 3) The conduct did not occur against a person in the United States
- 4) At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in the Stephens College education program or activity<sup>4</sup>

Stephens College may dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein
- 2) The Respondent is no longer enrolled in or employed by Stephens College
- 3) Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein

A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

Upon any dismissal, Stephens College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate.

### **A-3. Counterclaims**

Stephens College is obligated to ensure that the grievance process is not abused for retaliatory purposes, thus counterclaims made with retaliatory intent will not be permitted. The College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith.

Counterclaims determined to have been reported in good faith will be processed using the Resolution Process below. Investigation of such claims may take place after resolution of the underlying initial complaint, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying complaint, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

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<sup>4</sup> Such a Complainant is still entitled to supportive measures, but the formal grievance process is not applicable.

#### A-4. Rights of the Parties

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment, discrimination, and/or retaliation made in good faith to Stephens College officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information by Stephens College regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released by Stephens College to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by Stephens College officials.
- The right to have Stephens College policy and these procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by Stephens College officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by Stephens College officials of options to notify proper law enforcement authorities and the option to be assisted by Stephens College in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by Stephens College Safety and Security Officers and other Stephens College officials.
- The right to be informed of available supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; and/or other services, both on campus and in the community.
- The right to a Stephens College-implemented no-contact order [or a no-trespass order against a non-affiliated third party] when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either institutional or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:

- Relocating an on-campus student's housing to a different on-campus location
- Assistance from Stephens College staff in completing the relocation
- Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
- Transportation assistance
- Visa/immigration assistance
- Exam, paper, and/or assignment rescheduling or adjustment
- Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
- Transferring class sections
- Temporary withdrawal/leave of absence (may be retroactive)
- Campus safety escorts
- Alternative course completion options.
- The right to have Stephens College maintain such actions for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair the College's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any Stephens College meeting or interview involving the other party, when possible.
- The right to identify and have the Investigators and/or Decision-Makers question relevant available witnesses, including expert witnesses.
- The right to provide the Investigators/Decision-Makers with a list of questions that, if deemed relevant by the Investigators/Decision-Makers, may be asked of any party or witness.
- The right not to have inadmissible sexual predisposition/prior sexual history or character evidence excluded by the Decision-Makers.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to a fair opportunity to provide the Investigators with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of all relevant and directly related evidence obtained during the investigation, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and a ten (10)-business-day period to review and comment on the evidence.
- The right to receive a copy of the final investigation report, including all factual, policy, and/or credibility analyses performed, and to have at least ten (10) business days to review and comment prior to the hearing.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Equity Officers, and Decision-Makers who have received relevant annual training.
- The right to preservation of confidentiality/privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.

- The right to petition that any Stephens College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- The right to the use of the appropriate standard of evidence [preponderance of the evidence] to make a Finding/Final Determination after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact and/or mitigation statement considered by the Decision-Makers following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed of the findings and sanctions of the Resolution Process, if any, and a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written Notice of Outcome letter delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by Stephens College is considered final and any changes to the final determination or sanctions that occur post Notification of Outcome.
- The right to be informed of the opportunity to appeal the findings and sanctions of the Resolution Process, and the procedures for doing so in accordance with the standards for appeal established by Stephens College.
- The right to a fundamentally fair resolution as defined in these procedures.

#### A-5. Right to an Advisor

The parties may each have an Advisor<sup>5</sup> of their choice present with them for all meetings, interviews, and hearings within the Resolution Process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>6</sup>

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

Stephens College may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

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<sup>5</sup> This could include an attorney, advocate, or support person. Witnesses are not entitled to Advisors within the process, though they can be advised externally.

<sup>6</sup> “Available” means the party cannot insist on an Advisor who simply doesn’t have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

**a.) Who Can Serve as an Advisor**

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the Resolution Process. The parties may choose Advisors from inside or outside of the Stephens College community.

The Title IX Coordinator will also offer to assign a trained Advisor to any party if the party so chooses. If the parties choose an Advisor from the pool available from Stephens College, the Advisor will have been trained by the College and will be familiar with the College's Resolution Process.

If the parties choose an Advisor from outside the pool of those identified by Stephens College, the Advisor may not have been trained by the College and may not be familiar with Stephens College policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the Resolution Process, prior to a hearing.

**b.) Advisor's Role in Meetings and Interviews**

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

Stephens College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the College is not obligated to provide an attorney.

**c.) Advisors in Hearings/Stephens College-Appointed Advisor**

Under the Title IX Regulations, a form of indirect questioning is required during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, Stephens College will appoint a trained Advisor for the limited purpose of conducting any questioning of the other parties and witnesses.

**d.) Pre-Interview Meetings**

Advisors and their advisees may request to meet with the Investigators conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows

Advisors to clarify and understand their role and Stephens College's policies and procedures.

**e.) Advisor Violations of Stephens College Policy**

All Advisors are subject to the same Stephens College policies and procedures, whether they are attorneys or not, and whether they are selected by a party or assigned by the College. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address College officials or Investigators in a meeting or interview unless invited to do so (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigators or other Decision-Makers except during a hearing proceeding, during questioning.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this Policy or refuses to comply with the College's established rules of decorum for the hearing, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including the College requiring the party to use a differed Advisor or providing a different College-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

**f.) Sharing Information with the Advisor**

Stephens College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with a party's Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

Stephens College also provides a consent form that authorizes the College to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before the College is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, the College will comply with that request at the discretion of the Title IX Coordinator.

Advisors appointed by the College will not be asked to disclose details of their interactions with their advisees to institutional officials or Decision-Makers.

**g.) Privacy of Records Shared with Advisor**

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Stephens College. Stephens College may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

**h.) Expectation of an Advisor**

Stephens College generally expects an Advisor to adjust their schedule to allow them to attend College meetings/interviews/hearings when planned, but the College may change scheduled meetings/interviews/hearings to accommodate an Advisor's inability to attend if doing so does not cause an unreasonable delay.

Stephens College may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

**i.) Expectations of the Parties with Respect to Advisors**

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigators of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor should be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

**A-6. Resolution Processes**

Resolution proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accordance with Stephens College policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their

own knowledge and evidence with others if they so choose, except for information the parties agree not to disclose as part of an Informal Resolution. Stephens College encourages parties to discuss any sharing of information with their Advisors before doing so.

The Formal Grievance Process is the College's primary resolution approach unless Informal Resolution is elected by all parties and the College.

#### **a.) Informal Resolution**

Informal Resolution can include three different approaches:

- Supportive Resolution: When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation
- Alternative Resolution: When the parties agree to resolve the matter through an alternative resolution mechanism as described below, often before a formal investigation takes place (See Section B)
- Accepted Responsibility: When the Respondent accepts responsibility for violating policy, and desires to accept the recommended sanction and end the Resolution Process (See Section C)

To initiate Informal Resolution, a Complainant must submit a Formal Complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator. The parties may agree as a condition of engaging in Informal Resolution that statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Grievance Process unless all parties consent.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

The parties may not enter into an agreement that requires the College to impose specific sanctions, though the parties can agree to certain restrictions or other courses of action. For example, the parties cannot require a student be suspended, but the parties can agree that the Respondent will temporarily or permanently withdraw. The only Informal Resolution Process that can result in sanctions levied by the institution is "Accepted Responsibility."

The Title IX Coordinator has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

Prior to implementing Informal Resolution, Stephens College will provide the parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including

information regarding any records that will be maintained or shared by the College.

Stephens College will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

### **b.) Informal Resolution Approaches**

Informal Resolution is an approach by which the parties reach a mutually agreed upon resolution of a complaint. All parties must consent to the use of an Informal Resolution approach.

The Title IX Coordinator may consider the following factors to assess whether Informal Resolution is appropriate for the parties:

- The parties' amenability to Informal Resolution
- Likelihood of potential resolution, considering any power dynamics between the parties
- The nature and severity of the alleged misconduct
- The parties' motivation to participate
- Civility of the parties
- Results of a Violence Risk Assessment/ongoing risk analysis
- Disciplinary history of the Respondent
- Whether an emergency removal is needed
- Skill of the Informal Resolution facilitator with this type of complaint
- Complaint complexity
- Emotional investment/capability of the parties
- Rationality of the parties
- Goals of the parties
- Adequate resources to invest in Informal Resolution (time, staff, etc.)

The ultimate determination of whether Informal Resolution is available or successful is made by the Title IX Coordinator. The Title IX Coordinator is authorized to facilitate a resolution that is acceptable to all parties, and/or to accept a resolution that is proposed by the parties, usually through their Advisors, including terms of confidentiality, release, and non-disparagement.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., referral for formal resolution, referral to the conduct process for failure to comply). Results of complaints resolved by Informal Resolution are not appealable.

### **c.) Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and Stephens College are able to agree on responsibility, restrictions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of Stephens College policy and implements agreed-upon restrictions, remedies, and determines the appropriate sanctions in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon resolution terms. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

#### **A-7. Grievance Resolution Process Pool**

The Grievance Resolution Process relies on a pool of administrators (“the Pool”) to carry out the process. The list of Pool members and a description of the Pool can be found at [www.stephens.edu/titleix](http://www.stephens.edu/titleix) under the Process link.

##### **a.) Pool Member Roles**

Members of the Pool are trained annually, and serve in the following roles at the discretion of the Title IX Coordinator:

- To provide appropriate guidance pertaining to complaints
- To act as an Advisor to the parties
- To investigate complaints
- To serve as a Hearing Decision-Maker regarding the complaint
- To serve as an Appeal Decision-Maker

##### **b.) Pool Member Appointment**

The Equity Compliance Team, in consultation with the President, appoints the Pool which

acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different complaints, Stephens College designates permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

### **c.) Pool Member Training**

The Pool members receive annual training jointly and based on their respective roles. This training includes, but is not limited to:

- The scope of Stephens College's Equal Opportunity, Harassment and Nondiscrimination Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely and impartial manner
- Trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by Stephens College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and Informal Resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence

- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

The materials used to train all members of the Pool are publicly posted at [www.stephens.edu/titleix](http://www.stephens.edu/titleix) under the Process link.

#### **d.) Pool Membership**

The Pool includes:

Nine Members Appointed by Position:

- Title IX Coordinator
- Chief Diversity Officer
- ADA/504 Coordinator
- Director of Human Resources
- Director of Campus Life
- Associate Vice President for Academic Affairs
- Vice President for Student Development
- Vice President for Finance and Administration
- Vice President for Academic Affairs

Nine At-Large Members from the campus community also serve in the Pool. At-large pool members are usually appointed to three-year terms that may be repeated. Individuals who are interested in serving in the Pool are encouraged to contact the Title IX Coordinator.

#### **A-8. Formal Grievance Process: Notice of Investigation and Allegations**

The Title IX Coordinator will provide written Notice of the Investigation and Allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who will be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all allegations
- The identity of the involved parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies implicated
- A description of the applicable procedures

- A statement of the potential sanctions/responsive actions that could result
- A statement that Stephens College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity during the review and comment period to inspect and review all directly related and/or relevant evidence obtained
- A statement about Stephens College's policy on retaliation
- Information about the confidentiality of the process
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor
- A statement informing the parties that Stephens College's policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how the party may request disability accommodations during the Resolution Process
- A link to Stephens College's VAWA Information
- The name(s) of the Investigator(s), along with a process to identify to the Title IX Coordinator, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have
- An instruction to preserve any evidence that is directly related to the allegations

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations.

Notice will be made in writing and may be delivered either in person or emailed to the parties' Stephens College-issued email or designated accounts. Once emailed, and/or received in-person, notice will be presumptively delivered.

#### **A-9. Resolution Timeline**

Stephens College will make a good faith effort to complete the Resolution Process within a sixty to ninety (60-90) business-day time period, including appeal, if any, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

#### **A-10. Appointment of Investigators**

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Pool members to conduct the investigation usually within two (2) business days of

determining that an investigation should proceed.

#### **A-11. Ensuring Impartiality**

Any individual materially involved in the administration of the Resolution Process [including the Title IX Coordinator, Investigator(s), and Decision-Maker(s)] may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Stephens College President.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

Stephens College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

#### **A-12. Investigation Timeline**

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take many weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, law involvement, etc.

Stephens College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

#### **A-13. Investigation Process Delays and Interactions with Law Enforcement**

Stephens College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or health conditions.

Stephens College will communicate the anticipated duration of the delay and reason to the parties in writing and provide the parties with status updates if necessary. The College will promptly resume its investigation and Resolution Process as soon as feasible. During such a delay, the College will implement supportive measures as deemed appropriate.

Stephens College actions or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

#### **A-14. Investigation Process Steps**

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

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

At the discretion of the Title IX Coordinator, investigations can be combined when complaints implicate a pattern, collusion, and/or other shared or similar actions.

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

- Determine the identity and contact information of the Complainant
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator, if needed, with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the parties and witnesses
- Meet with the Complainant to finalize their interview/statement, if necessary
- Work with the Title IX Coordinator, as necessary, to prepare the initial Notice of Investigation and Allegations (NOIA). The NOIA may be amended with any additional or dismissed allegations
  - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party

- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigators to ask of another party and/or witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- Gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which Stephens College does not intend to rely in reaching a determination, for a ten (10) business-day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten (10) days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- Elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- Incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period

- Share the report with the Title IX Coordinator and/or legal counsel for their review and feedback
- Incorporate any relevant feedback and share with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties and Advisors are also provided with a file of any directly related evidence that was not included in the report

#### **A-15. Witness Role and Participation in the Investigation**

Witnesses (as distinguished from the parties) who are employees of Stephens College are strongly encouraged to cooperate with and participate in the College's investigation and Resolution Process. Student witnesses and witnesses from outside the Stephens College community are encouraged to cooperate with College investigations and to share what they know about a complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, Microsoft Teams, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigators determine that timeliness, efficiency, or other reasons dictate a need for remote interviewing. Stephens College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigators, though not preferred.

#### **A-16. Interview Recording**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigators elect to audio and/or video record interviews, all involved parties should be made aware of audio and/or video recording.

#### **A-17. Evidentiary Considerations Neither the investigation nor the hearing will consider**

(1) incidents not relevant or not directly related to the possible violation(s), unless they evidence a pattern; or (2) questions and evidence about the Complainant's sexual predisposition; or (3) questions and evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the investigation and the hearing can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

#### **A-18. Referral for Hearing**

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be held less than ten (10) business days from the conclusion of the investigation – when the final investigation report is transmitted to the parties and the Decision-Makers – unless all parties and the Decision-Makers agree to an expedited timeline.

The Title IX Coordinator will select appropriate Decision-Makers from the Pool and provide a copy of the investigation report and the file of directly related evidence.

#### **A-19. Hearing Decision-Maker Composition**

Stephens College will typically designate a three-member panel from the Pool, at the discretion of the Title IX Coordinator. One of the three members will be appointed as Chair by the Title IX Coordinator.

The Decision-Makers will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-Makers. Those who are serving as Advisors for any party may not serve as Decision-Makers in that matter.

The Title IX Coordinator may not serve as a Decision-Maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous roles in the matter do not create a conflict of interest. Otherwise, a designee may fulfill the facilitator role. The hearing will convene at a time and venue determined by the Title IX Coordinator or designee.

#### **A-20. Additional Evidentiary Considerations in the Hearing**

Any evidence that the Decision-Makers determine is relevant may be considered. The hearing does not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern or (2) questions and evidence about the Complainant's sexual

predisposition; or (3) questions or evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the hearing can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Previous disciplinary action of any kind involving the Respondent may not be used unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-Makers at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-Makers render a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

#### **A-21. Hearing Notice**

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once emailed and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- Description of any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-Makers and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator as soon as possible, preferably at least five (5) business days prior to the hearing.

- A list of all those who will attend the hearing, along with an invitation to object to any Decision-Maker(s) based on demonstrated bias or conflict of interest. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and how the parties can access the recording after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they wish to conduct cross-examination and do not have an Advisor, and Stephens College will appoint one. Each party must have an Advisor present if they intend to cross-examine others. There are no exceptions.
- A copy of all the materials provided to the Decision-Makers about the complaint, unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-Makers will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Notice that the parties cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by Stephens College and remain within the 60-90 business-day goal for resolution. Employees who do not have 12-month contracts are still expected to participate in Resolution Proceedings that occur during months between contracts.

#### **A-22. Alternative Hearing Participation Options**

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator as soon as possible, preferably at least five (5) business days prior to the hearing.

The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator know as soon as possible, preferably at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

### **A-23. Pre-Hearing Preparation**

After any necessary consultation with the parties, the Chair will provide the names of persons who have been asked to participate in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigators or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any relevant evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and/or instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-Makers at least five (5) business days in advance of the hearing. All objections to any Decision-Maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two (2) business days prior to the hearing. Decision-Makers will only be removed if the Title IX Coordinator concludes that their actual or perceived bias or conflict of interest precludes an impartial hearing of the allegations.

The Title IX Coordinator will give the Decision-Makers a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-Maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-Maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10)-business-day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at a pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

### **A-24. Pre-Hearing Meetings**

The Chair may convene a pre-hearing meeting with each party and their Advisors and invite them to submit the questions or topics they (the parties and their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a

reconsideration on a pre-hearing ruling by the Chair based on any new information or testimony offered at the hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Chair, only with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigators in the investigation report or during the hearing.

At each pre-hearing meeting with a party and/or their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigators may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator or ask either or both to attend pre-hearing meetings.

The pre-hearing meetings will not be recorded. The pre-hearing meetings may be conducted as separate meetings with each party/Advisor, with all parties/Advisors present at the same time, remotely, or as a written-only exchange. The Chair will work with the parties to establish the format.

#### **A-25. Hearing Procedures**

At the hearing, the Decision-Makers have the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the Equal Opportunity, Harassment, and Nondiscrimination Policy.

Participants at the hearing will include the Chair, two (2) additional Decision-Makers, the hearing facilitator, the Investigators who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, the Title IX Coordinator, and anyone providing authorized accommodations, interpretation, and/or assistive services.

The Chair will answer all questions of procedure.

Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing to respond to specific questions from the Decision-Makers and the parties and the witnesses will then be excused. The Investigator(s) will remain present for the duration of

the hearing.

#### **A-26. Joint Hearings**

In hearings involving more than one Respondent and/or involving more than one Complainant who has accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each complaint with respect to each alleged policy violation.

#### **A-27. The Order of the Hearing – Introductions and Explanation of Procedure**

The Chair explains the procedures and introduces the participants. This will include a final opportunity for challenge or recusal of the Decision-Makers based on bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review the challenge and decide.

The Chair and hearing facilitator then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator which may be the Title IX Coordinator, or a designee appointed by the Title IX Coordinator.

The hearing facilitator may attend to logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

#### **A-28. Investigator Presentation of the Final Investigation Report**

The Investigators will present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-Makers and the parties (through their Advisors). The Investigators will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-Makers should ask the Investigators their opinions on credibility, recommended findings, or determinations, and Advisors and parties will refrain from discussion of or questions for Investigators about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

### **A-29. Testimony and Questioning**

Once the Investigators present the report and responds to questions, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The hearing will facilitate questioning of parties and witnesses by the Decision-Makers and then by the parties through their Advisors.

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by all parties and the Chair), the proceeding will pause after each question to allow the Chair to consider the question (and state it if it has not already been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may invite explanations or persuasive statements regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party or witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-Maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair will not permit irrelevant questions that probe for bias.

### **A-30. Refusal to Submit to Questioning; Inferences**

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-Makers can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-Makers may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or to answer other questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared. It is otherwise considered off-limits, and an Advisor who is an institutional employee is temporarily alleviated from mandated reporter responsibilities related to their interaction with their advisee during the Resolution Process.

### **A-31. Hearing Recordings**

Hearings (but not deliberations) are recorded by Stephens College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-Makers, the parties, their Advisors, and appropriate administrators of Stephens College will be permitted to review the recording or review a transcript of the hearing upon request to the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

### **A-32. Deliberation, Decision-making, and Standard of Proof**

The Decision-Makers will deliberate in closed session to determine whether the Respondent is responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-Makers may then consider the previously submitted party impact and/or mitigation statements in determining appropriate sanctions.

The Chair will ensure that each of the parties has an opportunity to review any impact and/or mitigation statements once they are submitted.

The Decision-Makers will also review any pertinent conduct history provided by the Title IX Coordinator and will determine the appropriate sanctions, sometimes in consultation with other appropriate administrators.

The Chair will then prepare a written deliberation statement detailing all findings/final determinations, the rationale(s) explaining the decisions(s), the evidence used in support of the determination, the evidence not relied upon in the determination, any credibility assessments, and any sanctions and rationales explaining the sanctions and will deliver the statement to the Title IX Coordinator.

This statement is typically three to five (3-5) pages in length and must be submitted to the

Title IX Coordinator within three (3) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

### **A-33. Notice of Outcome**

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome letter. The Notice of Outcome may be reviewed by legal counsel. The Title IX Coordinator will then share the letter, which includes the final determination, rationale, and any applicable sanctions with the parties and their Advisors within five (5) business days of receiving the deliberation statement.

The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and may be delivered either in person or emailed to the parties' Stephens College-issued email or otherwise approved account. Once emailed and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific alleged policy violation(s), including the relevant policy section, and will contain a description of the procedural steps taken by Stephens College from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding for each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the College is permitted to share such information under state or federal law; any sanctions issued which Stephens College is permitted to share according to state or federal law; and whether remedies will be provided to the Complainant to ensure access to the College's educational or employment program or activity.

The Notice of Outcome will also include information on when the results are considered final by Stephens College, will note any changes to the outcome and/or sanctions that occur prior to finalization, and the relevant procedures and bases for appeal.

### **A-34. Sanctions**

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation

- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-Makers

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a grievance process at any time, and/or referring that information to another process for resolution.

#### **a. Student Sanctions**

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

- **Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any Stephens College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Required Counseling:** A mandate to meet with and engage in either Stephens College-sponsored or external counseling to better comprehend the misconduct and its effects.
- **Probation:** A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at Stephens College.
- **Expulsion:** Permanent termination of student status and revocation of rights to be on campus for any reason or to attend Stephens College-sponsored events.
- **Withholding Diploma:** Stephens College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for violating policy.

- Revocation of Degree: Stephens College reserves the right to revoke a degree previously awarded from the College for fraud, misrepresentation, and/or other violation of Stephens College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- Organizational Sanctions: Deactivation, loss of recognition, loss of some or all privileges for a specified period of time.
- Other Actions: In addition to or in place of the above sanctions, Stephens College may assign any other sanctions as deemed appropriate.

## **b. Student Organization Sanctions**

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

- Warning: A formal statement that the conduct was unacceptable and a warning that further violation of any Stephens College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- Probation: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of Stephens College funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- Suspension: Termination of student organization recognition for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student organization may not conduct any formal or informal business or participate in Stephens College-related activities, whether they occur on or off campus. Re-recognition is possible, but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the College.
- Expulsion: Permanent termination of student organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- Loss of Privileges: Restricted from accessing specific Stephens College privileges for a specified period of time.
- Other Actions: In addition to or in place of the above sanctions, Stephens College may assign any other sanctions as deemed appropriate.

## **c. Employee Sanctions/Responsive/Corrective Actions**

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

- Verbal or Written Warning
- Performance Improvement Plan/Management Process
- Enhanced Supervision, Observation, or Review
- Required Counseling
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Reassignment
- Referral for Delay of Tenure Track Progress
- Assignment to New Supervisor
- Restriction of Stipends, Research, and/or Professional Development Resources
- Suspension/Administrative Leave with Pay
- Suspension/Administrative Leave without Pay
- Termination
- Other Actions: In addition to or in place of the above sanctions/responsive actions, Stephens College may assign any other responsive actions as deemed appropriate.

**A-35. Withdrawal or Resignation Before Complaint Resolution**

**a. Students:** Should a Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from Stephens College, the Resolution Process typically ends with a dismissal, as the College has lost primary disciplinary jurisdiction over the withdrawn student.

However, the College may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

Regardless of whether the matter is dismissed or pursued to completion of the Resolution Process, the College will continue to address and remedy any systemic issues or concerns, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to Stephens College in any capacity. Admissions and Human Resources will be notified, accordingly. Such exclusions apply to all College locations.

If the student Respondent only withdraws or takes a leave for a specified period of time

(e.g., one semester or term), the Resolution Process may continue remotely, and if found in violation, that student is not permitted to return to Stephens College unless and until all sanctions, if any, have been satisfied.

**b. Employees:** Should an employee Respondent resign with unresolved allegations pending, the Resolution Process typically ends with dismissal, as Stephens College has lost primary disciplinary jurisdiction over the resigned employee.

However, the College may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

Regardless of whether the matter is dismissed or pursued to completion of the Resolution Process, the College will continue to address and remedy any systemic issues or concerns, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for academic admission or rehire with Stephens College at any College location, and the records retained by the Title IX Coordinator will reflect that status.

All Stephens College responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

### **A-36. Appeals**

Any party may submit a written Request for Appeal, but it must be submitted to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome. An Appeal Decision-Maker from the Pool will be designated by the Title IX Coordinator. The Appeal Decision-Maker will not have been involved in the process previously, including in any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Decision-Maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

#### **a. Grounds for Appeal**

Appeals are limited to the following grounds:

- 1) A procedural irregularity that affected the outcome of the matter

- 2) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter
- 3) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Decision-Maker and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-Maker will notify all parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-Makers.

All other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be emailed and/or provided a hard copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. All responses, if any, will be forwarded by the Appeal Decision-Maker to all parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that will be reviewed by the Appeal Decision-Maker to determine if it meets the grounds in this Policy and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, the Investigator(s) and/or original Decision-Makers, as necessary, who will submit their responses, if any, in five (5) business days, which will be circulated for review and comment by all parties. If not approved, the parties will be notified accordingly, in writing.

Neither party may submit any new requests for appeal after this time period. The Appeal Decision-Maker will collect any additional information needed and all documentation regarding the approved grounds for appeal, and the subsequent responses and the Appeal Decision-Maker will render a decision in no more than five (5) business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which Stephens College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent Stephens College is permitted to share under state or federal

law.

Notification will be made in writing and may be delivered in person or emailed to the parties' Stephens College-issued email or otherwise approved account. Once emailed and/or received in-person, notice will be presumptively delivered.

#### **b. Sanctions Status During the Appeal**

Any sanctions imposed as a result of the hearing are stayed (i.e. not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within 48 hours of implementation.

If the original sanctions include separation in any form, Stephens College may place a hold on official transcripts, diplomas, graduations, course registration, etc. pending the outcome of an appeal. The Respondent may request a stay of these holds from the Title IX Coordinator within two (2) business days of the notice of the sanctions. The request will be evaluated by the Title IX Coordinator or designee, whose determination is final.

#### **c. Appeal Considerations**

- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- Decisions on appeal are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- An appeal is not an opportunity for an Appeal Decision-Maker to substitute their judgment for that of the original Decision-Makers merely because they disagree with the finding and/or sanction(s).
- The Appeal Decision-Maker may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded (or partially remanded) to the original Investigators and/or Decision-Makers for reconsideration.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- The results of a new hearing can be appealed, once, on any of the four available

appeal grounds.

- In rare cases where an error cannot be cured by the original Decision-Makers (as in cases of bias), the Appeal Decision-Maker may order a new investigation and/or a new hearing with new Pool members serving in the Investigator and Decision-Maker roles.
- The results of a remand to a Decision-maker(s) cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases that result in reinstatement to Stephens College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### **A-37. Long-Term Remedies/Other Actions**

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the institutional community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies Stephens College owes the Respondent to ensure no effective denial of educational access.

Stephens College will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the College's ability to provide these services.

### **A-38. Failure to Comply with Sanctions and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-Makers (including the Appeal Decision-Maker).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from Stephens College. Supervisors are expected to enforce completion of sanctions/responsive actions for their employees.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

### **A-39. Recordkeeping**

Stephens College will maintain for a period of at least seven years following the conclusion of the Resolution Process, records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation
2. Any disciplinary sanctions imposed on the Respondent
3. Any remedies provided to the Complainant designed to restore or preserve equal access to Stephens College's education program or activity
4. Any appeal and the result therefrom
5. Any Informal Resolution and the result therefrom
6. All materials used to train Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an Informal Resolution process. Stephens College will make these training materials publicly available on the College's website
7. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent
  - b. Any measures designed to restore or preserve equal access to Stephens College's education program or activity
  - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances

Stephens College will also maintain any and all records in accordance with state and federal laws.

#### **A-40. Disability Accommodations in the Resolution Process**

Stephens College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's Resolution Process.

Anyone needing such accommodations or support should contact the ADA/504 Coordinator, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

#### **A-41. Revision of this Policy and Procedures**

These Policies and Procedures supersede any previous policies and procedures addressing harassment, sexual misconduct, discrimination, and/or retaliation for incidents occurring on or after August 14, 2020, under Title IX and will be reviewed and updated annually by the Title IX Coordinator. Stephens College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the Resolution Process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require Policy or procedural alterations not reflected in this Policy and Procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally.

This procedure was implemented on March 10, 2022.

## **2. PROCESS B<sup>7</sup>**

Stephens College will act on any formal or informal allegation or notice of violation of the

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<sup>7</sup> Process B is applicable when the Title IX Coordinator determines Process A is inapplicable, or offenses subject to Process A have been dismissed. If Process A is applicable, Process A must be applied in lieu of Process B. Stephens College can substitute any alternative process instead of Process B, if desired. VAWA Section 304 requirements apply to Process B or any alternative process for reports that fall under VAWA. Title IX requirements outside of Section 106.30 (based on the original 1975 regulations, the 2001 Revised Guidance, etc.) may also be applicable to Process B.

Equal Opportunity, Harassment and Nondiscrimination Policy that is received by the Equity Compliance Team or a member of the administration, faculty, or other employee, with the exception of confidential resources, as articulated in the Policy above.

The procedures described below apply to all allegations of harassment, discrimination, and/or retaliation on the basis of protected characteristic status involving students, staff, faculty members, or third parties with the exception of at-will employees.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing, discriminatory, or retaliatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

### **B-1. Initial Assessment**

Following intake, receipt of notice, or a complaint of an alleged violation of Stephens College's nondiscrimination policy, the Primary Equity Officer<sup>8</sup> engages in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment can include:

- The Primary Equity Officer reaches out to the Complainant to offer supportive measures.
- The Primary Equity Officer works with the Complainant to ensure they have an Advisor.
- The Primary Equity Officer works with the Complainant to determine which of three options to pursue: A Supportive Response, and Informal Resolution, or an Administrative Resolution.
  - If a Supportive Response is preferred, the Primary Equity Officer works with the Complainant to identify their wishes and then seeks to facilitate implementation. An Administrative Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.
  - If an Informal Resolution option is preferred, the Primary Equity Officer assesses whether the complaint is suitable for Informal Resolution and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
  - If Administrative Resolution is preferred, the Primary Equity Officer initiates the investigation process and determines whether the scope of the investigation will address:

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<sup>8</sup> If circumstances require, the President will designate another person to oversee the process below should an allegation be made about the primary equity officer or the primary equity officer be otherwise unavailable or unable to fulfill their duties.

- Incident
- A potential pattern of misconduct
- A culture/climate issue
- In many cases, the Primary Equity Officer may determine that a Violence Risk Assessment (VRA) should be conducted by the Student Safety Assessment Team as part of the initial assessment. A VRA can aid in critical and/or required determinations, including:
  - Interim suspension of a Respondent who is a threat to health/safety
  - Whether the Primary Equity Officer should pursue Administrative Resolution absent a willing/able Complainant
  - Whether to put the investigation on the footing of incident and/or pattern and/or climate
  - To help identify potentially predatory conduct
  - To help assess/identify grooming behaviors
  - Whether a Complaint is amenable to Informal Resolution, and what modality may be most successful
  - Whether to permit a voluntary withdrawal by the Respondent
  - Whether to impose transcript notation or communicate with a transfer recipient about a Respondent
  - Assessment of appropriate sanctions/remedies
  - Whether a Clery Act Timely Warning and/or Trespass order/Persona-non-grata is needed

More about Stephens College's process for VRA can be found at [www.stephens.edu/titleix](http://www.stephens.edu/titleix) under the Policies link.

Based on the initial assessment, Stephens College will initiate one of these responses:

- Supportive Response – measures to help restore the Complainant's education access, as described in the Policy.
- Informal Resolution – typically used for less serious offenses and only when all parties agree to Alternate Resolution, or when the Respondent is willing to accept responsibility for violating policy.
- Administrative Resolution – investigation of alleged policy violation(s) and recommended finding, subject to a determination by the Primary Equity Officer or a Decision-Maker and the opportunity to appeal.

The investigation and the subsequent Administrative Resolution determine whether the Equal Opportunity, Harassment, and Nondiscrimination Policy has been violated. If so, Stephens College will promptly implement effective remedies designed to end the discrimination, prevent recurrence, and address the effects.

The process followed considers the preference of the parties but is ultimately determined at

the discretion of the Primary Equity Officer. If at any point during the initial assessment or formal investigation, the Primary Equity Officer determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified.

The Complainant may request that the Equity Compliance Team review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Primary Equity Officer, but the request is usually only granted in extraordinary circumstances.

## **B-2. Statement of the Rights of the Parties**

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment, discrimination, and/or retaliation made in good faith to Stephens College officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information by Stephens College regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public by Stephens College without consent provided, except to the extent permitted by law.
- The right to be treated with respect by Stephens College officials.
- The right to have Stephens College Policy and these procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by Stephens College officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by Stephens College officials of options to notify proper law enforcement authorities and the option to be assisted by Stephens College in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by Stephens College Safety and Security Officers and/or other Stephens College officials.

- The right to be informed of available supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; and/or other services, both on campus and in the community.
- The right to a Stephens College-implemented no-contact order [or a no-trespass order against a non-affiliated third party] when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
  - Relocating an on-campus student's housing to a different on-campus location
  - Assistance from Stephens College staff in completing the relocation
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation accommodations
  - Visa/immigration assistance
  - Exam, paper, and/or assignment rescheduling or adjustment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)
  - Campus safety escorts
    - Alternative course completion options.
- The right to have Stephens College maintain such actions for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair the College's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to have the Investigators and Decision-Makers to identify and question relevant available witnesses, including expert witnesses.
- The right to provide the Investigators/Decision-Makers with a list of questions that, if deemed relevant by the Investigators/Decision-Makers, may be asked of any party or witness.
- The right to have inadmissible prior sexual predisposition/history or irrelevant character evidence excluded by the Decision-Makers.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to a fair opportunity to provide the Investigators with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of all relevant and directly related evidence obtained by the investigation, subject to the privacy limitations imposed by state and federal law, prior to adjudication, and a ten (10) business day period to review and comment on the report prior to adjudication.

- The right to receive a copy of the final investigation report, including all factual, policy, and or credibility analyses performed.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Equity Officers, and Decision-Makers who have received relevant annual training.
- The right to preservation of confidentiality/privacy, to the extent possible and permitted by law.
- The right to meetings and interviews that are closed to the public.
- The right to petition that any Stephens College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to the use of the appropriate standard of evidence [preponderance of the evidence] to make a finding after an objective evaluation of all relevant evidence.
- The right to have an impact statement considered by the Decision-Makers following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the findings and sanctions, if any, of the resolution process and a detailed rationale of the decision (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by Stephens College is considered final and any changes to the final determination or sanctions that occur post Notice of Outcome.
- The right to be informed of the opportunity to appeal the findings and sanctions of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by Stephens College.
- The right to a fundamentally fair resolution as defined in these procedures.

### **B-3. Resolution Process Pool**

The Resolution Process relies on a pool of officials (“Pool”) for implementation. The list of Pool members and a description of the Pool can be found at [www.stephens.edu/titleix](http://www.stephens.edu/titleix) under the Process link.

Members of the Pool are trained annually in all aspects of the Resolution Process and can serve in any of the following roles, at the direction of the Equity Compliance Team:

- To provide appropriate guidance pertaining to the allegations
- To act as optional process Advisors to the parties
- To investigate allegations
- To serve as a Decision-Maker

- To serve as an Appeal Decision-Maker

The Equity Compliance Team, in consultation with the President, carefully vets Pool members for potential conflicts of interest or disqualifying biases and appoints the Pool, which acts with independence and impartiality.

Pool members receive annual training organized by the Equity Compliance Team, including a review of Stephens College policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety, and promote accountability.

The Pool members receive annual training jointly and specific to their team roles. This training includes, but is not limited to:

- The scope of Stephens College's Equal Opportunity, Harassment and Nondiscrimination Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents and promote accountability
- Implicit bias
- Disparate treatment
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- How to conduct a civil rights investigation
- Trauma-informed practices pertaining to investigations
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- Types of evidence
- Deliberation
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by Stephens College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- How to conduct an investigation and grievance process including hearings, appeals, and Informal Resolution processes

- How to serve impartially, by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents or for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment and discrimination allegations

Pool members are required to participate in this annual training.

The Stephens College Resolution Process Pool includes:

Nine Members Appointed by Position:

- Title IX Coordinator
- Chief Diversity Officer
- ADA/504 Coordinator
- Director of Human Resources
- Associate Vice President for Academic Affairs
- Director of Campus Life
- Vice President for Student Development
- Vice President for Finance and Administration
- Vice President for Academic Affairs

Nine At-Large Members from the campus community also serve in the Pool. At-large pool members are usually appointed to three-year terms that may be repeated. Individuals who are interested in serving in the Pool are encouraged to contact a member of the Equity + Compliance Team.

#### **B-4. Counterclaims**

Counterclaims by the Respondent may be made in good faith or may instead be motivated by retaliatory intent. Stephens College is obligated to ensure that any process is not abused for retaliatory purposes.

Stephens College permits the filing of counterclaims, but uses the initial assessment, described above, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after resolution of the underlying allegation. Counterclaims made with retaliatory intent will not be permitted.

A delay in the processing of counterclaims is permitted, accordingly. Occasionally, allegations and counterclaims can be resolved through the same investigation, at the discretion of the Primary Equity Officer. When counterclaims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this Policy.

## **B-5. Advisors**

### **a. Advisor Expectations**

Stephens College generally expects an Advisor to adjust their schedule to allow them to attend College meetings when planned, but Stephens College may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

Stephens College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Parties whose Advisors are disruptive or who do not abide by Stephens College policies and procedures may face the loss of that Advisor and/or possible Policy violations.

Advisors are expected to consult with their advisees without disrupting Stephens College meetings or interviews. Advisors do not represent parties in the process; their role is only to advise.

### **b. Expectations of the Parties with Respect to Advisors**

Each party may choose an Advisor<sup>9</sup> who is eligible and available<sup>10</sup> to accompany them throughout the process. The Advisor can be anyone, including an attorney, but should not be someone who is also a witness in the process. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

The parties are expected to inform the Investigators of the identity of their Advisor at least two (2) business days before the date of their first meeting with the Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

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<sup>9</sup> This could include an attorney, advocate, or support person. Witnesses are not entitled to Advisors within the process, though they can be advised externally.

<sup>10</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being an Equity Compliance administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

The parties are expected to provide timely notice to the Investigators and/or the Primary Equity Officer if they change Advisors at any time.

Upon written request of a party, Stephens College will copy the Advisor on all communications between the College and the party. The Advisor will be asked to sign a non-disclosure agreement (NDA) regarding private, sensitive records.

At the discretion of the Primary Equity Officer, more than one Advisor may be permitted to the parties, upon request. For equity purposes, if one party is allowed another Advisor, the other party must be allowed one to as well.

## **B-6. Resolution Options**

Proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accord with Stephens College Policy.

While there is an expectation of privacy around what is discussed during interviews, the parties have discretion to share their own experiences with others if they so choose, but are encouraged to discuss with their Advisors first before doing so.

### **a. Informal Resolution**

Informal Resolution is applicable when the parties voluntarily agree to resolve the matter through facilitated dialogue, mediation, restorative practices, etc. or when the Primary Equity Officer can resolve the matter informally by providing remedies to resolve the situation. The Primary Equity Officer has the discretion to determine if an investigation will be paused, or if it will be limited, or if it will continue during an Informal Resolution Process.

Informal Resolution is an informal process which the parties mutually agree to resolve an allegation. It may be used for less serious, yet inappropriate behaviors and is encouraged as an alternative to the Administrative Resolution Process (described below) to resolve conflicts, as appropriate. The parties must consent to the use of Informal Resolution.

It is not necessary to pursue Informal Resolution first in order to pursue Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Administrative Resolution process. Further, if an Informal Resolution fails after the resolution is finalized, Administrative Resolution may be pursued.

The Primary Equity Officer determines if Informal Resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to Informal Resolution.

In an Informal Resolution, an administrator or third party facilitates communication among

the parties to an effective resolution, if possible. Institutionally imposed sanctions are not possible as a result of an Informal Resolution Process, though the parties may agree to accept sanctions and/or appropriate remedies.

The Primary Equity Officer maintains records of any resolution that is reached, and failure to abide by the resolution can result in appropriate enforcement actions.

Informal Resolution is not typically the primary resolution mechanism used to address reports of violent behavior of any kind or in cases of serious violations of policy, though similarly structured conversations may be made available after the Administrative Resolution Process is completed should the parties and the Primary Equity Officer believe it could be beneficial. The results of the Alternative Resolution are not appealable.

#### **b. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Resolution Process. If the Respondent accepts responsibility, the Primary Equity Officer determines that the individual is in violation of Stephens College policy.

The Primary Equity Officer then determines appropriate sanctions or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all of the alleged policy violations and the Primary Equity Officer has determined appropriate sanctions or responsive actions, to which The Respondent agreed, and which are promptly implemented, the process is over. The Complainant may be consulted on and will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the Primary Equity Officer has determined appropriate sanctions or responsive actions, to which the Respondent agrees, and which are promptly implemented for those violations, then the remaining allegations will continue to be investigated and resolved through Administrative Resolution. The parties will be informed of this outcome. The parties are still able to seek Informal Resolution on the remaining allegations, subject to the stipulations above.

#### **c. Administrative Resolution via an Investigation and Determination**

Administrative Resolution can be pursued at any time during the process for any behavior for which the Respondent has not accepted responsibility that would constitute conduct covered by the Equal Opportunity, Harassment, and Nondiscrimination Policy if proven. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the Primary Equity Officer will provide written notification of the investigation to the parties at an appropriate time during the investigation. Typically, notice is given at least 72 hours in advance of an interview. Advanced notice facilitates the parties' ability to prepare for the interview and identify and choose an Advisor, if any, to accompany them to the interview.

Notification will include a meaningful summary of the allegations, will be made in writing, and may be delivered by one or more of the following methods: in person or emailed to the parties' Stephens College-issued or designated email account.

Once emailed and/or received in-person, notice will be presumptively delivered. The notification will include the policies allegedly violated, if known at the time. Alternatively, the policies allegedly violated can be provided at a later date, in writing, as the investigation progresses, and details become clearer.

Stephens College aims to complete all investigations within a sixty (60) business-day time period, which can be extended as necessary for appropriate cause by the Primary Equity Officer, with notice to the parties as appropriate. Investigations can take weeks or even months depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

Once the decision is made to commence an investigation, the Primary Equity Office appoints Pool members to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

The Primary Equity Office will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no conflicts of interest or disqualifying bias.

The parties may, at any time during the Resolution Process, raise a concern regarding bias or conflict of interest, and the Primary Equity Officer will determine whether the concern is reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the bias or conflict relates to the Primary Equity Officer, concerns should be raised with the Stephens College President.

Stephens College will make a good faith effort to complete the investigation as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

Stephens College may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges based on the same behaviors that invoke the College's Resolution Process are being investigated by law enforcement. The College will promptly resume its investigation and Resolution Process once notified by law enforcement that the initial evidence collection process is complete.

Stephens College actions are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence, on the record.

### **B-7. Investigation**

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

- Determine the identity and contact information of the Complainant
- In coordination with institutional partners (e.g., the Primary Equity Officer), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct
- Assist the Primary Equity Office with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated policy
- If there is insufficient evidence to support reasonable cause, the process is closed with no further action
- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and witnesses
- Meet with the Complainant to finalize their statement, if necessary
- Prepare the initial Notice of Investigation and Allegations (NOIA) on the basis of the initial assessment. Notice may be one step or multiple steps, depending on how the investigation unfolds, and potential policy violations may be added or dropped as more is learned. Investigators will update the NOIA accordingly and provide it to the parties.
- Notice should inform the parties of their right to have the assistance of a Pool member as a process Advisor appointed by Stephens College or an Advisor of their choosing present for all meetings attended by the advisee
- When formal notice is given, it should provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result

- Give an instruction to the parties to preserve any evidence that is directly related to the allegations
- Provide each party and witnesses with an opportunity to review and verify the Investigator's summary notes from interviews and meetings with that specific party or witness
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible
- Interview all relevant individuals and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest questions they wish for the Investigators to ask the other party and witnesses
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, summarize for the parties the list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation and all evidence
- Provide parties with a copy of the draft investigation report when it is completed, including all relevant evidence, analysis, credibility assessments, and recommended finding(s)
- Provide each party with a full and fair opportunity to respond to the report in writing within seven (7) business days and incorporate that response, if any, into the report
- Investigators may choose to respond in writing in the report to the responses of the parties, and/or to share the responses between the parties for their responses, while also ensuring that they do not create a never-ending feedback loop
- Gather, assess, and synthesize evidence into a final report to provide to the Primary Equity Officer. The investigation report will not include a finding, conclusion, determination, or recommendation, but instead present the evidence for the Decision-Maker's review and determination.

#### **B-8. Determination**

Within five (5) business days of receiving the Investigator's report and recommendation, a trained, designated Decision-Maker from the Pool reviews the report and all responses, and then makes the final determination on the basis of the preponderance of the evidence.

If the record is incomplete, the Decision-Maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the parties or any witnesses, if needed.

The Decision-Maker may invite and consider impact and/or mitigation statements from the parties if and when determining appropriate sanctions, if any.

## **B-9. Additional Details of the Investigation Process**

### **a. Witness Responsibilities**

Witnesses (as distinguished from the parties) who are Stephens College faculty or staff are expected to cooperate with and participate in the College's investigation and Resolution Process. Failure of a witness to cooperate with and/or participate in the investigation or Resolution Process constitutes a violation of Policy and may be subject to discipline.

### **b. Remote Processes**

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigators and/or Decision-Maker determine that timeliness, efficiency, or other causes dictate a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, or respond to questions in writing, if deemed appropriate by the Investigators, though this approach is not ideal. When remote technologies are used, Stephens College makes reasonable efforts to ensure privacy, and ensures that any technology does not work to the detriment of any party or subject them to unfairness.

### **c. Recording**

No unauthorized audio or video recording of any kind is permitted during the Resolution Process including investigation interviews. If Investigators elect to audio and/or video record interviews, all involved parties will be made aware of audio and/or video recording.

### **d. Evidence**

Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct, subject to the limitation in (e.) below. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

### **e. Prior Sexual History/Patterns**

Unless the Title IX Coordinator determines it is appropriate, the investigation and the finding do not consider: (1) incidents not directly related to the possible violation(s), unless they evidence a pattern; (2) the irrelevant sexual history of the parties (though there may be a limited exception made with regard to the sexual history between the parties); (3) irrelevant character evidence.

#### **f. Previous Allegations/Violations**

While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation, the Investigators may supply the Primary Equity Officer with information about previous good faith allegations and/or findings, when that information suggests potential pattern and/or predatory conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanctions.

Character witnesses or evidence may be offered. The investigation and Decision-Maker will determine if the character evidence is relevant. If so, it may be considered. If not, it will be excluded.

#### **g. Notification of Outcome**

If the Respondent admits to the violation(s), or is found in violation, the Primary Equity Officer, in consultation with other administrators as appropriate, determines sanctions and/or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

The Primary Equity Officer informs the parties of the determination within two (2) business days of the resolution, ideally simultaneously, but without significant time delay between notifications. Notifications are made in writing and may be delivered in person or emailed to the parties' Stephens College-issued or designated email account. Once emailed and/or received in-person, notice is presumptively delivered.

The Notification of Outcome specifies the finding for each alleged policy violation, any sanctions that may result which the College is permitted to share pursuant to state or federal law, and the rationale supporting the findings to the extent the College is permitted to share under state or federal law.

The notice will detail when the determination is considered final (see section B-12 Appeals below) and will detail any changes that are made prior to finalization.

Unless based on an acceptance of violation by the Respondent, the determination may be appealed by either party. The Notification of Outcome also includes the grounds on which the parties may appeal and the steps the parties may take to request an appeal of the findings. More information about the appeal procedures can be found in Section B-12.

#### **B-10. Sanctions**

Factors considered when determining any sanctions/responsive actions may include, but are not limited to:

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

The sanctions will be implemented as soon as is feasible. The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by outside authorities.

#### **a. Student Sanctions**

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

- Warning: A formal statement that the conduct was unacceptable and a warning that further violation of any Stephens College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- Required Counseling: A mandate to meet with and engage in either Stephens College-sponsored or external counseling to better comprehend the misconduct and its effect.
- Probation: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student is found in violation of any institutional policy, procedure or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- Suspension: Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at Stephens College.
- Expulsion: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend Stephens College-sponsored events.

This conduct will be noted permanently as a Conduct Expulsion on the student's official transcript.

- Withholding Diploma: Stephens College may withhold a student's diploma for a specified period of time, and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
- Revocation of Degree: Stephens College reserves the right to revoke a degree previously awarded from the College for fraud, misrepresentation, or other violation of Stephens College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- Other Actions: In addition to or in place of the above sanctions, Stephens College may assign any other sanctions as deemed appropriate.

#### **b. Student Organization Sanctions**

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

- Warning: A formal statement that the conduct was unacceptable and a warning that further violation of any Stephens College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- Probation: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the organization is found in violation of any institutional policy, procedure or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of Stephens College funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- Suspension: Termination of student organization recognition for a definite period of time not to exceed two years, and/or until specific criteria are met. During the suspension period, a student organization may not conduct any formal or informal business or participate in Stephens College-related activities, whether they occur on- or off-campus. Re-recognition is possible, but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from Stephens College.
- Expulsion: Permanent termination of student organization recognition and revocation of privilege to congregate and conduct business on campus as an organization for any reason.
- Loss of Privileges: Restricted from accessing specific Stephens College privileges for a specified period of time.
- Other Actions: In addition to or in place of the above sanctions, Stephens College may assign any other sanctions as deemed appropriate.

### **c. Employee Sanctions/Responsive/Corrective Actions**

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

- Verbal or Written Warning
- Enhanced Supervision, Observation, or Review
- Performance Improvement Plan/Management Process
- Required Counseling
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Reassignment
- Delay of Tenure Track Progress
- Assignment of New Supervisor
- Restriction of Stipends, Research, and/or Professional Development Resources
- Suspension with Pay
- Suspension without Pay
- Termination
- Other Actions: In addition to or in place of the above sanctions/responsive actions, Stephens College may assign any other responsive actions as deemed appropriate.

### **B-11. Withdrawal or Resignation while Charges are Pending**

#### **a. Students**

Stephens College does not permit a student to withdraw if that student has an allegation pending for violation of the Equal Opportunity, Harassment, and Nondiscrimination Policy. The College may place a hold, bar access to an official transcript, and/or prohibit graduation as necessary to permit the Resolution Process to be completed.

#### **b. Employees**

Should an employee resign with unresolved allegations pending, the records of the Primary Equity Officer will reflect that status, and any Stephens College responses to future inquiries regarding employment references for that individual will include the former employee's unresolved status and whether the employee is eligible for rehire.

## **B-12. Appeals**

All requests for appeal consideration must be submitted in writing to the Primary Equity Officer within five (5) business days of the delivery of the written finding of the Decision-Maker.

An Appeal Decision-Maker chosen from the Pool will be designated by the Primary Equity Officer from those who have not previously been involved in the process. Any party may appeal, but appeals are limited to the following grounds:

- 1) A procedural error or omission occurred that significantly impacted the outcome (e.g., substantiated bias, material deviation from established procedures)
- 2) To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in the appeal

When any party requests an appeal, the Primary Equity Officer will share the appeal request with all other parties or other appropriate persons such as the Investigators, who may file a response within three (3) business days. Another party may also bring their own appeal on separate grounds.

If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within five (5) business days. These responses or appeal requests will be shared with each party. The Appeal Decision-Maker will review the appeal request(s) within five (5) business days of completing the pre-appeal exchange of materials. If grounds are not sufficient for an appeal, or the appeal is not timely, the Appeal Decision-Maker dismisses the appeal.

When the Appeal Decision-Maker finds that at least one of the grounds is met by at least one party, additional principles governing the review of appeals include the following:

- Decisions by the Appeal Decision-Maker are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanctions/responsive actions only if there is compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegations. In most cases, appeals are confined to a review of the written documentation or record of the investigation and pertinent documentation regarding the grounds for appeal.
- An appeal is not an opportunity for the Appeal Decision-Maker to substitute their judgment for that of the original Investigators or Decision-Maker merely because they disagree with the finding and/or sanction(s).

- Appeals granted based on new evidence should normally be remanded to the Investigators for reconsideration. Other appeals should be remanded at the discretion of the Appeal Decision-Maker.
- Sanctions imposed as the result of the Administrative Resolution are implemented immediately unless the Primary Equity Officer stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
  - For students: Graduation, study abroad, internships/ externships, etc., do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- All parties will be informed in writing within five (5) business days of the outcome of the appeal without significant time delay between notifications, and in accordance with the standards for Notice of Outcome as defined above.
- Once an appeal is decided, the outcome is final; further appeals are not permitted, even if a decision or sanction is changed on remand.
- In rare cases when a procedural error cannot be cured by the original Investigators and/or Decision-Maker (as in cases of bias), the Appeal Decision-Maker may recommend a new investigation and/or Administrative Resolution process, including a new Decision-Maker.
- The results of a new Administrative Resolution process can be appealed once, on any of the three applicable grounds for appeals.
- In cases in which the appeal results in Respondent's reinstatement to Stephens College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable.

### **B-13. Long-Term Remedies/Actions**

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented, the Primary Equity Officer may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification
- Provision of transportation assistance

- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Primary Equity Officer, long-term remedies may also be provided to the Complainant even if no policy violation is found.

When no policy violation is found, the Primary Equity Officer will address any remedial requirements owed by Stephens College to the Respondent.

#### **B-14. Failure to Complete Sanctions/Comply with Interim and Long-Term Remedies/Responsive Actions**

All Respondents are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified by the Primary Equity Officer.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions and responsive/corrective actions, including suspension, expulsion, and/or termination from Stephens College.

Supervisors are expected to enforce completion of sanctions/responsive actions for their employees.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Primary Equity Officer.

#### **B-15. Recordkeeping**

In implementing this Policy, records of all allegations, investigations, resolutions, and determinations will be kept by the Primary Equity Officer in the Equity Complaint database indefinitely, or as required by state or federal law or institutional policy.

#### **B-16. Disability Accommodation in the Resolution Process**

Stephens College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the Stephens College Resolution Process. Anyone needing such accommodations or support should contact the ADA/504 Coordinator, who will review the request and, in consultation with the person requesting the accommodation, and the Primary Equity Officer, determine which accommodations are appropriate and necessary for full participation in the process.

#### **B-17. Revision**

These procedures will be reviewed and updated annually by the Equity Compliance Team. Stephens College reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect.

The Equity Compliance Team may make minor modifications to these procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

The Equity Compliance Team may also vary procedures materially with notice (on the Stephens College website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure.

Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred.

Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy.

If government regulations change in a way that impacts this document, this document will be construed to comply with the most recent government regulations.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This procedure was implemented on March 10, 2022.

### **3. PROCESS C**

Process C applies when the Respondent is a student in the Children's School at Stephens College or a minor participating in an educational program at Stephens.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the student handbook.

#### **C-1. Notice/Complaint**

Upon receiving a complaint or notice, the Title IX Coordinator<sup>11</sup> initiates a prompt initial assessment. The Title IX Coordinator will initiate at least one of three responses:

- 1) Offering and/or implementing supportive measures only because the Complainant<sup>12</sup> does not want to file a formal complaint;
- 2) An informal resolution (upon submission of a formal complaint); and/or
- 3) A Formal Grievance Process including an investigation and a determination of whether policy was violated (upon submission of a formal complaint).

Stephens College uses a Formal Grievance Process to determine whether or not the Policy has been violated. If so, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual harassment or retaliation, their potential recurrence, or their effects.

### C-2. Initial Assessment

The Title IX Coordinator's initial assessment typically occurs within one to five (1-5) business days. The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a Formal Complaint, and will assist them to do so, if desired.
  - If not, the Title IX Coordinator determines whether to initiate a complaint because a Violence Risk Assessment indicates a compelling threat to health and/or safety.
- If a Formal Complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an Informal Resolution option, or a formal investigation and grievance process.
  - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their needs, determine appropriate

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<sup>11</sup> If circumstances require, the Stephens College President will designate another person to oversee the resolution process should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

<sup>12</sup> References to the Complainant, Respondent, or to the parties collectively throughout these procedures may also include their parent(s)/guardian(s) when applicable or as mandated by Stephens College policy, state, and/or federal law.

- supports, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
- If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for Informal Resolution and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
  - If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the alleged misconduct falls within the scope of Title IX:
    - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address, based on the nature of the complaint:
      - an incident, and/or
      - a pattern of alleged misconduct, and/or
      - a culture/climate concern
    - If alleged misconduct does not fall within the scope of Title IX, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply, which Resolution Process is applicable, and will refer the matter accordingly. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX and does not limit the Recipient’s authority to address a complaint with an appropriate process and remedies.

**a. Violence Risk Assessment**

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the Student Safety Assessment Team as part of the initial assessment. A VRA can aid in critical and/or required determinations, including:

- 1) Emergency removal of a student Respondent on the basis of immediate threat to the physical health/safety of an individual or the school community
- 2) Whether the Title IX Coordinator should pursue/sign a Formal Complaint absent a willing/able Complainant
- 3) Whether the scope of the investigation should focus on the incident alone and/or assess pattern and/or climate
- 4) To help identify potential predatory conduct
- 5) To help assess/identify grooming behaviors
- 6) Whether it is reasonable to try to resolve a complaint through Informal Resolution, and if so what approach may be most successful
- 7) Assessment of appropriate sanctions/remedies (to be applied post-determination)
- 8) Whether an Emergency Warning/Trespass order is needed

Threat assessment evaluates the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader

term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct/discipline officers, or other Behavioral Intervention Team (BIT)/CARE team members.

A VRA authorized by the Title IX Coordinator will occur in collaboration with the Student Behavior Intervention Team or Student Safety Assessment Team. In cases where the Respondent is a student with a disability who is receiving services under an Individualized Educational Plan (IEP), a VRA should also occur in collaboration with the student's IEP Team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

More about the Stephens College process for VRA can be found at [www.stephens.edu/titleix](http://www.stephens.edu/titleix) under the Policies link.

#### **b. Dismissal (Mandatory and Discretionary)<sup>13</sup>**

Stephens College must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or meeting with the Decision-Maker, it is determined that:

- 1) The conduct alleged in the Formal Complaint would not constitute sexual harassment as defined above, even if proved
- 2) The conduct did not occur in an educational program or activity controlled by Stephens College and/or the College does not have control of the Respondent
- 3) The conduct did not occur against a person in the United States
- 4) At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of Stephens College<sup>14</sup>

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<sup>13</sup> These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45.

<sup>14</sup> Such a Complainant is still entitled to supportive measures, but the formal grievance process is not applicable.

Stephens College may dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or meeting with the Decision-Maker:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint in whole or in part
- 2) The Respondent is no longer enrolled at Stephens College
- 3) Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

Upon any dismissal, Stephens College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the appeal procedures below.

### **C-3. Counterclaims**

Stephens College is obligated to ensure that the grievance process is not abused for retaliatory purposes, thus counterclaims made with retaliatory intent will not be permitted. The College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith.

Counterclaims determined to have been reported in good faith will be processed using the Resolution Process below. Investigation of such claims may take place after resolution of the underlying initial complaint, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying complaint, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

### **C-4. Statement of the Rights of the Parties**

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment, discrimination, and/or retaliation made in good faith to Stephens College officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.

- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information by Stephens College regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public by Stephens College without consent provided, except to the extent permitted by law.
- The right to be treated with respect by Stephens College officials.
- The right to have Stephens College Policy and these procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by Stephens College officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by Stephens College officials of options to notify proper law enforcement authorities and the option to be assisted by Stephens College in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by Stephens College Safety and Security Officers and/or other Stephens College officials.
- The right to be informed of available supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; and/or other services, both on campus and in the community.
- The right to a Stephens College-implemented no-contact order [or a no-trespass order against a non-affiliated third party] when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
  - Relocating an on-campus student's housing to a different on-campus location
  - Assistance from Stephens College staff in completing the relocation
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation accommodations
  - Visa/immigration assistance
  - Exam, paper, and/or assignment rescheduling or adjustment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)

- Campus safety escorts
  - Alternative course completion options.
- The right to have Stephens College maintain such actions for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair the College's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to have the Investigators and Decision-Makers to identify and question relevant available witnesses, including expert witnesses.
- The right to provide the Investigators/Decision-Makers with a list of questions that, if deemed relevant by the Investigators/Decision-Makers, may be asked of any party or witness.
- The right to have inadmissible prior sexual predisposition/history or irrelevant character evidence excluded by the Decision-Makers.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to a fair opportunity to provide the Investigators with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of all relevant and directly related evidence obtained by the investigation, subject to the privacy limitations imposed by state and federal law, prior to adjudication, and a ten (10) business day period to review and comment on the report prior to adjudication.
- The right to receive a copy of the final investigation report, including all factual, policy, and or credibility analyses performed.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Equity Officers, and Decision-Makers who have received relevant annual training.
- The right to preservation of confidentiality/privacy, to the extent possible and permitted by law.
- The right to meetings and interviews that are closed to the public.
- The right to petition that any Stephens College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to the use of the appropriate standard of evidence [preponderance of the evidence] to make a finding after an objective evaluation of all relevant evidence.
- The right to have an impact statement considered by the Decision-Makers following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the findings and sanctions, if any, of the resolution process and a detailed rationale of the decision

(including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.

- The right to be informed in writing of when a decision by Stephens College is considered final and any changes to the final determination or sanctions that occur post Notice of Outcome.
- The right to be informed of the opportunity to appeal the findings and sanctions of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by Stephens College.
- The right to a fundamentally fair resolution as defined in these procedures.

### **C-5. Right to an Advisor**

The parties may each have an Advisor<sup>15</sup> of their choice present with them for all meetings and interviews within the Resolution Process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>16</sup> For students, this Advisor can be someone in addition to their parent/guardian who may also be present with them for all meetings and interviews within the Resolution Process.

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

#### **a. Who Can Serve as an Advisor**

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the Resolution Process. The parties may choose Advisors from inside or outside of Stephens College community.

Parties also have the right to choose not to have an Advisor during the Resolution Process.

#### **b. Advisor's Role in Meetings and Interviews**

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and investigation interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

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<sup>15</sup> This could include an attorney, advocate, or support person. The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally). If Stephens College allows more than one Advisor for one party, they will do so for all parties.

<sup>16</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

Stephens College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the College is not obligated to provide an attorney.

**c. Pre-Interview Meetings**

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and Stephens College’s policies and procedures.

**d. Advisor Violations of Stephens College Policy**

All Advisors are subject to the same Stephens College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings or meetings. Advisors should not address College officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigators or Decision-Maker.

The parties are expected to ask and respond to questions on their own behalf throughout the Resolution Process. In cases where a party requires assistance in asking and/or responding to questions on their own behalf (e.g. due to age or disability), the Advisor will be allowed to ask and/or respond to questions on behalf of their advisee, at the discretion of the Investigators or Decision-Maker. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor’s non-compliance and future role.

**e. Sharing Information with the Advisor**

Stephens College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the Resolution Process.

Stephens College also provides a consent form that authorizes the College to share such information directly with their Advisor. The parties must submit this completed form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before the College is able to share records with an Advisor.

**f. Privacy of Records Shared with Advisor**

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Stephens College. The College may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the Recipient's privacy expectations.

**g. Expectation of an Advisor**

Stephens College generally expects an Advisor to adjust their schedule to ensure attendance at Stephens College meetings when planned but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

Stephens College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

**h. Expectations of the Parties with Respect to Advisors**

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigators and Decision-Maker of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators and Decision-Makers (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured.

**C-6. Resolution Processes**

Resolution proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accordance with Stephens College policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, except for information the

parties agree not to disclose related to Informal Resolution. Stephens College encourages parties to discuss any sharing of information with their Advisors before doing so.

#### **a. Informal Resolution**

Informal Resolution can include three different approaches:

- When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation
- When the parties agree to resolve the matter through an Informal Resolution mechanism as described below, usually before a formal investigation takes place
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process (similar to above, but usually occurs post-investigation)

To initiate Informal Resolution, a Complainant must submit a Formal Complaint, as described above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

The parties may agree, as a condition of engaging in Informal Resolution, that statements made, or evidence shared during the Informal Resolution Process will not be considered in a Formal Resolution Process unless all parties consent.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, Stephens College will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the College.

Stephens College will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

#### **b. Informal Resolution Approaches**

Informal Resolution is an approach by which the parties mutually agree to resolve a complaint. All parties must consent to the use of an Informal Resolution mechanism.

The Title IX Coordinator may consider the following factors to assess whether Informal Resolution is appropriate:

- The parties' preference for Informal Resolution
- Likelihood of potential resolution, considering any power dynamics between the parties
- The nature and severity of the alleged misconduct
- The parties' motivation to participate
- Civility of the parties
- Results of a Violence Risk Assessment/ongoing risk analysis
- Disciplinary history of the Respondent
- Whether an emergency removal is needed
- Skill of the Informal Resolution facilitator with this type of complaint
- Complaint complexity
- Capacity of parties to understand the process and fully participate in the process
- Goals of the parties
- Adequate resources to invest in Informal Resolution (time, staff, etc.)

The ultimate determination of whether Informal Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator is authorized to facilitate a resolution that is acceptable to all parties, and/or to accept a resolution that is proposed by the parties, including the terms of confidentiality, release, and non-disparagement.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

### **c. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above. If so, the Title IX Coordinator will determine whether all parties and Stephens College are able to agree on responsibility, restrictions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of Stephens College policy and implements agreed-upon restrictions, remedies, and determines the appropriate sanctions in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms. When the parties cannot agreed upon resolution terms, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanctions or responsive actions are promptly implemented to effectively stop the sexual harassment or retaliation, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

### **C-7. Formal Grievance Process Pool**

The Formal Grievance Process relies on specially trained administrators to carry out the process.

#### **a. Grievance Process Administrator Roles**

Grievance Process Administrators are trained annually, and serve in the following roles, at the direction of the Title IX Coordinator:

- To provide initial guidance pertaining to complaints
- To investigate complaints
- To serve as a Decision-Maker regarding the complaint
- To serve as an Appeal Decision-maker

#### **b. Grievance Process Administrator Appointment**

The Title IX Coordinator, in consultation with the President of Stephens College, identifies individuals who will serve as Grievance Process Administrators, which acts with independence and impartiality.

#### **c. Grievance Process Administrator Training**

The Grievance Process Administrators receive annual training based on their respective roles. This training includes, but is not limited to:

- The scope of Stephens College's Equal Opportunity, Harassment and Nondiscrimination Policy and Procedures
- How to conduct investigations and meetings in a manner that protects the safety of Complainants and Respondents, and promotes accountability
- Implicit bias
- Trauma-informed practices pertaining to investigations and resolution processes
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence

- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by Stephens College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct a sexual harassment investigation and grievance process including meetings, decision-making, and appeals
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be used during an interviews or meetings
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment and/or retaliation allegations
- Recordkeeping

Specific training is also provided for Appeal Decision-Makers and intake personnel. All Grievance Process Administrators are required to attend these trainings annually. The materials used to train all members of the Pool are publicly posted at [www.stephens.edu/titleix](http://www.stephens.edu/titleix) under the Process link.

#### **d. Grievance Process Administrators**

The pool of Grievance Process Administrators is made up of 9 individuals appointed by position:

- Title IX Coordinator
- Chief Diversity Officer
- ADA/504 Coordinator
- Director of Human Resources
- Associate Vice President for Academic Affairs
- Director of Campus Life
- Vice President for Student Development
- Vice President for Finance and Administration
- Vice President for Academic Affairs

Nine At-Large Members from the campus community also serve in the Pool.

If appropriate, the Title IX Coordinator may seek assistance or participation in the Formal Grievance Process from the Director of the Children's School Director, the Program Director of the Stephens College Education Program, or other Children's School personnel.

#### **C-8. Formal Grievance Process: Notice of Investigation and Allegations**

The Title IX Coordinator will provide written Notice of the Investigation and Allegations (the "NOIA") to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations
- The identity of the involved parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies implicated
- A description of the applicable procedures
- A statement of the potential sanctions/responsive actions that could result
- A statement that Stephens College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity during the review and comment period to inspect and review all directly related and/or relevant evidence obtained
- A statement about Stephens College's policy on retaliation
- Information about the privacy of the process
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor
- A statement informing the parties that Stephens College's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how the party may request disability accommodations during the Resolution Process
- The names of the Investigators, along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have
- An instruction to preserve any evidence that is directly related to the allegations

Amendments and updates to the NOIA may be made as the investigation progresses and

more information becomes available regarding the addition or dismissal of any allegations.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official Stephens College records, or emailed to the parties' designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

### **C-9. Resolution Timeline**

Stephens College will make a good faith effort to complete the Resolution Process within thirty to sixty (30-60) business days, including appeal. This time frame can be extended as necessary by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

### **C-10. Appointment of Investigators**

Once the Title IX Coordinator decides to commence a formal investigation, the Title IX Coordinator appoints the Grievance Process Administrators to conduct the investigation usually within two (2) business days of determining that an investigation should proceed.

### **C-11. Ensuring Impartiality**

Any individual materially involved in the administration of the Resolution Process including the Title IX Coordinator, Investigator, and Decision-Maker, may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the Resolution Process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, a Grievance Process Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with Stephens College President.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The Recipient presumes that the Respondent is not responsible for the reported misconduct unless and until a final determination is made that this Policy has been violated.

### **C-12. Investigation Timeline**

Investigations are completed promptly, normally within thirty (30) business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, availability of witnesses, law enforcement involvement, etc.

Stephens College will make a good faith effort to complete investigations as promptly as possible and will communicate regularly with the parties to update them on the progress and timing of the investigation.

### **C-13. Investigation Process Delays and Interactions with Law Enforcement**

Stephens College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or health conditions.

Stephens College will communicate the anticipated duration of the delay and reason to the parties in writing and provide the parties with status updates if necessary. Stephens College will promptly resume its investigation and Resolution Process as soon as feasible. During such a delay, the College will implement supportive measures as deemed appropriate.

Stephens College action(s) or processes may be delayed, but are not stopped by, civil or criminal charges involving the underlying incident(s). Dismissal or reduction of those criminal charges may or may not impact on the College's action(s) or processes.

### **C-14. Investigation Process Steps**

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

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

At the discretion of the Title IX Coordinator, investigations can be combined when complaints implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator typically takes the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- In coordination with school partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the parties and witnesses
- Meet with the Complainant to finalize their interview/statement, if necessary
- Prepare the initial Notice of Investigation and Allegations (NOIA). The NOIA may be amended with any additional or dismissed allegations
  - Notice should inform the parties of their right to have the assistance of an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator to ask of another party and/or witnesses, and document in the investigation report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (when Advisors are identified) a secured electronic or hard

copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the College does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).

- Elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- Incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator should document all rationales for any changes made following the review and comment period
- Share the report with the Title IX Coordinator and/or legal counsel for their review and feedback
- Incorporate any relevant feedback, and share the final investigation report shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to the exchange of questions period led by the Decision-Maker. The parties and Advisors are also provided with a file of any directly related evidence that was not included in the report

#### **C-15. Witness Role and Participation in the Investigation**

Witnesses (as distinguished from the parties) who are employees of Stephens College are expected to cooperate with and participate in the College's investigation and Resolution Process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline. Student witnesses and witnesses from outside the school community are encouraged to share what they know about the complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., summer break) may require individuals to be interviewed remotely. Skype, Zoom, Microsoft Teams, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator determines that timeliness or efficiency dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator, though not preferred.

### **C-16. Interview Recording**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If the Investigator elects to audio and/or video record interviews, all involved parties will be made aware of audio and/or video recording.

### **C-17. Evidentiary Considerations**

Neither the investigation nor the Decision-Maker will consider: 1) incidents not relevant or not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the investigation and the Decision-Maker can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

The parties may each submit a written impact statement for the consideration of the Decision-Maker at the sanction stage of the process when a determination of responsibility is reached.

### **C-18. Referral to a Decision-Maker**

Provided that the complaint is not resolved through Informal Resolution, and after the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter to a Decision-Maker to make a determination regarding responsibility.

The Decision-Maker cannot make a determination regarding responsibility prior to ten (10) business days from the conclusion of the investigation – when the final investigation report is transmitted to the parties and the Decision-Maker—unless all parties and the Decision-Maker agree to an expedited timeline.

### **C-19. Decision-Maker Designation**

The Decision-Maker will not have had any previous involvement with the investigation. Those who have served as Investigators in this investigation may not serve as Decision-

Makers. Those who are serving as Advisors for any party may not serve as Decision-Makers in that matter. The Title IX Coordinator may not serve as a Decision-Maker in the matter.

All objections to any Decision-Maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator. A Decision-Maker will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial consideration of the evidence.

The Title IX Coordinator will give the Decision-Maker a list of the names of all parties, witnesses, and Advisors. Any Decision-Maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors. If a Decision-Maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

### **C-20. Exchange of Questions**

The Decision-Maker will facilitate the exchange of written questions between the parties and direct any written questions to any witnesses before a final determination is made.

The Decision-Maker will invite each party to submit proposed written questions for other parties/witnesses. Upon receipt of the proposed questions, the Decision-Maker will review the proposed questions and determine which questions will be permitted, disallowed, or rephrased. The Decision-Maker will limit or disallow questions on the basis that they are irrelevant, repetitive (and thus irrelevant), or abusive. The Decision-Maker has full authority to decide all issues related to questioning and determinations of relevance. The Decision-Maker may ask a party to explain why a question is or is not relevant from their perspective. The Decision-Maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-Maker after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the parties and witnesses with the relevant written questions to be answered and allow for a period of time whereby the parties and witnesses are to submit written responses to the questions and any appropriate follow-up questions or comments by the parties. The exchange of questions and responses by the parties and witnesses will be concluded within a ten (10) business day period.

### **C-21. Deliberation, Decision-Making, and Standard of Proof**

The Decision-Maker will then deliberate to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof is used.

When there is a finding of responsibility on one or more of the allegations, the Decision-Maker may then consider the previously submitted party impact statements in determining appropriate sanctions.

The Decision-Maker will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-Maker may – at their discretion – consider the statements, but they are not binding.

The Decision-Maker(s) will review the statements and any pertinent conduct history and will determine the appropriate sanctions.

The Decision-maker will then prepare a written deliberation statement and deliver it to the Title IX Coordinator.

This statement must be submitted to the Title IX Coordinator within five (5) business days after the Decision-Maker concluded the paper evidence exchange/questioning process, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

#### **C-22. Notice of Outcome**

Using the deliberation statement, the Decision-Maker will work in conjunction with the Title IX Coordinator as needed to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanctions with the parties and their Advisors within three (3) business days of receiving the Decision-Maker's deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official Stephens College records, or emailed to the parties' designated account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by Stephens College from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, and methods used to obtain evidence.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent Stephens College is permitted to share such information under state or federal

law; any sanctions issued which Stephens College is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the College's educational program or activity, to the extent Stephens College is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include the relevant procedures and bases for any available appeal options.

### **C-23. Sanctions**

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the sexual Harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment and/or retaliation
- The need to remedy the effects of the sexual harassment and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-Maker

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a grievance process at any time, and/or referring that information to another process for resolution.

#### **a. Student Sanctions**

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

- Warning
- Required Counseling
- Exclusion from participating in extra-curricular activities or other school

programs/activities

- Alternative placement
- Suspension; In-school; out-of-school; long-term; short-term; extended, etc.
- Expulsion
- Other Actions: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

### **C-25. Withdrawal Before Complaint Resolution**

Should a student decide to not participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from Stephens College, the Resolution Process typically ends, as the College has lost primary disciplinary jurisdiction over the withdrawn student.

However, the College may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

Regardless of whether the matter is dismissed or pursued to competing of the Resolution Process, the College will continue to address and remedy any systemic issues or concerns, that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment and/or retaliation.

A student Respondent who withdraws or leaves while the process is pending may not return to Stephens College. They may also be barred from College property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely and, if found in violation, that student is not permitted to return to Stephens College unless and until all sanctions have been satisfied.

### **C-26. Appeals**

Any party may submit a written request for appeal (“Request for Appeal”) in writing to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

An Appeal Decision-Maker will be appointed by the Title IX Coordinator to oversee the appeal. The Appeal Decision-Maker will not have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Decision-Maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

#### **a. Grounds for Appeal**

Appeals are limited to the following grounds:

- 1) A procedural irregularity that affected the outcome of the matter
- 2) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter
- 3) The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Chair and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify all parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator and/or the original Decision-Maker.

All other parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator and/or the original Decision-Maker will be mailed, emailed, and/or provided a hard copy of the Request for an Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Decision-Maker to all parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, the Investigator and/or original Decision-Maker, as necessary, who will submit their responses in five (5) business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Decision-Maker will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and the Appeal Decision-

Maker will render a decision in no more than five (5) business days, barring unusual circumstances. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which Stephens College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent Stephens College is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' designated account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

#### **b. Sanctions Status During the Appeal**

Any sanctions imposed by the Decision-Maker take effect following the appeal process. Supportive measures may remain in effect during an appeal process, subject to the same supportive measure procedures above.

#### **c. Appeal Considerations**

- Appeal decisions defer to the original determination, making changes to the determination only when there is clear error and to the sanctions/responsive actions only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full reconsideration of the allegation(s) and evidence. In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for an Appeal Decision-Maker to substitute their judgment for that of the original Decision-Maker merely because they disagree with the determination and/or sanctions.
- The Appeal Decision-Maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded (returned) to the original Investigator and/or Decision-Maker for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural or substantive error cannot be cured by the original

Decision-Maker (as in cases of bias), the appeal may order a new Grievance Process with new Pool members serving in the Investigator and Decision-Maker roles.

- The results of a new hearing can be appealed, once, on any of the four available appeal grounds.
- In cases in which the appeal results in reinstatement to Stephens College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### **C-27. Long-Term Remedies/Other Actions**

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the school community that are intended to stop the sexual harassment and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Education to the individual and/or the community
- Provision of school safety escorts
- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies Stephens College owes the Respondent to ensure no effective denial of educational access. Stephens College will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the College's ability to provide these services.

### **C-28. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-Maker.

Failure to abide by the sanctions/actions imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions/actions, including suspension or expulsion from Stephens College.

### **C-29. Recordkeeping**

Stephens College will maintain for a period of at least seven years following the conclusion of the Resolution Process, records of:

- 1) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation
- 2) Any disciplinary sanctions imposed on the Respondent
- 3) Any remedies provided to the Complainant designed to restore or preserve equal access to Stephens College's education program or activity
- 4) Any appeal and the result therefrom
- 5) Any Informal Resolution and the result therefrom
- 6) All materials used to train Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an Informal Resolution process. Stephens College will make these training materials publicly available on the College's website
- 7) Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent
  - b. Any measures designed to restore or preserve equal access to the College's education program or activity
  - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances

Stephens College will also maintain any and all records in accordance with state and federal laws.

### **C-30. Disability Accommodations in the Resolution Process**

Stephens College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's Resolution Process.

Anyone needing such accommodations or support should contact the ADA/504 Coordinator, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

### **C-31. Revision of this Procedures**

These Procedures supersede any previous policies addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. Stephens College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the Resolution Process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the College website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This procedure was implemented on March 15, 2022.

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