



POLICY & PROCEDURES MANUAL
WAYLAND BAPTIST UNIVERSITY

Classification Number: 1.5.5

Revised: July 27, 2020

SUBJECT: TITLE IX

Wayland Baptist University is committed to providing a safe and non-discriminatory learning, working and living environment that promotes civility and mutual respect. Wayland Baptist University does not discriminate on the basis of sex or gender in any of its education or employment programs and activities. To that end, this policy prohibits specific forms of behavior that violate The Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in the University's programs and activities; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA); Title VII of the Civil Rights Act of 1964; and other applicable law.

Sexual misconduct is a serious issue that can result in the interference or prevention of victims of such behavior from having an equal opportunity to access education or employment. Sexual misconduct (including domestic violence, dating violence, sexual assault, sexual harassment, and stalking) are serious offences and a Title IX civil rights issue, as well as a potential crime and a violation of Wayland Baptist University policy. Employees and students of Wayland Baptist University have the right to file a complaint with the university and have the right to file a separate criminal complaint with the local Police Department. Students and employees who violate Wayland's sexual misconduct, Title IX, and discrimination policies are subject to disciplinary actions up to and including expulsion and/or termination of employment status, and may be subject to criminal charges.

The following attachments are provided in support of this Title IX policy

[Attachment A – Definitions](#)

[Attachment B – Frequently Asked Questions](#)

[Attachment C – Risk Reduction and Active Bystander](#)

RELATED POLICIES: 2.7.6 Discrimination and Discriminatory Harassment and 8.1.6 Student Discipline Policy

JURISDICTION

This policy applies to the education program and activities of Wayland Baptist University, to conduct that takes place on the campus or on property owned or controlled by Wayland Baptist University, at Wayland Baptist University-sponsored events, or in buildings owned or controlled by Wayland Baptist University's recognized student organizations. The Respondent must be a member of Wayland Baptist University's community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to Wayland Baptist University's educational program. Wayland Baptist University may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Administrator determines that the conduct affects a substantial Wayland Baptist University interest.

Regardless of where the conduct occurred, Wayland Baptist University will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial Wayland Baptist University interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of Wayland Baptist University.

If the Respondent is unknown or is not a member of Wayland Baptist University community, the Title IX Administrator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of Wayland Baptist University's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Administrator.

In addition, Wayland Baptist University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from Wayland Baptist University property and/or events.

All vendors serving Wayland Baptist University through third-party contracts are subject to the policies and procedures of their employers and to these policies and procedures.

When the Respondent is enrolled in or employed by another institution, the Title IX Administrator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Administrator may be able to advocate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to Wayland Baptist University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

PREGNANCY¹

Title IX provides for equal educational opportunities for pregnant and parenting students. It prohibits educational institutions from discriminating against students based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. It also prohibits schools

¹ See [U.S. Department of Education Supporting the Academic Success of Pregnant and Parenting Students](#).

from applying any rule related to a student's parental, family or marital status that treats students differently based on their sex.

Wayland Baptist University is committed to ensuring a pregnant student's access to educational programs. If you have questions about the University's obligations, or the way Title IX applies to you, please contact the Title IX Administrator.

FREE EXPRESSION

This regulation encourages and respects the right of free speech and expression guaranteed by the First Amendment of the Constitution and academic freedom. Constitutionally protected expression is not considered harassment under this policy; however, some offensive conduct, even though it contains elements of speech, may rise to the level of the type of conduct that creates a sexually hostile environment which is a violation of this policy.

EMPLOYEE MANDATORY REPORTING

Under Texas SB 212 all employees of Wayland Baptist University who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident shall promptly report the incident to the institution's Title IX Administrator.

That report must include all the information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident.

An employee of Wayland Baptist University who has been designated by the University as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, or stalking or who receives information regarding such an incident under the circumstances that renders an employee's communications confidential or privileged under other law shall, in making a report, state only the type of incident reported and may not include information that would violate a student's expectation of privacy.

Exceptions to the Employee Reporting Requirement: 1) When the person is a victim of sexual harassment, sexual assault, dating violence, or stalking. (you are not required to report your own experience) 2) When the disclosure was made at a public awareness event on sexual harassment, sexual assault, dating violence, or stalking, and the event was sponsored by Wayland Baptist University, or by a student organization affiliated with Wayland Baptist University.

Failure to Report or False Report: It is a violation of Texas Law & Wayland Baptist University policy for an employee who is required to make a report to not make a report to the Title IX Office. The State of Texas has determined that an employee commits an offense if: 1) they are required to make a report and knowingly fails to make a report; or 2) with the intent to harm or deceive, knowingly makes a report that is false. These offenses are classified as Class B Misdemeanors, which can be upgraded to a Class A Misdemeanor at trial.

As is required by Texas Law, Wayland Baptist University shall terminate the employment of an employee whom the institution determines in accordance with the institution's disciplinary procedure to have committed the offense of not making a report they knew of or making a false report.

CONFIDENTIAL RESOURCES

Students who want information about an incident to remain confidential may wish to speak to a Confidential Resource. The following employees are Confidential Resources when they receive information from students in the context of providing professional services:

- a) Director of the Counseling Center
- b) Director of Health Services
- c) Director of Spiritual Life

Confidential Resources will not disclose personally identifying information communicated to them by a student without the student's permission or except as set forth in the Confidentiality section above. When individuals who otherwise may be Confidential Resources receive information outside of the provision of professional services concerning allegations of policy violations involving any member of the Wayland Baptist University community, the Confidential Resource is required to share that information with the Title IX Administrator. Additionally, a Confidential Resource should (and in some instances, may be required to) report non-personally identifying information about Clery-reportable crimes to the Wayland Baptist University Police Department for purposes of the anonymous statistical reporting under the Clery Act as described below.

Because employees do not receive professional services from these Confidential Resources, information shared by an employee to these individuals would likely not be confidential.

WHEN A COMPLAINANT DOES NOT WISH TO PROCEED

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Administrator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Administrator has ultimate discretion over whether Wayland Baptist University proceeds when the Complainant does not wish to do so, and the Title IX Administrator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Administrator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires Wayland Baptist University to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Wayland Baptist University may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Administrator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and Wayland Baptist University's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Administrator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When Wayland Baptist University proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant.

Note that Wayland Baptist University's ability to remedy and respond to notice may be limited if the Complainant does not want Wayland Baptist University to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing Wayland Baptist University's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow Wayland Baptist University to honor that request, Wayland Baptist University will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by Wayland Baptist University and to have the incidents investigated and properly resolved through these procedures.

FALSE ALLEGATIONS AND EVIDENCE

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under Wayland Baptist University policy.

CLERY ACT REPORTING

Pursuant to the Clery Act, Wayland Baptist University includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. The Clery Act also requires Wayland Baptist University to issue timely warnings to the Wayland Baptist University community when certain crimes have been reported and may continue to pose a serious or continuing threat to campus safety. Consistent with the Clery Act, Wayland Baptist University withholds the names and other personally identifying information of complainants when issuing timely warnings to the Wayland Baptist University community.

FEDERAL TIMELY WARNING OBLIGATIONS

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, Wayland Baptist University must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

Wayland Baptist University will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

FEDERAL STATISTICAL REPORTING OBLIGATIONS

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a) All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b) Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c) VAWA²-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- d) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be passed along to the Wayland Baptist University Police regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities: <https://www.wbu.edu/university-police/campus-security-authorities.htm>

TIME LIMIT ON REPORTING

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

When notice/complaint is affected by significant time delay, Wayland Baptist University will apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

REPORTING

Filing a report will not obligate prosecution, but it will help the university take steps to provide a safer campus for everyone. With a filed report, the university can keep a more accurate record of the number of incidents; determine whether there is a pattern of crime with regard to a particular location, method, or assailant; alert the campus community to potential danger; and better provide training and preventive education programs.

² VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

Students and employees are expected to comply with Wayland's policies that prohibit unlawful discrimination, sexual harassment, sexual misconduct, sexual assault, domestic/dating violence and stalking both on-campus and off-campus. Any student who witnesses or experiences such conduct on-campus or off-campus by someone who is a member of the Wayland Baptist University community is encouraged to report the matter to the Title IX Administrator or a WBU representative listed on the University website at <https://www.wbu.edu/about/title-ix/index.htm>. Students reporting potential violations have the option of remaining anonymous.

All individuals participating in the university investigation, including but not limited to making an initial report, are expected to tell the truth. Federal and state laws prohibit the taking of retaliatory measures against any individual who files a complaint in good faith.

The Title IX Administrator can be contacted by telephone, email, or in person during regular office hours:

Justin Lawrence,
J.D./M.B.A./M.Div. Title IX
Administrator
Gates Hall 303, Plainview, Texas 79072
Phone: 806-291-1173
E-mail: lawrencej@wbu.edu

Report Online

<http://www2.wbu.edu/reportcrime/defaultIX.aspx> (Allows anonymous reporting).

FORMAL COMPLAINT

A Formal Complaint means a document filed/signed by the Complainant or signed by the Title IX Administrator alleging a policy violation by a Respondent and requesting that Wayland Baptist University investigate the allegation(s). A complaint may be filed with the Title IX Administrator in person, online, by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by Wayland Baptist University that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint.

If notice is submitted in a form that does not meet this standard, the Title IX Administrator will contact the Complainant to ensure that it is filed correctly.

SUPPORTIVE MEASURES

Wayland Baptist University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to Wayland Baptist University's education program or activity, including measures designed to protect the safety of all parties or the Wayland Baptist University's educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Administrator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, Wayland Baptist University will inform the Complainant, in writing, that they may file a formal complaint with Wayland Baptist University either at that time or in the future, if they have not done so already. The Title IX Administrator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

Wayland Baptist University will maintain the privacy of the supportive measures, provided that privacy does not impair Wayland Baptist University's ability to provide the supportive measures. Wayland Baptist University will act to ensure as minimal an academic impact on the parties as possible. Wayland Baptist University will implement measures in a way that does not unreasonably burden the other party. These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Criminal Trespass
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Administrator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

CONFIDENTIALITY STATEMENT

Wayland Baptist University understands that many victims have a strong desire for their report of sexual misconduct to be treated confidentially. If a person requests that his/her name not be disclosed to the accused person or that the university not investigate or take disciplinary action against the accused person, university officials will carefully consider the request and honor it if possible.

If the university determines that it can keep the report confidential, all reasonable steps will still be taken to respond to the complaint consistent with the request. For example, it may be helpful to make changes to housing situation, class schedule, etc. Any request for confidentiality can be withdrawn at any time, and the university will proceed to investigate the report fully and take appropriate action.

However, honoring a request not to reveal a victim's name to the accused person, not to conduct an investigation, or not to punish the accused person will limit the university's ability to respond fully to the assault and take any appropriate disciplinary action. There are situations in which the university must override a request for confidentiality in order to meet its obligations under federal law to provide an educational environment which is safe and free from sexual violence. If the person accused has been accused before of committing similar acts or if the circumstances indicate that the accused person is likely to harm others, the university may have to investigate the report and take appropriate action to make the campus safe. If an investigation must take place, the information reported will be shared only on a need-to-know basis.

If the victim/complainant wants to be assured that the report will be kept confidential, he/she can report the assault to a therapist, doctor, or attorney who is legally obligated to maintain patient or client confidentiality. If this option is chosen, the victim/complainant should consider asking a doctor, therapist, or attorney to make a confidential report of the assault without including facts that would reveal the person's identity. While the university will probably not be able to take any disciplinary action against the person who assaulted the victim/complainant, university officials will have a better picture of crime on the campus and may be able to warn the campus community about methods or patterns of attacks.

PRIVACY

Every effort is made by Wayland Baptist University to preserve the privacy of reports. Wayland Baptist University will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Wayland Baptist University reserves the right to designate which Wayland Baptist University officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

RETALIATION

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Administrator and will be promptly investigated. Wayland Baptist University is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

It is prohibited for Wayland Baptist University or any member of Wayland Baptist University's community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

AMNESTY FOR COMPLAINANTS AND WITNESSES

Wayland Baptist University community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to Wayland Baptist University officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the Wayland Baptist University community that Complainants choose to report misconduct to Wayland Baptist University officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, Wayland Baptist University maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

STATEMENTS OF RIGHTS FOR THE PARTIES

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to Wayland Baptist University 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 regarding the allegation(s) or underlying incident(s), whenever possible.

- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by Wayland Baptist University officials.
- The right to have Wayland Baptist University policies and 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 Wayland Baptist University officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
- The right to be informed by Wayland Baptist University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by Wayland Baptist University authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by Wayland Baptist University law enforcement and/or other Wayland Baptist University officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a Wayland Baptist University 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 that presents a danger to the welfare of the party or others.
- 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 Wayland Baptist University staff in completing the relocation
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Transportation accommodations
 - Visa/immigration assistance
 - Arranging to dissolve a housing contract and a pro-rated refund
 - 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 Wayland Baptist University maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair Wayland Baptist University'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 ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
- The right not to have irrelevant prior sexual history or character admitted as evidence.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- 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, Title IX Administrator and Decision-maker(s) who have received annual training.
- The right to a Hearing Panel that is not single-sex in its composition, if a panel is used.
- The right to preservation of 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 Wayland Baptist University 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 have Wayland Baptist University compel the participation of faculty and staff witnesses.
- 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 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 statement considered by the Decision-maker(s) 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 finding(s) and sanction(s) of the resolution process and a detailed rationale therefor (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 Wayland Baptist University is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by Wayland Baptist University
- The right to a fundamentally fair resolution as defined in these procedures.

EMERGENCY REMOVAL

Wayland Baptist University can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Administrator in conjunction with the Senior Vice President of Operations and Student Life (for students) or the Executive Director of Human Resources (for employees).

PROMPTNESS

All allegations are acted upon promptly by Wayland Baptist University once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but Wayland Baptist University will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in Wayland Baptist University procedures will be delayed, Wayland Baptist University will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

EVIDENCE

The investigation is intended to determine if this policy has been violated, without the formalities associated with rules and procedures specifically designed by lawmakers to manage courtroom litigation.

Students and employees can address issues and present documents to the investigator(s) without concerns about admissibility. The investigator(s) determines what issues raised and documents presented are relevant and probative of whether the alleged conduct occurred. Then, in the interest of fairness, that information will be disclosed to the other participant in the resolution process. Additional information about specific types of evidence is included below.

1. Medical and Counseling Documents:

The use of medical or counseling documents in the resolution process is not required. Medical and counseling documents are privileged and confidential documents that students or employees will **never** be required to disclose in this process. “Privileged” means that these documents cannot be shared with anyone other than the treating professional unless the patient agrees to disclosure. Participants should be aware that there are legal implications to agreeing to produce privileged documents. Participants are encouraged to seek advice from a knowledgeable source about the possible consequences of releasing this information. All information submitted to the investigator(s) will be included in the report and made available to the other participant. Investigator(s) will attempt to remove unnecessary identifying information, such as social security numbers, prior to inclusion in the report. A participant who, after due consideration, believes that their own medical or counseling documents would be helpful in determining whether sexual misconduct occurred, has several options for voluntarily presenting this information as described below.

- a) Participants can voluntarily decide to present their own medical or counseling documents to the investigator(s) as part of the documents which they would like to have the investigator(s) consider in conducting the investigation. If a participant decides to produce such documents, they must be produced in their entirety. The production of excerpts or selected documents is inappropriate and will not be considered.
- b) On occasion, the investigator(s) may ask a participant to voluntarily provide these documents for consideration while conducting the investigation. The participant is under **no obligation** to provide this information and may simply say “no” to this request. Such refusal is completely acceptable. Prior to responding to such a request, a participant is encouraged to consult with appropriate authorities about the implications of agreeing to or denying the request. If a participant does decide to produce such documents, they must be produced in their entirety. The production of excerpts or selected documents is inappropriate and will not be considered.
- c) The investigator(s) may ask a participant to voluntarily provide a verification of therapeutic or medical services to confirm that such treatment occurred, without providing any details regarding that treatment. On rare occasions, a person may be in possession of the medical or counseling documents of another participant or witness. Such documents can only be presented to the investigator(s) under the following circumstances: (i) the person can show that the documents are relevant to the pending formal complaint, (ii) the person can document or otherwise prove that the documents were legally obtained, and (iii) the documents can be authenticated. Failure to meet any of these conditions means the documents will not be considered in the determination regarding the alleged misconduct.

PRIOR OR SUBSEQUENT CONDUCT OF THE RESPONDENT

Prior or subsequent conduct of the respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of conduct that violates this policy by the respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a policy violation, may be deemed relevant to the determination of responsibility for the conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar conduct. The investigator will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.

PARENTAL NOTIFICATION

Since Wayland Baptist University views students as adults, parents and guardians will not be notified when a formal complaint is filed under this policy. Parents of minors who are not students at Wayland Baptist University may be notified as determined by the Title IX Administrator. Students are encouraged to inform their parent(s) or guardian(s) if they are involved in a disciplinary action and should refer them to the Title IX Administrator for questions.

DEFINITIONS

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Texas regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

Wayland Baptist University has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following:

1) Quid Pro Quo:

- a. an employee of Wayland Baptist University,
- b. conditions the provision of an aid, benefit, or service of Wayland Baptist University,
- c. on an individual's participation in unwelcome sexual conduct; and/or

2) Sexual Harassment:

- a. unwelcome conduct,
- b. determined by a reasonable person,
- c. to be so severe, and
- d. pervasive, and,
- e. objectively offensive,
- f. that it effectively denies a person equal access to Wayland Baptist University's education program or activity.

3) Sexual assault, defined as:

a) Sex Offenses, Forcible:

- i) Any sexual act directed against another person,
- ii) without the consent of the Complainant,
- iii) including instances in which the Complainant is incapable of giving consent.

b) Forcible Rape:

- i) Penetration,
- ii) no matter how slight,
- iii) of the vagina or anus with any body part or object, or
- iv) oral penetration by a sex organ of another person,
- v) without the consent of the Complainant.

c) Forcible Sodomy:

- i) Oral or anal sexual intercourse with another person,
- ii) forcibly,
- iii) and/or against that person's will (non-consensually), or
- iv) not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age³ or because of temporary or permanent mental or physical incapacity.

d) Sexual Assault with an Object:

- i) The use of an object or instrument to penetrate,
- ii) however slightly,
- iii) the genital or anal opening of the body of another person,
- iv) forcibly,
- v) and/or against that person's will (non-consensually),
- vi) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

e) Forcible Fondling:

- i) The touching of the private body parts of another person (buttocks, groin, breasts),
- ii) for the purpose of sexual gratification,
- iii) forcibly,
- iv) and/or against that person's will (non-consensually),
- v) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

f) Sex Offenses, Non-forcible:

- i) Incest:
 - 1) Non-forcible sexual intercourse,
 - 2) between persons who are related to each other,
 - 3) within the degrees wherein marriage is prohibited by Texas state law.
- ii) **Statutory Rape:**
 - 1) Non-forcible sexual intercourse,
 - 2) with a person who is under the statutory age of consent of 17.

4) Dating Violence, defined as:

- a. violence,
- b. on the basis of sex,

³ Per state law.

- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - iii. Dating violence does not include acts covered under the definition of domestic violence.

5) Domestic Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Texas, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Texas or a state in which Wayland operates.

*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

6) Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Force, Coercion, Consent, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent⁴ Consent to sexual activity is defined as knowing, active, and voluntary permission between the participants, clearly expressed by words or by actions, to engage in mutually agreed upon sexual activity. Consent cannot be compelled by force, threat of force, coercion, or intimidation. Consent cannot be gained by taking advantage of another person’s incapacitation, as defined herein. Consent given under such circumstances does not constitute willing and voluntary agreement.

- a) Consent to one sexual act does not constitute consent to others.
- b) Prior consent to a given act does not constitute present or future consent.
- c) The existence of a prior or current relationship does not, in itself, constitute consent; even in the context of a relationship, there must be mutual consent.
- d) Consent must be ongoing throughout a sexual encounter and can be revoked, modified, or withdrawn at any time. Sexual contact must cease immediately once consent is withdrawn.
- e) Consent to an act with one person does not constitute consent to an act with any other person.
- f) Consent cannot be inferred from silence, passivity, or lack of resistance and relying on nonverbal communication alone may result in a violation of this policy.
- g) Consent cannot be given if it is coerced by supervisory or disciplinary authority.
- h) Consent cannot be given if there is a perceived power differential. Examples include but are not limited to: faculty-student, staff-student, supervisor-subordinate employee, and coach-athlete.
- i) Under Texas law, consent cannot be given by a person younger than 17 years of age to sexual penetration or contact by an adult (18 years of age or older) who is three or more years older.

Incapacitation

The inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. A person is mentally incapacitated when that person lacks the ability to make informed decisions about whether or not to engage in sexual activity. A person may be incapacitated as a result of the consumption of alcohol and/or other drugs, or due to a temporary or permanent physical or mental health condition.

When alcohol or other drug use is involved, incapacitation is a state beyond intoxication, impairment, or being under the influence. Alcohol and other drugs impact each individual differently, and determining

⁴ When assessing whether a criminal offense of sexual assault has been committed, see [Texas Penal Code §22.011](#) for information on consent.

whether an individual is incapacitated requires an individualized determination. Wayland Baptist University does not expect community members to be medical experts in assessing incapacitation. A person's level of intoxication is not always demonstrated by objective signs, but individuals should look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest the impacts of alcohol or other drugs differently, typical signs include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence.

An individual's level of intoxication may change over a period of time based on a variety of subjective factors, including the amount of substance intake, speed of intake, body mass, and metabolism. It is especially important, therefore, that anyone engaging in sexual activity be aware of their own level of intoxication and capacity to consent as well as the other person's level of intoxication and capacity to consent. The use of alcohol or other drugs can lower inhibitions, impair perceptions and create an atmosphere of confusion about whether consent is effectively sought and freely given. If there is any doubt as to the level or extent of one's own or the other individual's intoxication or incapacitation, the safest course of action is to forgo or cease any sexual contact.

When evaluating consent in cases of reported incapacitation, the following will be considered: (1) Did the respondent know that the complainant was incapacitated? And if not, (2) Should a sober, reasonable person in a similar set of circumstances as the respondent have known that the complainant was incapacitated? If the answer to either of these questions is "yes," there was no consent; and the conduct is likely a violation of this policy.

A respondent's voluntary intoxication is never an excuse for or a defense to Prohibited Conduct, and it does not diminish the responsibility to determine that the other person has given consent.

TITLE IX PROCEEDINGS

The WBU Sexual Misconduct, Title IX & Discrimination Policy governs students and employees and additional information regarding the investigation and adjudication process may be accessed online at <https://www.wbu.edu/about/title-ix/rights-and-confidentiality.htm>. Of note, the intake and investigation of complaints involving students and employee as the respondent are the same. The process bifurcates when it comes to how the case is resolved. The procedures for the major timeframes of the process are explained below.

1. Notice/Complaint

Upon receipt of a complaint or notice to the Title IX Administrator of an alleged violation of the Policy, Wayland Baptist University initiates a prompt initial assessment to determine the next steps Wayland Baptist University needs to take.

Wayland Baptist University will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to proceed formally; and/or
- 2) An informal resolution; and/or
- 3) A Formal Grievance Process including an investigation and a hearing.

The investigation and grievance process will determine whether or not the Policy has been violated. If so, Wayland Baptist University will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

In order to start the Formal Grievance Process, a Formal Complaint must be filed. A Formal Complaint means a document filed/signed by the Complainant or signed by the Title IX Administrator alleging a policy violation by a Respondent and requesting that Wayland Baptist University investigate the allegation(s). A complaint may be filed with the Title IX Administrator in person, online, by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by Wayland Baptist University that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint.

If notice is submitted in a form that does not meet this standard, the Title IX Administrator will contact the Complainant to ensure that it is filed correctly.

2. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Administrator engages in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment can include:

- If notice is given, the Title IX Administrator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
 - If they do not wish to do so, the Title IX Administrator 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 Administrator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Administrator reaches out to the Complainant to offer supportive measures.
- The Title IX Administrator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Administrator 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 Administrator works with the Complainant to identify their wishes and then seeks to facilitate implementation. 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 Administrator 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 Administrator determines if the misconduct alleged falls within the scope of Title IX:
 - If it does, the Title IX Administrator will initiate the formal investigation and grievance process, directing the investigation to address:
 - an incident, and/or
 - a pattern of alleged misconduct, and/or
 - a culture/climate issue, based on the nature of the complaint.
 - If it does not, the Title IX Administrator 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 just procedural, and does not limit Wayland Baptist University's authority to address a complaint with an appropriate process and remedies.

a. Dismissal (Mandatory and Discretionary)

Wayland Baptist University **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 hereinabove, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by Wayland Baptist University (including buildings or property controlled by recognized student organizations), and/or Wayland Baptist University does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 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 the Wayland Baptist University.

Wayland Baptist University **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 Administrator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by Wayland Baptist University; or
- 3) Specific circumstances prevent Wayland Baptist University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, Wayland Baptist University 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 Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

3.Counterclaims

Wayland Baptist University is obligated to ensure that the grievance process is not abused for retaliatory purposes. Wayland Baptist University 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 by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

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

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

4. Right to an Advisor

The parties may each have an Advisor 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.

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 Wayland Baptist University community.

The Title IX Administrator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from Wayland Baptist University, the Advisor will be trained by Wayland Baptist University and be familiar with Wayland Baptist University's resolution process.

If the parties choose an Advisor from outside the pool of those identified by Wayland Baptist University, the Advisor may not have been trained by Wayland Baptist University and may not be familiar with Wayland Baptist University 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 Expectations

Wayland Baptist University generally expects an Advisor to adjust their schedule to allow them to attend Wayland Baptist University 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.

Wayland Baptist University 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.

c. Advisor Violation of Wayland Baptist University Policy

All Advisors are subject to the same Wayland Baptist University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address Wayland Baptist University 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 Investigator(s) or other Decision-maker(s) except during a hearing proceeding, during cross-examination.

5. Resolution Process

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 Wayland Baptist University policy. While 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. Wayland Baptist University encourages parties to discuss this with their Advisors before doing so.

a. Informal Resolution

Informal Resolution can include three different approaches:

- When the parties agree to resolve the matter through an alternate resolution mechanism.
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process; or
- When the Title IX Administrator can resolve the matter informally by providing supportive measures to remedy the situation.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. If a Respondent wishes to initiate Informal Resolution, they should contact the Title IX Administrator to so indicate.

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, Wayland Baptist University 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 Wayland Baptist University.

Wayland Baptist University 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. Alternate Resolution

Alternate Resolution is an informal process by which a mutually agreed upon resolution of an allegation is reached. All parties must consent to the use of Alternate Resolution.

The Title IX Administrator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Cleared violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternate Resolution facilitator with this type of complaint;
- Complaint complexity;
- Emotional investment/intelligence of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Administrator. The Title IX Administrator 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 Administrator will determine whether Informal Resolution can be used according to the criteria in that section above.

If Informal Resolution is applicable, the Title IX Administrator will determine whether all parties and Wayland Baptist University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Administrator implements the accepted finding that the Respondent is in violation of Wayland Baptist University policy and implements agreed-upon sanctions and/or remedies, 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 of resolution. 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 or responsive actions are promptly implemented in order 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.

d. Negotiated Resolution

The Title IX Administrator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the Wayland Baptist University. Negotiated Resolutions are not appealable.

6. Grievance Process Pool

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process.

a. Pool Members

Members of the Pool are trained annually, and can serve in in the following roles, at the direction of the Title IX Administrator:

- To investigate complaints
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Decision-maker regarding the complaint
- To serve as an Appeal Panel and Appeal Decision-maker

b. Pool Member Appointment

The Title IX Administrator in consultation with the President appoints the Pool, which acts with independence and impartiality. While members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, Wayland Baptist University can

also designate 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 OR based on their respective roles. This training includes, but is not limited to:

- The scope of Wayland Baptist University's Title IX Policy
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- 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 Wayland Baptist University 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
- 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

All Pool members are required to attend these trainings annually. The materials used to train all members of the Pool are publicly posted on the Wayland Baptist University Title IX Website.

7. Formal Grievance Process: Notice of Investigation and Allegations

The Title IX Administrator 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 Wayland Baptist University 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 to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the Wayland Baptist University 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 Wayland Baptist University'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 interview process,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Administrator any conflict of interest that the Investigator(s) may have, and
- 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 charges.

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(es) of the parties as indicated in official Wayland Baptist University records, or emailed to the parties' Wayland Baptist University-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

8. Resolution Timeline

Wayland Baptist University will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Administrator 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.

9. Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Administrator appoints Pool members to conduct the investigation using a team of two Investigators, usually within two (2) business days of determining that an investigation should proceed.

10. Ensuring Impartiality

Any individual materially involved in the administration of the resolution process including the Title Administrator, 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 Administrator will vet the assigned Investigator(s) 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 Administrator 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.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the Respondent engaged in a policy violation and evidence which 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.

Wayland Baptist University 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.

11. Investigation Timeline

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

Wayland Baptist University 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.

12. Delays in the Investigation Process and Interactions with Law Enforcement

Wayland Baptist University 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 accommodations for disabilities or health conditions.

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

Wayland Baptist University action(s) 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.

13. Steps in the Investigation Process

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.

The Title IX Administrator typically take(s) the following steps, (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- 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
- Conduct 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 all witnesses and the parties
- Prepare the initial Notice of Investigation and Allegation (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
- Make good faith efforts to notify the parties of any meeting or interview involving the other 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

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

- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Meet with the Complainant to finalize their interview/statement, if necessary
- 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
- The Investigator(s) 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 Wayland Baptist University 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).

- The Investigator(s) may 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
- The Investigator(s) will 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
- The Investigator(s) shares the report with the Title IX Administrator and/or legal counsel for their review and feedback
- The Investigator will incorporate any relevant feedback, and the final report is then shared 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 are also provided with a file of any directly related evidence that was not included in the report

14. Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of Wayland Baptist University are expected to cooperate with and participate in the Wayland Baptist University'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.

While in-person interviews for parties and all potential witnesses are ideal, circumstances may require individuals to be interviewed remotely. Zoom or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. Wayland Baptist University 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(s), though not preferred. If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may not be used as evidence.

15. Recording of Interviews

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

16. Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) 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 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.

17. 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 Administrator will refer the matter for a hearing.

The hearing cannot be 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-maker–unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Administrator will select an appropriate Decision-maker or Decision-makers from the Pool depending on whether the Respondent is an employee or a student. Allegations involving student-employees will be directed to the appropriate Decision-maker depending on the context of the alleged misconduct.

18. Hearing Decision-maker Composition

Wayland Baptist University will designate a single Decision-maker or a three-member panel from the Pool, at the discretion of the Title IX Administrator. The single Decision-maker will also Chair the hearing. With a panel, one of the three members will be appointed as Chair by the Title IX Administrator.

The Decision-maker(s) will not have had any previous involvement with the investigation. The Title IX Administrator may elect to have an alternate from the Pool sit in throughout the resolution 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 Administrator 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 role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

19. Evidentiary Considerations in the Hearing

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) 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 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.

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 prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

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

20. Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Administrator or the Chair will send notice of the hearing to the parties. Once mailed, 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 procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- 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-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Administrator 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 on the basis of demonstrated bias. This must be raised with the Title IX Administrator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties 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, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s). 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 Administrator if they do not have an Advisor, and Wayland Baptist University will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.⁵
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Administrator 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.
- Whether parties can/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

⁵ The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

resolution timeline followed by Wayland Baptist University and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

21. 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 Administrator or the Chair at least five (5) business days prior to the hearing.

The Title IX Administrator or the Chair 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 Administrator or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

22. Pre-Hearing Preparation

The Chair, after any necessary consultation with the parties, Investigator(s) and/or Title IX Administrator, will provide the names of persons who will be participating 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 Investigator(s) 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 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 will delay the hearing and 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-maker(s) 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 Administrator as soon as possible and no later than three days prior to the hearing. Decision-makers will only be removed if the Title IX Administrator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Administrator will give the Decision-maker(s) 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 Administrator 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 the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

23. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they (the parties and/or 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 at the hearing for a reconsideration based on any new information or testimony offered at the hearing. The Chair must document and share their rationale for any exclusion or inclusion at this 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 Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and 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 Investigator(s) 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 Administrator or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded.

24. Hearing Procedures

At the hearing, the Decision-maker(s) has 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 have occurred in concert with the discrimination, harassment, and/or retaliation.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) 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 Administrator and anyone providing authorized accommodations 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 in order to respond to specific questions from the Decision-maker(s) and the parties and will then be excused.

25. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Administrator may permit the investigation and/or hearings pertinent to each Respondent 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 with respect to each alleged policy violation.

26. The Order of the Hearing – Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-maker(s) on the basis of 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 Administrator will review and decide the challenge.

The Chair AND/OR 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 the Title IX Administrator or by a non-voting hearing facilitator appointed by the Title IX Administrator. The Title IX Administrator or 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.

27. Investigator Presents the Final Investigation Report

The Investigator(s) will then 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-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

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

28. Testimony and Questioning

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors (“cross-examination”).

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 or agreed to by the parties and the Chair), the proceeding will pause to allow the Chair to consider it, and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may explore arguments 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/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,

subject to any appeal. 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 Administrator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

29. Refusal to Submit to Cross-Examination and Inferences

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker(s) may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-maker(s) must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission. Similarly, statements can be relied upon when questions are posed by the Decision-maker(s), as distinguished from questions posed by Advisors through cross-examination.

The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with the Wayland Baptist University's established rules of decorum for the hearing, Wayland Baptist University may require the party to use a different Advisor. If a Wayland Baptist University-provided Advisor refuses to comply with the rules of decorum, Wayland Baptist University may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

30. Recording Hearings

Hearings (but not deliberations) are recorded by Wayland Baptist University 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-maker(s), the parties, their Advisors, and appropriate administrators of Wayland Baptist University will be permitted to listen to the recording in a controlled environment determined by the Title IX Administrator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Administrator.

31. Deliberation, Decision-making, and Standard of Proof

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, 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-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s). The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-maker(s) 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 provided by the appropriate administrator and will recommend/determine the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Administrator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions or recommendations.

This report typically should not exceed three (3) to five (5) pages in length and must be submitted to the Title IX Administrator within two (2) business days of the end of deliberations, unless the Title IX Administrator grants an extension. If an extension is granted, the Title IX Administrator will notify the parties.

32. Notice of Outcome

Using the deliberation statement, the Title IX Administrator will work with the Chair to prepare a Notice of Outcome. The Notice of Outcome will then be reviewed by legal counsel. The Title IX Administrator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within 7 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 Wayland Baptist University records, or emailed to the parties' Wayland Baptist University-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will identify 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 Wayland Baptist University 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 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 Wayland Baptist University is permitted to share such information under state or federal law; any sanctions issued which Wayland Baptist University is permitted to share according to state or federal law; and any remedies

provided to the Complainant designed to ensure access to Wayland Baptist University's educational or employment program or activity, to the extent Wayland Baptist University 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 information on when the results are considered by Wayland Baptist University to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

33. Sanctions

Loss of Privileges

Entails any or all of the following sanctions:

- i. Removal from preferred university housing.
- ii. Restriction from attending designated university events.
- iii. Restriction from the lobbies of residence halls and/or other public gathering places on campus such as Pete's Place or the Laney Center.
- iv. Loss of dorm visitation privileges.
- v. Restriction from eating meals in the cafeteria.

Eviction

Eviction entails the following: immediate removal from university housing. Removal from housing due to disciplinary sanction will not remove in any way the student's responsibility to pay housing charges for the semester in which this sanction is administered.

Community Service

Community Service may be required of a student as a sanction for violating the student conduct policy. Community Service would entail participation in for the designated number of hours for a designated community service organization in Plainview or the surrounding area, or for the university on a designated Wayland campus.

Restitution

Restitution entails reimbursement for the university or other affected parties for damages to property, or for the replacement of lost or stolen articles.

Formal Reprimand

Formal Reprimand entails the following sanctions: a stern warning that any further violation of university rules and regulations during the probationary period could result in disciplinary probation, suspension or expulsion.

Disciplinary Probation

Disciplinary Probation may entail any or all the following sanctions:

1. Restriction from representing the university in any fashion. This sanction includes all public performances or appearances under the auspices of the University.
2. Restriction from any university-sponsored travel.
3. Restriction from holding offices in any university organizations.
4. Restriction from receipt of any university scholarship assistance and/or institutional aid (federal financial aid, state aid, or gifts directly to students from outside entities are not affected by this sanction).

Disciplinary Suspension

Disciplinary Suspension entails the following sanctions:

1. The student will be restricted from enrollment during the period of suspension.
2. Re-enrollment after disciplinary suspension will be contingent upon the approval of the Executive Director of Student Services or the Vice President of Enrollment Management and acceptance through the Admissions Committee process.

Disciplinary Expulsion

Disciplinary Expulsion permanently restricts the student from enrollment in the University.

Range of Protective Measures Available to a Victim/complainant Alleging Misconduct

There are a range of protective measures that a victim/complainant can request of WBU upon alleging sexual misconduct. This includes no contact directives between the parties, changes in work locations, housing, academic course sections or location, changes to where a person parks, or social restrictions.

University-Initiated Protective Measures

In addition to those protective measures previously described, the Title IX Administrator or their designee will determine whether interim interventions and protective measure should be implemented, and, if so, take steps to implement those protective measures as soon as possible. Examples of interim protective measures include, but are not limited to:

- a University no contact order,
- residence hall relocation,
- adjustment of course schedules,
- a leave of absence,
- or reassignment to a different supervisor or position.

These remedies may be applied to one, both, or multiple parties involved. Violations of the Title IX Administrator's directives and/or protective measures will constitute related violations that may lead to additional disciplinary action. Protective measures imposed may be temporary pending the results of an investigation or may become permanent as determined by Wayland Baptist University.

Transcript Notation / Student Withdrawal or Graduation Pending Disciplinary Charges

If a student is ineligible to reenroll at Wayland Baptist University for a reason other than an academic or financial reason, Wayland Baptist University will include on that student's transcript a notation stating that the student is ineligible to reenroll for a reason other than an academic or financial reason.

If a student withdraws or graduates from Wayland Baptist University pending disciplinary charges that may result in the student becoming ineligible to reenroll in Wayland Baptist University, Wayland Baptist University will not end the disciplinary process until there is a final determination of responsibility. If, as a result of the process, the student is ineligible to reenroll at Wayland Baptist University for a not academic or financial reason, a notation stating such will be placed on that student's transcript.

The Transcript may be removed if: 1) the student is eligible to reenroll in Wayland Baptist University or 2) Wayland Baptist University determines that good cause exists to remove the notation.

SEX OFFENDER REGISTRATION

The Federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. Wayland Baptist University issues this statement to the campus community on an annual basis in the Annual Security Report. <https://www.wbu.edu/university-police/campus-safety-reports.htm>.

It also requires sex offenders already required to register in a State to provide notice, as required under State law, of each institution of higher education in that State at which the person is employed, carries on a vocation, volunteer's services or is a student.

34. TITLE IX RIGHTS OF APPEAL

Both parties, the victim/complainant and the respondent, have equal rights to an impartial appeal. The request for an appeal, including the grounds upon which the request is based, should be submitted in writing to the Title IX Administrator within five (5) business days following the date on the Title IX Incident/Case Notification of Findings. If either party files an appeal, the Title IX Administrator will notify the other party in writing. The Title IX Administrator will coordinate the appeal and will have primary responsibility for interactions with the parties, gathering information needed for the appeal, and notifying both parties in writing of the outcome of the appeal. The Appeal review should be completed within 20 business days.

All appeals will be referred from the Title IX Administrator to the University President or designee. The University President, or designee, may decide the appeal themselves or may convene a panel to decide the appeal. If an appeal panel is convened, the panel will consist of three members of the Title IX investigation team who were not involved in the case being appealed. Any individual hearing an appeal will be impartial and unbiased. The decision rendered by the President/designee/committee is considered final and will complete the appeal process.

A victim/complainant or respondent may file a written appeal on the grounds that the appealing party believes:

1. there is substantial, relevant information that was not presented, and reasonably could not have been presented during the investigation, which may change or affect the outcome of the decision;
2. that the severity of the sanction in relation to the details of the case is substantially disproportionate; or
3. there was a procedural error(s) during the disciplinary process.

The adjudicating officer/committee's findings of fact, findings of responsibility, the rationale, and any sanctions will only be reviewed under one of the three grounds listed above. The President/Designee/committee hearing the appeal may decide:

1. to uphold the original decision of the adjudicating officer/committee,
2. to alter the imposed sanction, or
3. to remand the case to the adjudicating officer/committee for additional proceedings or other action.

35. TITLE IX APPEAL OF SANCTIONS

Sanctions imposed by the Title IX Office or the Office of the President can be appealed by any party according to the grounds below. Post-hearing, any party may appeal the findings and/or sanctions only under the grounds described below.

All sanctions imposed by the original hearing body will be in effect during the appeal. A request may be made to the University President for special consideration in exigent circumstances, but the presumptive stance of the institution is that the sanctions will stand. Graduation, study abroad, internships/externships, etc. do NOT in and of themselves constitute exigent circumstances, and students or employees may not be able to participate in those activities during their appeal. In cases where the appeal results in reinstatement to the institution or of privileges, all reasonable attempts will be made to restore the student or employee to their prior status, recognizing that some opportunities lost may be irretrievable in the short term.

The decision of the Title IX Office may be appealed by petitioning a Title IX Administrator. Accused students or victim/complainant's must petition within 5 business days of receiving the written decision for a review of the decision or the sanctions imposed. Any party who files an appeal must do so in writing to the Title IX Office. The Title IX Office will share the appeal with the other party (e.g., if the accused appeals, the appeal is shared with the victim/complainant, who may also wish to file a response), and then the Title IX Office will draft a response memorandum (also shared with all parties). All appeals and responses are then forwarded to the appeals officer/committee for initial review to determine if the appeal meets the limited grounds and is timely. The original finding and sanction will stand if the appeal is not timely or substantively eligible, and the decision is final. If the appeal has standing, the documentation is forwarded for consideration. The party requesting appeal must show error as the original finding and sanction are presumed to have been decided reasonably and appropriately. The ONLY grounds for appeal are as follows:

1. A procedural or substantive error occurred that significantly impacted the outcome of the investigation (e.g. substantiated bias, material deviation from established procedures, etc.);
2. To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
3. The sanctions imposed are substantially disproportionate to the severity of the violation.

If the appeals officer or committee determines that new evidence should be considered, it will return the complaint to the original investigative body to reconsider in light of the new evidence, only. The reconsideration of the investigative body is not appealable.

If the appeals officer or committee determines that a material procedural [or substantive] error occurred, it may return the complaint to the original investigative body with instructions to reconvene to cure the error. In rare cases, where the procedural [or substantive] error cannot be cured by the original investigative officers (as in cases of bias), the appeals officers or committee may order a new investigation on the complaint with a new body of investigative officers. The results of a reopened investigation cannot be appealed. The results of a new investigation can be appealed once, on the three applicable grounds for appeals.

If the appeals officer or committee determines that the sanctions imposed are disproportionate to the severity of the violation, the appeals officer or committee will return the complaint to the Title IX Office, which may then increase, decrease or otherwise modify the sanctions. This decision is final.

The procedures governing the hearing of appeals include the following:

- All parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
- Every opportunity to return the appeal to the original hearing body for reconsideration (remand) should be pursued;
- Appeals are not intended to be full re-hearings of the complaint (de novo). In most cases, appeals are confined to a review of the written documentation or record of the original investigation, and pertinent documentation regarding the grounds for appeal;
- This is not an opportunity for appeals officers to substitute their judgment for that of the original hearing body merely because they disagree with its finding and/or sanctions. Appeals decisions are to be deferential to the original hearing body, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so;
- Sanctions imposed are implemented immediately unless the University President stays their implementation in extraordinary circumstances, pending the outcome of the appeal;
- The appeals committee or officer will render a written decision on the appeal to all parties within seven (7) business days from hearing of the appeal. The committee's decision to deny appeal requests is final.

36. RECORD KEEPING

Wayland Baptist University will maintain for a period of at least seven (7) years 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 Wayland Baptist University'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 Administrator, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. Wayland Baptist University will make these training materials publicly available on Wayland Baptist University's website; and
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 Wayland Baptist University's education program or activity; and
 - 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.

Wayland Baptist University will also maintain any and all records in accordance with state and federal laws.

Contact for Interpretation: University President

This policy statement supersedes all previous policy statements on this subject.

Revisions:

- 07/27/2020 – Revision, to comply with the new 2020 Title IX Regulations from the Department of Education Office of Civil Rights, effective August 14, 2020
- 02/13/2019 – Revision, policy title change from Sexual Misconduct to Title IX; clarification on various statements
- 08/31/2017 – Revision
- 07/01/2014 – Inception