



ANNUAL SECURITY & FIRE SAFETY REPORT

2021



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STUDENT RIGHTS, RESPONSIBILITIES AND CODE OF CONDUCT

Policy Summary:

Cleary University is an institution of higher education whose mission is to provide an intimate and inclusive, student-centered business education that instills the values of the Cleary Mind in our community.

In order to ensure this mission, the University has established this Student Code of Conduct to ensure the protection of student rights and the health and safety of the University community, as well as to support the efficient operation of University programs. In addition, the University has established guidelines for the redress of grievances by individuals accused in such proceedings.

Mission: To provide an intimate and inclusive, student-centered business education that instills the values of the Cleary Mind in our community.

Vision: Inspiring students to dare to transform the status quo.

Scope:

The University Student Code shall apply to conduct that occurs on University premises, at University sponsored activities, and to off-campus conduct that adversely affects the University community and/or the pursuit of its objectives. Each student shall be responsible for their conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if their conduct is not discovered until after a degree is awarded). The Student Code shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending. The Student Judicial Officer (or designee) shall decide whether the Student Code shall be applied to conduct occurring off campus, on a case-by-case basis.

The Student Code applies at all locations of the University, including, but not limited to, Livingston Campus and Cleary University Education Center. This code also applies to all current students of the University regardless of their geographical and online location.

Policy Statement:

Cleary University shall adopt and maintain a clear description of Student Rules, Regulations and Procedures. These expectations shall be reviewed, and update as needed. Expectations will be communicated to students as part of the annual student orientation and shall be accessible on the Cleary University website.

The Vice President and Dean of Student Affairs shall establish and maintain appropriate policies and procedures that address violations of these expectations. Students feeling their rights have been violated may seek assistance through the Office of the Student Ombudsman, in accordance with approved policy.

Cleary University Student Code of Conduct

PREAMBLE

Cleary University is an institution of higher education whose mission is to provide an intimate and inclusive, student-centered business education that instills the values of the Cleary Mind in our community.

In order to ensure this mission, the University has established this Student Code of Conduct to ensure the protection of student rights and the health and safety of the University community, as well as to support the efficient operation of University programs. In addition, the University has established guidelines for the redress of grievances by individuals accused in such proceedings.

In cases of noncompliance with the Student Code of Conduct, the University will impose discipline that is consistent with the impact of the offense on the University community. The University reserves the right to pursue criminal and/or civil action where warranted. The Student Code of Conduct shall apply from the time of admission to the University and continue as long as the student remains enrolled at the University. They shall also be applicable to a student's conduct even if the student withdraws from school while a disciplinary matter is pending.

If an individual has violated the Student Code of Conduct on University property while not enrolled as a student at the University, but then later seeks to enroll, he or she must first contact the Student Judicial Officer (or designee).

University premises covered by this policy includes, without limitation, all University owned or leased buildings and surrounding areas such as sidewalks, driveways and parking lots under the University's ownership or control. University vehicles are covered by this policy at all times regardless of whether they are on University premises.

ARTICLE I: DEFINITIONS

- A. The term "University" means Cleary University.
- B. The term "Student Code" refers to the University's Student Code of Conduct.
- C. The term "student" includes all persons currently admitted or enrolled (or upon the issuance of a student number) at the University, full-time or part-time. This code applies to all current students of Cleary University regardless of their geographical or online location.
- D. The term "faculty member" means any person hired by Cleary University to conduct classroom or teaching activities.
- E. The term "University official" includes any person employed by the University, performing assigned administrative or professional responsibilities.
- F. The term "member of the University community" includes any person who is a student, faculty member, University official or staff member employed by the University, or any authorized non-employed personnel (such as externs or interns). A person's status in a particular situation shall be determined by the Student Judicial Officer (or designee).
- G. The term "University premises" includes all land, buildings, facilities, and other property in the possession of, owned, used, or controlled by the University (including adjacent streets and sidewalks).
- H. The term "harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:
 1. Submission to such behavior is made,

explicitly or implicitly, a term or condition of an individual's employment or status in a course, program or activity; or

2. Submission to or rejection of such behavior is used as a basis for a decision affecting an individual's employment or participation in a course, program, or activity; or
3. Such behavior is so severe, persistent, or pervasive that a reasonable person would find that it:
 - a. Alters the terms or conditions of a person's employment or educational experience, or
 - b. Unreasonably interferes with an individual's work or performance in a course, program, or activity, thus creating a hostile or abusive working or educational environment.

A person's subjective belief alone that behavior is offensive does not necessarily make that behavior sexual harassment. The behavior must also be objectively unreasonable.

- I. The term "Judicial Board" means a group of persons authorized by the Vice President and Dean of Student Affairs (or designee) to consider whether a student has violated the Student Code.
- J. The term "Appellate Board" means a group of persons authorized by the Vice President and Dean of Student Affairs (or designee) to review the sanction(s) imposed by Designated Administrators or the Judicial Board if requested by the respondent (or complainant).
- K. The term "respondent" means any student accused of violating this Student Code or any other rule or policy of the University.
- L. The term "policy" means the written regulations of the University as found in,

but not limited to, the Course Schedule, the University website and/or other written regulations and procedures available within a department or division.

- M. The term "complainant" means any person who submits a report alleging that a student violated this Student Code. When a student believes that she/he has been a victim of another student's misconduct, the student who believes she/he has been a victim will have the same rights under this Student Code as are provided to the accused, even if another member of the University community submitted the allegation itself. Complainants will receive updates regarding the status of the complaint.
- N. "Force" means physical force, violence, threat, intimidation or coercion.
- O. "Incapacitation" means the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where alcohol (or other drug) is involved, one does not have to be intoxicated or drunk to be considered incapacitated. Rather, incapacitation is determined by how the drug or alcohol consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments.
- P. "Effective Consent" means words or actions that show a knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Effective consent cannot be gained by force, by ignoring or acting in spite of the objections of another, or by taking advantage of the incapacitation of another, where the accused student knows or reasonably should have known of such incapacitation. Effective consent is also absent when the activity in question

exceeds the scope of effective consent previously given. It is strongly recommended that consent be obtained in writing.

- Q. "Non-Consensual Sexual Contact" means sexual contact that occurs without effective consent.
- R. "Non-Consensual Sexual Intercourse" Means sexual intercourse that occurs without effective consent.
- R. "Sexual Exploitation" means taking sexual advantage of another person without effective consent, and includes, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person; causing the prostitution of another person; recording, photographing – or transmitting identifiable images of private sexual activity and/or the private parts (including genitalia, groin, breasts or buttocks) of another person; allowing third parties to observe private sexual acts; engaging in voyeurism; and/or knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection, including, but not limited to, HIV.
- R. "Sexual Harassment" means unwelcome conduct, based on sex or on gender stereotypes, which is so severe or pervasive that it unreasonably interferes with a person's University employment, academic performance or participation in University programs or activities and creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive. Sexual harassment may include, for example, unwelcome sexual advances, requests for sexual favors, and acts of sexual violence.

- R. "Dating Violence," means a pattern of assaultive and/or controlling behaviors that one person uses against another in order to gain or maintain power and control in the relationship. The accused student has intentionally behaved in ways that causes fear, degradation and humiliation to control the victim. Forms of abuse can be physical, sexual, emotional and/or psychological.

In determining whether an individual has engaged in "dating violence," the following must be established: the accused student and the victim have been in a societal relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on a consideration of the following factors: 1.) length of the relationship, 2.) type of the relationship, and 3.) the frequency of interaction between the persons involved in the relationship.

- R. "Stalking" means a pattern of behavior made up of a series of two or more separate non-continuous acts which shares the same purpose and causes a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed or molested.
- R. "Domestic Violence" is a pattern of behavior in which one person uses physical, sexual, economic or emotional abuse to control the victim. This behavior specifically includes assaults or an assault and battery of a person's spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of their household.

R. "Sexual Assault" is an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the program. Sex Offenses are: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

1. Rape is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
2. Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
3. Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
4. Statutory Rape is sexual intercourse with a person who is under the statutory age of consent.

ARTICLE II: STUDENT CODE AUTHORITY

- A. The Student Judicial Officer (or designee) shall determine whether or not the Judicial Board shall be authorized to hear all non-academic violations, excluding Title IX violations.
- B. The Cleary University Title IX Coordinator (or designee) shall be authorized to determine whether or not to hear all Title IX violations.
- C. Student Judicial Officer (or designee) shall develop policies for the administration of the Student Code of Conduct

process and procedural rules for the conduct of Judicial Board hearings that are not inconsistent with provisions of the Student Code.

- D. Decisions made by the Judicial Board and/or Designated Administrators (or designee) shall be final, pending the normal appeal process.

ARTICLE III: PROSCRIBED CONDUCT

- A. Jurisdiction of the University Student Code of Conduct

The University Student Code shall apply to conduct that occurs on University premises, at University sponsored activities, and off-campus conduct that adversely affects the University community and/or the pursuit of its objectives. Each student shall be responsible for their conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if their conduct is not discovered until after a degree is awarded). The Student Code shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending. The Student Judicial Officer (or designee) shall decide whether the Student Code shall be applied to conduct occurring off campus, on a case-by-case basis, in their sole discretion.

The Student Code of Conduct applies at all locations of the University, including, but not limited to, Livingston Campus and Cleary University Education Center. This code also applies to all current students of the University regardless of their geographical and online location.

- B. Conduct – Rules and Regulations

Any student found to have committed or to have attempted to commit the following mis-

conduct is subject to the disciplinary sanctions.

1. Disruption or obstruction of teaching, research, administration, disciplinary proceedings, other University activities, including its public service functions on or off campus, or of other authorized non-University activities when the conduct occurs on University premises.
2. Physical abuse, acts of violence or assaults: including but not limited to: hitting; shoving; attacks; stalking; intentionally or recklessly causing or attempting to cause physical harm; endangering the health or safety of any person or group of people, including engaging in any form of physical fighting is prohibited. Intentionally or recklessly touching another person resulting in bodily harm or when done in a rude; hostile insulting or angry manner.
3. Threatening Behavior: conduct (verbal, non-verbal, written, and /or physical) against people or property that is offensive, hostile, intimidating, injury producing, and/or abusive. This includes but is not limited to: threats of physical harm; behavior that would cause fear in a reasonable person; intimidation, harassment; coercion; bullying; and/or other conduct which threatens or endangers the health or safety of any person. Including, but not limited to, messages sent via text messaging, emails, comments or post on social media networks, or any electronic format including phone, computer, etc.
4. Discrimination: discrimination, as defined by Federal and State laws and University policy, on the basis of race, color, age, religion, national origin, creed, ancestry, familial status, disability, marital status, height, weight, sexual orientation or veteran's status is prohibited.
5. Retaliation: any student found to have retaliated against a person making a complaint or cooperation (including testifying as a witness) in the investigation of a complaint is subject to disciplinary action. For this purpose, "retaliation" includes, but is not limited to: intimidation, threats; harassment; and other adverse actions (threatened or carried out) against the complainant or a third party.
6. Theft of and/or damage (Attempted or actual) to property of the University or property of a member of the community or other personal or public property, on or off campus.
7. Hazing which is defined as an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this rule.
8. Failure to comply with directions of University officials or law enforcement officers acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.
9. Unauthorized possession, duplication or use of keys to any premises or unauthorized entry to or use of the University premises.
10. Violation of any University policy, rule, or regulation published in hard copy or available electronically on the University website.
11. Use, possession, manufacturing, distribution, or being under the influ-

ence marijuana, heroin, narcotics, or other controlled substances except as expressly permitted by federal law. Possession of drug paraphernalia is also prohibited on campus. Smoking or chewing tobacco is prohibited on campus, except in an individual's own personal vehicle. Electronic cigarettes (e-cigarettes) are prohibited on campus.

12. Use, possession, manufacturing, distribution, or being under the influence of alcoholic beverages (except expressly permitted by University regulations), or public intoxication. Alcoholic beverages may not, in any circumstance, be used by, possessed by or distributed to any person, regardless of the student's age.
13. Illegal or unauthorized possession of firearms, explosives, other weapons, or dangerous chemicals on Cleary University premises or use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others.
14. Possession of firearms, Tasers, stun guns, explosives, weapons, or dangerous chemicals on University premises, and/or use of any such item in a manner that harms, threatens or causes fear to others. The definition of a weapon includes but is not limited to a pistol or other firearm or dagger, dirk, razor, paintball gun, pellet gun, or knife (regardless of length or size), or any other dangerous or deadly weapon or instrument.

University premises covered by this policy includes, without limitation, all University owned or leased buildings and surrounding areas such as sidewalks, driveways and parking lots under the University's ownership or control. University vehicles are covered by this policy at all times regardless of whether they are on University premises.

15. Obstruction of the free flow of pedestrian or vehicular traffic on University premises or at University sponsored or supervised functions.
16. Conduct that is disorderly, breach of peace; or aiding, abetting, or procuring another person to breach the peace on Cleary University premises or at functions sponsored by, or participated in by, Cleary University or members of the academic community.

Disorderly Conduct includes but is not limited to: Any unauthorized use of electronic or other devices to make an audio or video record of any person while on University premises without their prior knowledge, or without their effective consent. This includes, but is not limited to, secretly taking pictures of another person in a gym, locker room, classroom, residence hall room, or restroom.

17. Theft or other abuse of computer facilities, library and resources, including but not limited to:
 - a. Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
 - b. Unauthorized transfer of a file.
 - c. Use of another individual's identification and/or password.
 - d. Use of computing facilities and resources to interfere with the work of another student, faculty member or University official.
 - e. Use of computing facilities and resources to send obscene or abusive messages.
 - f. Use of computing facilities and resources to interfere with normal operation of the University computing system.

- g. Use of computing facilities and resources in violation of copyright laws.
 - h. Any violation of the Information Technology Electronic Accounts
18. COVID-19 Failure to comply with Cleary University instruction pertaining to the containment of the coronavirus or of COVID-19, including but not limited to:
- a. Completing the campus daily health screen, each day prior to entering buildings, spaces, etc. on campus;
 - b. Following the direction of the Health & Safety Team regarding a positive screen;
 - c. Wearing, at minimum, a cloth facial covering at all times when in public spaces on campus;
 - d. Maintaining a minimum distance of not less than six feet from others when on campus;
 - e. Complying with signage regarding directional hallways, common spaces, campus buildings, classrooms, and dining facilities.
19. Abuse of the Judicial Process, including but not limited to:
- 1. Failure to obey the notice from a University official to appear for a meeting or hearing as part of the Judicial Process.
 - 1. Falsification, distortion, or misrepresentation of information before a Judicial Board or Appellate Board.
 - 1. Disruption or interference with the orderly conduct of a Judicial Board, Appellate Board, or one on one Administrative proceeding.
 - 1. Institution of a student conduct code proceeding in bad faith.
 - 1. Attempting to discourage an individual's proper participating in, or use of, the Judicial Process.
 - 1. Attempting to influence the impartiality of a Judicial/Appellate Board member or Administrator prior to, and/or during the course of, the Judicial/Appellate Board or one on one Administrator proceeding.
 - 1. Harassment (verbal or physical) and/or intimidation of a member of a Judicial/Appellate Board or Administrator prior to, during, and/or after a Judicial/Appellate Board hearing or one on one Administrator proceeding.
 - 1. Failure to comply with the sanction(s) imposed under the Student Code.
 - 1. Influencing or attempting to influence another person to commit an abuse of the Judicial Process.
- C. Violation of Law and University Discipline
- 1. If a violation of law which also would be a violation of this Student Code is alleged, proceedings under this Student Code may go forward against a respondent who has been subjected to criminal prosecution only if the University determines that its interest is clearly distinct from that of the community outside Cleary University. Ordinarily, the University should not impose sanctions if public prosecution of a student is anticipated or until law enforcement officials have disposed of the case.
 - 2. When a student is charged by federal, state, or local authorities with a violation of law, the University will not request or agree to special

consideration for that individual because of their status as a student. If the alleged offense is also being processed under the Student Code, the University may advise off-campus authorities of the existence of the Student Code and of how such matters are typically handled within the University community. The University will attempt to cooperate with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators (provided that the conditions do not conflict with campus rules or sanctions). Individual students and other members of the University community, acting in their personal capacities, remain free to interact with governmental representatives, as they deem appropriate.

ARTICLE IV: STUDENT CONDUCT CODE PROCEDURES (DUE PROCESS)

A. Charges and Student Conduct Judicial Board Hearings

1. Any member of the Cleary University community may file a report against a student for violations of the Student Code of Conduct. An allegation of a Student Code violation must be directed to the respective Designated Administrators.

Any report of a violation of the Student Code should be submitted as soon as possible after the event takes place, preferably within a week.

2. The Student Judicial Officer (or designee) will conduct an impartial and reliable preliminary review of all allegations to determine if the allegations have merit and/or if they can be disposed of

administratively.

2. If it is determined that the allegation has merit, the respondent will receive written (electronic) notification that an alleged violation has occurred. In the notification, the student will be directed to make an appointment with the Student Judicial Officer (or designee) within five (5) business days of the notification letter, to review the facts concerning the alleged violation in order to determine if formal charges should be prepared.
2. During this meeting, the respondent meets one-on-one with the Student Judicial Officer (or designee). Representatives or parents will only be allowed in this meeting at the discretion of the Student Judicial Officer (or designee) when appropriate. In addition, a FERPA release must be signed.
2. If the respondent is unable to, or does not wish to meet with the Student Judicial Officer (or designee) in person, the student may submit a statement in writing (via their University email account or in person) responding to the allegations, within the notification period five (5) business days from deliverance of notification letter).

Other arrangements may be made to facilitate the meeting such as video or teleconference when a face-to-face meeting may be difficult for the student and at the sole discretion of the Student Judicial Officer (or designee). In situations where a meeting other than a face-to-face meeting will be held, the student must provide a copy of their identification to the Student Life office before the meeting occurs. However, a face-to-face meeting is the preferred option.

2. After reviewing the facts with the respondent, or after reviewing the respondent's statement, a decision will be made whether to formally charge the respondent with a violation of the Student Code of Conduct. Based on the facts and circumstances presented, the charges may be amended or changed, and the student will be made aware of those changes within five (5) business days (excluding Saturday and Sunday).
2. In the event that the student fails to contact the Student Judicial Officer (or designee) within five (5) business days of the date listed on the written notification (excluding Saturday and Sunday), the Student Judicial Officer (or designee) will then review the facts available without the student and make a decision whether to prepare formal charges.
2. Student Judicial Officer (or designee) will notify the respondent that he or she is being accused of violating the Code and that he or she, if a decision is made to prepare formal charges, may elect to do one of the following:
 2. The respondent may admit the alleged violation and request, in writing, that the Student Judicial Officer (or designee) take whatever action seems necessary; or
 2. The respondent may admit the alleged violation and request a hearing before the Judicial Board regarding the sanction; or
 2. The respondent may deny the alleged violation, in which case the Student Judicial Officer (or designee) shall refer him or her to the Judicial Board for a hearing.
 2. In the event that the respondent does not make an election of one of the three options available within five (5) business days from the date of the letter, the Student Judicial Officer (or designee) will take whatever actions seem necessary, including the imposition of appropriate sanctions.
2. If the respondent elects to admit the alleged violation and request a hearing before the Judicial Board to determine the sanction or if the student denies the allegation, a Judicial Board hearing will be scheduled as soon as practical.
2. Prior to a Judicial Board hearing, the respondent shall be entitled to the following:
 - a. A written statement of a decision rendered and/or charges so that the accused student may prepare their defense;
2. Written notification of how the alleged violation came to the University's attention.
2. The student shall be entitled to an expeditious hearing of their case.
2. Members of the Judicial Board shall be appointed by the Vice President and Dean of Student Affairs (or designee) and shall be comprised of the following:
 - a. The Student Judicial Officer (or designee) will serve as the Chairperson to preside over Judicial Board Hearings. However, when the Judicial Board is hearing a case based on a disciplinary decision of the Student Judicial Officer (or designee), the Student Judicial Officer (or designee) will relinquish the Chair and another Chairperson will be appointed. The Chair conducts the hearing but does not participate in the deliberation.

- b. University administrators and faculty members.
2. Judicial Board hearings shall be conducted by the Judicial Board according to the following guidelines:
- a. The Judicial Board hearing will be scheduled at the convenience of the sitting Board members, however, all efforts will be made to schedule the hearing within fifteen (15) business days of initial incident report.
 - b. The parties will provide the Judicial Board Chair a list of witnesses they propose to call, and copies of documents and a description of any other information they propose to present at the hearing, on or before a date set by the Chair. The Chair will then provide each party with a copy of the list of witnesses and identification of copies of documents or other information submitted by each party, at their request, no later than three (3) days before the scheduled hearing date. In the absence of good cause, as determined by the Chair in their sole discretion, the parties may not introduce witnesses, documents, or other information at the hearing that were not provided to the Chair by this deadline. The parties are also responsible for the attendance of their witnesses at the hearing.
 - c. All Judicial Board hearings shall be conducted by invitation only.
 - d. The complainant and the respondent have the right to be assisted by one advisor or parent they choose, and at their own expense (if applicable). The complainant and/or the respondent is responsible for presenting their own information, and therefore, advisors are not permitted to speak or to participate directly in any Judicial Board hearing. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the Judicial Board hearing because delays will not normally be allowed due to the scheduling conflicts of an advisor.
 - e. The complainant, respondent and their advisors, if any, shall be allowed to attend the entire portion of the Hearing Phase (excluding deliberations). The complainant or the respondent who does not wish to attend the hearing phase in person may submit a written statement for the Board to consider during deliberations. Admission of any other person to the Judicial Board hearing shall be at the sole discretion of the Chair (or designee).
 - f. In Judicial Board hearings involving more than one respondent, the Chair (or designee), in their sole discretion, may permit the Judicial Board hearings concerning each student to be conducted either separately or jointly.
 - g. Witnesses will provide information to and answer questions from the Judicial Board. The tone of the hearing should be educational and not adversarial. Questions of whether potential information will be received shall be resolved at the sole discretion of the Chairperson of the Judicial Board.
 - h. Pertinent records, exhibits, and written statements (including Student Impact Statements), may be accepted as information for consideration by a Judicial Board at the sole discretion of the Chairperson.

- i. All procedural questions are subject to the final decision of the Chairperson of the Judicial Board.
 - j. Requests for a continuance shall be at the discretion of the Chairperson of the Judicial Board.
 - k. After the portion of the Judicial Board hearing concludes in which all pertinent information has been received, the Judicial Board shall determine (by majority vote) whether the respondent has violated each section of the Student Code which the student is charged with violating. However, the Board may also suggest a different charge to the Chairperson if they believe the facts support charge(s) different than the charge(s) the student was originally charged with. The Judicial Board will also recommend an appropriate sanction to the Chairperson.
 - l. The Judicial Board's determination shall be made on the basis of whether "more likely than not" the respondent violated the Student Code.
 - m. Formal rules of process, procedure, and/or technical rules of evidence, such as those that are applied in criminal or civil court, are not used and do not apply in Student Code of Conduct proceedings/hearings.
 - n. If a disruption occurs during the hearing, the Chairperson, in their sole discretion may have the disruptive party removed from the hearing.
2. If an accused student or complainant, with notice, elects not to appear or provide a written statement (in lieu of appearance) before a Judicial Board hearing, the student shall be considered to have waived the right to appeal, and the decision at the prior level stands. If the Judicial Board is the initial decision maker, the information in support of the charges shall be presented and considered by the Judicial Board even if the accused student or the complainant is not present.
 2. The Chairperson may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, accused student, and/or other witness during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audio tape, written statement, or other means, where and as determined in the sole judgment of the Student Judicial Officer (or designee) to be appropriate.
 2. Once the Judicial Board has made a decision as to whether more likely than not the respondent violated the Student Code of Conduct, the Judicial Board will make recommendations to the Chairperson regarding an appropriate sanction.

If the respondent has requested that the Judicial Board decide their sanction, then the Judicial Board shall make the final determination regarding sanction.
 2. After receiving the recommendations of the Board, the Chairperson will decide the most appropriate sanction proportionate to the violation. The Chairperson shall notify the respondent in writing of the decision and of the sanction(s) imposed, if any within five (5) business days.
- B. Sanctions**
1. In cases of noncompliance with the Student Code of Conduct, the

University will impose discipline that is consistent with the impact of the offense on the University community. When sanctioning a respondent, the judicial board will consider the following: seriousness of the violations, how the behavior impacted the University community, prior conduct history, the respondents intent and motivation, conduct precedent and the credibility of the respondent, complainant and witness. The purpose of our sanctions are to further a student's development and enable them to become a positive contributor to the community and discourage a students' inappropriate behavior from reoccurring in the future. Sanctions are not meant to be punitive but education in nature.

Progressive discipline principles will be followed in that the student's prior discipline history at Cleary University. Sanctions for violations of physical abuse, acts of violence and assault may be severe and immediate and may include but are not limited to immediate University suspension, dismissal, or expulsion. Violations of Residence Life Policies may result in the students immediate removal and ban from housing, as well as but not limited to University suspension, dismissal, or expulsion. Disciplinary action taken against a student may include, but is not limited to, one or more of the following:

- a. Verbal Warning - Student is given a verbal warning and a notation is made in the student's disciplinary file.
- b. Written Warning - A notice in writing to the student that the student is violating or has violated institutional regulations and a copy of the warning letter is placed in the student's disciplinary file.
- c. Probation—A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to violate any institutional regulation(s) during the probationary period.
- d. Loss of Privileges—Denial of specified privileges for a designated period of time.
- e. Restitution—Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
- f. Discretionary Sanctions—Work assignments, essays, service to the University, or other related discretionary assignments.
- g. Residence Hall Suspension—Separation of the student from the residence halls for a definite period of time, after which the student may be eligible to return. Conditions for readmission may be specified. Suspensions may be effective immediately or deferred.
- h. Residence Hall Dismissal - Separation of the student from the residence halls for an indefinite period of time. Conditions for readmission may be specified. Dismissals will be effective immediately.
- i. Residence Hall Expulsion—Permanent separation of the student from the residence halls. Expulsions will be effective immediately.
- j. University Suspension - Separation of the student from the University for a definite period of time (usually a year or less) after which the stu-

dent is eligible to return. Conditions for readmission may be specified. Suspensions may be effective immediately or deferred.

- k. University Dismissal – separation of the student from the University for a year or more. The student may be eligible for return. Conditions for readmission may be specified. Dismissals will be effective immediately.
 - l. University Expulsion – separation of the student from the University permanently. Expulsions will be effective immediately and can only be imposed by the University President.
 - m. Revocation of Admission and/or Degree – Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of the University standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.
 - n. Parental Notification – The Federal Educational Rights and Privacy Act (FERPA) permits parent notification without their student’s consent when the student has violated any Federal, State or local law, or any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, if the institution determines that the student has committed a disciplinary violation regarding that use or possession and the student is under 21 at the time of the disclosure.
2. Withholding Degree or Certificate – the University may withhold awarding a degree otherwise earned until the com-

pletion of the process set forth in this Student Code of Conduct, including the completion of all sanctions imposed, if any.

3. More than one of the sanctions listed above may be imposed for any single violation.
4. In situations involving both a respondent(s) (or group or organization) and a student(s) claiming to be the victim of another student’s conduct, the records of the process and of the sanctions imposed, if any, shall be considered to be the education records of both the respondent(s) and the student(s) claiming to be the victim because the educational career and chances of success in the academic community of each may be impacted.
5. The following sanctions may be imposed upon groups or organizations:
6. Those sanctions listed above in article IV.
 1. Loss of selected rights and privileges for a specified period of time.
 1. Deactivation. Loss of all privileges, including Cleary University recognition, for a specified period of time.
 6. Once the Judicial Board has determined that a student and/or group or organization has violated the Student Code, the sanction(s) shall be recommended by the Judicial Board to the Chair. The Chairperson shall make a final determination of the sanction to be imposed, taking into consideration the Judicial Board’s recommendations.
 7. Following the Judicial Board Hearing, the Chairperson shall advise the accused student, group and/or organization in writing of the decision and of the sanction(s) imposed, if any within

five (5) business days.

C. Interim Due Process Suspension

In certain circumstances, the Vice President and Dean of Student Affairs and/or designee, may impose a University suspension prior to a Judicial Board Hearing.

1. Interim suspension may be imposed only in the following circumstances:
2. To ensure the safety and well-being of members of the University community or preservation of University property; or
 - b. To ensure the student's own physical or emotional safety and well-being; or
 - c. If the respondent poses an ongoing threat of disruption of, or interference with, the normal operations of the University.
2. Interim suspension will take effect immediately upon the direction of the Vice President and Dean of Student Affairs and last for no more than ten (10) working days (Saturdays and Sundays are not included). The 10-day period may be extended for good cause by Vice President and Dean of Student Affairs or by agreement with the student.
3. During the interim suspension, a student shall be denied access to the residence halls and/or to the campus (including classes) and/or all other Cleary University activities or privileges for which the student might otherwise be eligible, as the Vice President and Dean of Student Affairs may determine to be appropriate.
4. The interim suspension does not replace the regular process including a Judicial Board Hearing, if required.

D. Appeals

1. A decision reached by the Student Judicial Officer (or designee) or the Judicial Board may be appealed by either the respondent(s) or the complainant to the Appellate Board within five (5) working days, excluding Saturday and Sunday, of the decision. Such appeals shall be in writing and shall be delivered to the Student Ombudsman Office.
2. The Student Ombudsman (or designee) shall have the sole authority to determine whether or not an appeal warrants further review. An appeal that has been accepted for review shall be limited to review of the verbatim record of the Judicial Board hearing and supporting documents for one (or more) of the following reasons only:
 - a. There is substantive new evidence not previously available at the time of the hearing, which could have materially affected the outcome (NOTE: New witnesses or witness statements do not constitute new evidence unless there is a clear basis as to why the witnesses were not presented at the time of the original hearing).
 - b. There were procedural errors in the case that substantively impacted the student's access to a fair hearing;
 - c. The severity of the sanction needs to be reviewed based on documented mitigating personal circumstances;
 - d. The decision of the Judicial Board was not supported by the evidence presented at the hearing, or evidence was not sufficient to establish that a Code of Conduct violation occurred.

3. If an appeal is based on Article IV and is approved by the Student Ombudsman (or designee), the matter shall be introduced to the Appellate Board and Chairperson for a rehearing, which will take into consideration the suggestions made by the Student Ombudsman (or designee) in addition to the facts that were originally presented. If an appeal is upheld by the Appellate Board, the matter shall be returned to the Appellate Board for reconsideration of the original determination and/or sanction(s). If an appeal is not upheld, the matter shall be considered final and binding upon all involved.
4. If an appeal is not approved by the Student Ombudsman (or designee), the matter shall be considered final and binding upon all involved.

ARTICLE V: INTERPRETATION AND REVISION

- A. Any question of interpretation or application of the Student Code shall be referred to the Student Judicial Officer (or designee) for final determination.
- B. The Student Code shall be reviewed periodically under the direction of the Student Judicial Officer (or designee).



FAN CODE OF CONDUCT

Policy Summary:

The University is committed to creating a safe, comfortable, and enjoyable experience for fans of all ages (including and especially children), student-athletes, coaches and officials. Cleary University facilities include home golf course, home ice arena, and Lake Trust Stadium. We want all fans attending our games to enjoy the experience in a responsible fashion.

Scope:

Event patrons are responsible for their own conduct as well as the conduct of their children.

Policy Statement:

Fans are subject to ejection as a result of the following inappropriate and disruptive behavior:

- Excessive consumption of alcohol
- Fighting
- Obscene, profane or abusive language
- Dangerous, obscene, profane or abusive behavior
- Interfering with other fans' ability to see the game
- Smoking inside Lake Trust Stadium
- Interfering with security procedures
- Interfering with the process of the game or going onto the field or playing area of competition
- Throwing any objects onto the field or in Lake Trust Stadium.

Prohibited Items & Behavior: Cleary University promotes good sportsmanship by student-athletes, coaches and spectators. We request your cooperation in helping to maintain a family-friendly environment for fans of all ages, and in supporting the student-athletes, coaches

and officials in a positive manner. Profanity or actions to incite, intimidate or threaten others will not be tolerated and are grounds for removal from the site of competition.

The following items and/or activities are prohibited during athletic competitions and events:

- Pets*
- Outside Food or Drink of any kind*
- Illegal Substances
- Fireworks / Firearms Weapons (both real and facsimiles)
- Flammables of any kind
- Laser Pointers Artificial
- Noisemakers
- Skateboards / Bicycles Dangerous or Disruptive Behavior
- Signage, Apparel or other Items that display, depict or represent recognizable symbols and/or words, including nooses and swastikas, that incite, intimidate, or threaten members of the Cleary University community.

**Exceptions will be made for those with medical requirements and/or special needs.*

Disruptive behavior is strictly prohibited at Cleary Athletics events. Disruptive behavior diminishes other fans' and spectators' ability to enjoy the game day atmosphere. Disruptive

behavior includes but is not limited to: threats, threatening behavior, interfering with other fans' and spectators' ability to watch the game, and throwing objects. These actions or any other actions deemed disruptive by Cleary University staff will not be tolerated and are grounds for removal from the venue. Those who violate rules and regulations and any person(s) who commit illegal acts may be ejected from the facility and jeopardize their ability to attend future events.

MISSING STUDENT POLICY

Policy Summary:

Cleary University shall maintain a policy and related procedures for missing student notification specific to students residing in Student Housing.

Scope:

All students residing in student housing at Cleary University.

Policy Statement:

Cleary University shall comply with Federal regulations for assuring appropriate missing student notification. Procedures shall be adopted by the Director of Housing in coordination with Campus Security. All missing student investigation shall be coordinated with local law enforcement consistent with campus safety policies.

- Student notice of the procedure and designation and recording of emergency contact information
- Campus communications about missing students.

All public and/or media communications about a missing student shall be managed by a Cleary University designee. Communications shall be coordinated with local law enforcement to ensure that investigations are not impeded by the release of information

Procedures shall include:

- The official notification procedure for missing students.
- Required documentation for missing student incident reporting and documented release of information

ALCOHOL AND DRUG-FREE WORK PLACE POLICY

Cleary University, in compliance with Public Law 101-226 (Drug-Free Schools and Communities Act), presents the standards listed below to the entire University community: staff, faculty, administration, and students. These guidelines are intended to protect and serve each member of this community and to ensure that each member has a full understanding of the position of the University.

Standards of Conduct

- Unlawful possession, distribution, dispensation, sale or manufacture of illicit drugs and the unlawful possession, use or distribution of alcohol on university property, at any university work site or as part of any university activity, is prohibited.
- Any incident of suspected possession, sale, use, or distribution of illegal drugs or alcohol on the campuses or at any University function will result in the suspected party being asked to leave the premises and may be reported to local legal authorities.
- Functions sponsored by the University may permit alcohol to be served only according to the laws of the State of Michigan, local communities, and federal statute. Monitoring will be the responsibility of the event sponsor.
- No member of the University community shall report to work or class, or conduct University business on the premises while under the influence of alcohol or any illegal drug.

to appropriate sanctions, in accordance with established university policies and in conformity with local, state and federal law, up to and including expulsion or termination.

- Members of the University using or addicted to illegal drugs or alcohol will be encouraged to seek treatment. Continued drug or alcohol abuse, or violation of local, state, and federal laws or University policy, will result in disciplinary actions up to and including expulsion or dismissal.
- Members of the University that are found to have violated this policy may be required to participate in a drug or alcohol treatment program as a condition of further employment or enrollment.
- Any member of the University who is convicted of a criminal drug offense occurring at the workplace is subject to appropriate employee discipline in accordance with established university policies and may be required to participate satisfactorily in a drug abuse or rehabilitation program as a condition of continued employment.

Sanctions

- Any employee or student who, while on university premises or at any university activity, engages in the unlawful possession, sale, manufacture, distribution or use of drugs or alcohol shall be subject

State and Federal Laws

- The sale, distribution or use of illicit drugs violates both federal and Michigan law. Conviction of drug-related offenses may result in heavy fines

and prolonged imprisonment.

- An individual convicted on federal drug trafficking charges faces a jail term of up to 40 years and a fine of up to \$5 million. Federal penalties for illegal possession of controlled substances, even in small amounts and even for first offenders, include fines ranging from \$1,000 to \$100,000 and imprisonment for up to one year. Penalties for repeat offenders or for possession of crack cocaine are even greater.
- Michigan law has comparable penalties. Both Michigan and federal law provide for the forfeiture of property used to facilitate possession or transportation of illicit drugs. Under federal law, a person who has been convicted of a drug offense is barred from receiving federal assistance, including student financial aid. Actions connected with drug or alcohol abuse, such as disorderly conduct or driving while intoxicated, may also be punished with criminal fines and imprisonment.

Health Risks

- Drug and alcohol abuse can cause serious and long-lasting damage to an individual's health. Drug and alcohol abuse may endanger the safety and well-being of the abuser, the abuser's family and friends and of students, staff, faculty and the general public.
- If under the influence of alcohol or illegal or prescription drugs, members shall avoid any activity, such as driving, which could endanger the health and/or safety of any other member of the University community.
- All people should be aware that alcohol and illegal drugs might endanger their health or that of unborn children (such as fetal alcohol syndrome). Substances

may be addicting, impair one's level of functioning, or increase the likelihood of contracting numerous diseases such as hepatitis or AIDS. Other health risks may include damage to the heart, liver, and all major organs and systems, and can result in death.

Additional Assistance

- Members of the University community with questions or concerns about alcohol or illegal drugs may get confidential information or referrals from the Counselor. The Counselor will provide information and referrals for treatment, therapy, and rehabilitation services. The University does not provide these services.
- The university encourages employees and students who may have substance abuse problems to seek professional advice and treatment.
- Additional information about alcohol and illegal drugs may be obtained from your physician, local clinics, crisis centers, and the Michigan Office of Substance Abuse.

Internally, staff and students may contact the University's licensed Counselor Chris Cassidy at: 517-338-3012 or ccassidy@cleary.edu

Cleary's Alcohol Policy

Students at Cleary University are responsible for knowing and abiding by both State and University regulations regarding the consumption of alcohol. The University provides educational programs and information on alcohol and drug abuse as well as referral services related to alcohol and other drug use. Students are expected and encouraged to be aware of the social, physiological, and psychological consequences and personal risks of excessive drinking, in order to make responsible and informed decisions. Students who take prescription drugs, over-the-counter

medications, or herbal or other supplements are expected to be aware of the consequences of drinking alcohol in combination with those medications.

Standards of Conduct

- The University alcoholic beverage policy is consistent with the laws of the state of Michigan that prohibits the consumption and serving of alcoholic beverages by and to persons under 21 years of age.
- Students will be deemed to have served alcohol when they have made alcohol available to others, regardless of whether any alcohol is actually consumed.
- Students' responsibility for violations of University policy that take place within their assigned room or suite is described in The Cleary University Student Code of Conduct.
- Students are responsible for their behavior and this policy affirms the need for mutual respect and personal responsibility within the University community.

The University respects the right to privacy. Authorized campus representatives will not enter apartment rooms without substantive cause (e.g., without reasonable suspicion that University policies or regulations have been violated, or that someone's safety is in jeopardy), or as otherwise set forth in the Cleary University Student Code of Conduct and on-campus housing policies.

Cleary Student Responsibilities

Alcoholic beverages normally will not be provided at events where persons under the legal drinking age for consumption of alcoholic beverages are present, including those sponsored by the University. Availability of alcoholic beverages shall not be the primary focus of

advertising for campus social events. Those given approval to serve alcoholic beverages are responsible for ensuring that only those of legal drinking age are served, that

- It is the immediate obligation of those in the presence of a severely intoxicated person to contact appropriate University staff or local medical and/or law enforcement agencies.
- Contacting The Housing Manager & Student Life Coordinator (or other Cleary Administration) for assistance in transporting a student in need of medical attention will not, in itself, lead to disciplinary action.
- Disciplinary action will occur only if other circumstances indicating a violation of University policy are observed. In such an instance, failure to call for assistance will be considered an especially serious violation of policy. In order to encourage calls for assistance, the University may offer leniency with respect to other violations which may come to light as a result of such calls, depending on the circumstances involved.

When Cleary Administrators will intervene

- Housing staff (or another University administrator) may enter a room whenever there is reasonable cause to believe that someone's safety may be in jeopardy or that a violation of the alcohol policy is taking place.
- Housing staff will not have cause to investigate possible alcohol violations unless indicators of alcohol provision are observed. Such indicators may include—but are not limited to—kegs, bottles, cans, spilled alcohol, an individual leaving a room in possession of alcohol, or intoxicated behavior.

Additional examples of grounds to search the rooms would be: audible and olfactory hints of alcohol; hearing bottles clink, residents saying “pass me the *alcohol*”, smelling the alcohol, etc.

- In the event of a noise complaint, Housing staff will go to the room and knock on the door. If no one answers, Safety staff may enter the room and instruct the residents of the room to control the noise. Regardless, Safety staff may enter the room where there is cause to investigate further, as described above.

When Cleary students are in violation of the Alcohol Policy

1. Students on campus, at Cleary sporting or social events, or at any other location where Cleary business is being conducted, are in violation of the University alcohol policy under any or all of the following circumstances:

- a. When participating in or organizing an activity that encourages drinking (e.g., drinking games, pre-gaming with hard alcohol, initiation activities, hazing), as these acts can endanger the individual being served. These are especially serious violations.
- b. When the serving or consumption of alcohol contributes to behavior that (i) intimidates or harasses others; (ii) injures or threatens to injure others (e.g., driving under the influence of alcohol, assault); (iii) leads to the destruction of property; or (iv) infringes on the peace and privacy of others. These are especially serious violations. In keeping with state law, when a student has been detained by University staff or local law enforcement officials on suspicion of driving under the influence of alcohol, the refusal to submit to the taking of breath samples for the purpose of determining blood alcohol content will be taken as conclusive evidence that the student was driving under the influence of alcohol.

c. Violations of local ordinances or state laws by students may also be grounds for University disciplinary action, regardless of where such violations occur, if they clearly violate University standards of conduct.

d. Failure to immediately contact appropriate University or local medical and/or law enforcement personnel on behalf of a severely intoxicated person.

2. On campus, students are in violation of the University alcohol policy under any or all of the following circumstances. Revised BGH 9/8/2015

- a. When carrying or possessing an open container of alcohol (defined as any container not sealed by the manufacturer) on University grounds.
- b. When in possession of a keg and/or tap or other evidence of intent to serve alcohol, including alcohol delivered in large quantities to the University.
- c. When alcohol is served, provided, or made available by a student to another student or other person's regardless of age. Violations involving juveniles, such as high school applicants or visitors to the University, will be deemed particularly serious.
- d. When a student procures alcohol for themselves or for other persons by falsifying identification.

Consequences of violating the Alcohol Policy

Students who are in violation of the alcohol policy are subject to a range of University sanctions: warning, disciplinary probation (including housing, and/or campus service sanctions), suspension, suspension with conditions, and expulsion. In keeping with the University's particular concern about high-risk alcohol use, the consequences for violations of the alcohol policy will reflect the level of risk represented

by the behavior as well as the impact of the behavior upon the community.

1. In general, first instance lower-risk violations will result in a warning; subsequent violations will result in, at a minimum, disciplinary probation. Examples of lower-risk alcohol violations include, but are not necessarily limited to, situations where:

- No high-risk drinking, including drinking games, is occurring
- No "common sources" of alcohol, such as kegs or alcoholic punch, are present;
- Neither the serving nor the consumption of alcohol has contributed to behavior that infringes on the peace and privacy of others (e.g., disorderly conduct, harassment, vandalism or property damage, injuring or threatening to injure others, driving under the influence of alcohol).

2. The University regards higher-risk violations of the alcohol policy as more serious than lower-risk violations. In general, a student who commits a first higher-risk alcohol violation is placed on short-term disciplinary probation. Discipline for a second higher-risk offense will be more serious and may involve a long term of disciplinary probation, campus service, and/or revocation of on-campus residential privileges. Students should expect to be suspended for a third higher-risk alcohol or alcohol-related offense or for any particularly egregious first or second offense. Higher-risk alcohol violations include, but are not necessarily limited to, the following:

- The possession of any quantity of alcohol of any kind
- The serving, providing, or making of any kind of alcohol in any quantity
- The possession of kegs or other common sources of alcohol;
- Drinking games or "pre-gaming";

- Violations that result from intoxication, such as assault, harassment, disorderly conduct, vandalism, or property damage.
- Failing to immediately contact appropriate University or local medical or safety staff on behalf of a severely intoxicated person.

The Housing Manager & Student Life Coordinator may notify a student's parents following any significant incident of drug/alcohol-related misconduct. Alcohol, kegs, and/or taps used in violation of the above regulations will be confiscated.

Students who violate the University's alcohol or drug policies are encouraged to avail themselves of the services of an alcohol Program. The Housing Manager & Student Life Coordinator may require an alcohol/drug evaluation by local professional staff.

Cleary's Drug Policy

Cleary University, in compliance with Public Law 101-226 (Drug-Free Schools and Communities Act) presents the standards listed below to the entire University community: students, staff, faculty, and administration. These guidelines are intended to protect and serve each member of this community and to ensure that each member has a full understanding of the position of the University.

Drug Standards of Conduct

Cleary University expressly prohibits the possession, use, manufacture, or distribution of illegal substances or drug paraphernalia of any kind in any amount, or the possession, use, manufacture, or distribution of prescription drugs. Any person taking prescription drugs or over-the-counter medication is personally responsible for ensuring that while taking such drugs or medications, he or she is not a safety risk to themselves and others while on University property. It is illegal to misuse prescription medication, i.e. continue to use

medication when the prescription is no longer valid, use prescribed drugs contrary to the prescription, and give or sell prescribed drugs to another person. Students in violation of this policy may be jeopardizing their own well-being as well as the well-being of the University community.

Drug Sanctions

- In general, a student who violates this policy for the first time will be placed on probation. Discipline for a second offense will be more serious and may involve lengthening of probation, campus service, and/or revocation of on-campus residential privileges. Students should expect to be suspended for a third offense.
- Among those violations considered to be most serious is the manufacture, sale, or distribution of illegal drugs or prescription drugs. Any student involved in illegal drug use possession, or traffic should expect expulsion from the University.

- Students possessing, using, selling, or manufacturing illegal substances may also be subject to mandatory penalties prescribed by the state.

The Housing Manager & Student Life Coordinator (or another University administrator) may enter a room whenever there is reasonable cause to believe that someone's safety may be in jeopardy or that a violation of the drug policy is taking place.

It is the immediate obligation of those in the presence of a person suffering adverse consequences of using drugs to contact appropriate University or local medical or safety personnel (such as the Housing Manager & Student Life Coordinator, safety staff, Deans, or local police). In order to encourage calls for assistance, the University may offer leniency with respect to violations which may come to light as a result of such calls, depending on the circumstances involved.



TECHNOLOGY POLICIES

Social Media Guidelines

Social network sites such as Facebook, Twitter, and YouTube are exciting channels to share knowledge and accomplishments, express creativity, and connect with others. Cleary University supports participation in these on-line communities to further our branding messages. This policy addresses best practice guidelines to help employees and students use these forums effectively, protect personal and professional reputation, and to adhere to University policies.

When posting as an individual, faculty, staff, students, and alumni of Cleary University should:

- Protect confidential and proprietary information by not posting this type of information related to Cleary University, students, employees, or alumni. Students and employees are required to adhere to all applicable University privacy and confidentiality policies.
- Refrain from posting anything disparaging related to the University, any faculty or staff member, student, or other member of the school community (current or former). Particular concerns can be shared with the Senior Vice President, Institutional Advancement.
- Refrain from using the Cleary University logo or any other University images or iconography on personal social media sites. The use of Cleary University's name to promote a product, cause, or political party or candidate is prohibited.
- Maintain transparency. The line between professional and personal business is sometimes blurred. Be thoughtful about the content of postings and potential audiences. Honesty is important with regard to identity. Posts should be clear that they are from an individual and not a representative of the University.

- Exercise appropriate discretion when using social networks for personal communications (friends, colleagues, parents, former students, current students, etc.) and wall posts with the knowledge that what you publish on-line will be public for a long time.
- Refrain from reporting, speculating, discussing, or giving any opinions on University topics or personalities that could be considered sensitive, confidential, or disparaging.

When posting on behalf of Cleary University, faculty staff, and students of Cleary University should:

- Be accurate. Ensure that all facts are collected prior to a post. Verify information with a reputable source. Cite and link your sources whenever possible; it is a great way to build community.
- Seek permission. Written permission from the Office of Institutional Advancement is required prior to creating a social media account or Web site on behalf of the University. Only the use of the official version of the Cleary University logo is permitted.
- Be timely. Assign an administrator who can regularly monitor postings and content.
- Monitor comments. While comments

are welcomed and they are helpful in building credibility and community, it is advised that the site is set up to review and approve comments before they appear on the site. This allows timely response to comments as well as the ability to delete spam comments and to block any individuals who repeatedly post offensive or frivolous comments.

- Verify appropriateness. This can be accomplished by applying the publicity test. That is, is the content of the message acceptable for a face-to-face conversation, a telephone conversation, or another medium, or would it be appropriate for the message to be published in a newspaper or on a billboard (tomorrow or ten years from now)? If not, then the message would not be acceptable for a social networking site.

Students found to be in violation of these guidelines may be subject to disciplinary action, including, suspension or expulsion.

Student Email Policy

All students will be assigned a University email address and will be expected to read their email daily so they are kept informed of current University events, dates for submitting materials, etc. It is the student's responsibility to be aware of and to read all University correspondence sent to the student's University email address by Cleary University faculty and administration.

All student email accounts will be managed in the following manner:

- The format of the Cleary University student email addresses will be the student's first initial and up to the first ten characters of his/her last name and the last three digits of his/her student identification number. All student email addresses will be created in the my.cleary.edu domain. Non-alphabetic

characters will be removed from the name of the student when the account is created.

- Automated forwarding of email to external email addresses is allowed; however, the University does not guarantee delivery to personal email addresses.
- In the event the student fails to register for classes or otherwise ceases to be a registered student of the University, the email account will be kept active for a period of six months following the end of his/her last class.
- Upon graduation, student email accounts will convert to alumni accounts. Alumni accounts can be removed at the request of the student/alumni.

The University will not release the email addresses of any students for marketing purposes. Any use of the email system for non-academic purposes by faculty, staff, or students is prohibited. Use of the student email is subject to all other Cleary University policies, including the Technology Acceptable Use policy and all applicable laws regarding copyrights and file sharing.

Technology Acceptable Use Policy

Cleary University provides computers and networks to further its academic mission. The computers and networks of the University are a shared resource designed to meet the needs of students, faculty, and staff. All users of these resources must consider their role and usage of these systems in the context of all other users. Faculty, staff, and students are prohibited from encouraging or requiring others to violate this policy.

This policy governs student, faculty, staff, and all other use of Cleary University computers, networks Web sites, classroom audio-visual media, and related equipment. Use of University technology facilities constitutes

agreement to comply with this policy. Violation of this policy may result in removal of user privileges, reimbursement to the University for damaged property, dismissal, and/or termination. The Information Technology Department (ITD) of Cleary University maintains this policy and monitors compliance in conjunction with the Deans, Academic Services Department, and the Human Resources Department. The provisions of the Technology Acceptable Use Policy follow:

1. Users may not use the University's computers, software, network, or Web site for purposes other than those intended by the University in pursuit of its educational mission. Reasonable personal use of these facilities is permitted. They may not be used to pursue the activities of any business or organization other than Cleary University.
2. All Users must respect the privacy and usage privileges of others, both on the Cleary University campus and at all sites reachable by Cleary University's external network connections.
 - Users shall not intentionally seek information on, obtain copies of, or modify files, other data, or passwords belonging to other Users, whether on the Cleary University campus or elsewhere, or develop or retain programs for that purpose, without the authorization of the file owner or Chief Information Officer. Reasonable file copying (e.g., in back-ups) and password changes are permitted among the routine tasks of System Managers and of appropriately authorized Facility Staff.
 - Users shall not represent themselves electronically as others, either on the Cleary University campus or elsewhere, unless explicitly authorized to do so by those other Users. To be valid, such authorization of one User by another User must not circumvent established, system-specific policies defining eligibility for resource access.
3. All Users must respect the integrity of computing systems and networks, both on the Cleary University campus and at all sites reachable by Cleary University's external network connections.
 - Users shall not by any means attempt to infiltrate (e.g., gain access without proper authorization) a computing system or network, either on the Cleary University campus or elsewhere.
 - Users shall not attempt to damage or alter without proper authorization from the System Sponsor, either the hardware or the software components of a computing system or network, either on the Cleary University campus or elsewhere.
4. All users of Cleary University computers and networks also agree to comply with the terms of the Merit Network, Inc., acceptable use policy http://www.merit.edu/policies/acceptable_use.php
5. Users are prohibited from the malicious use of technology to disrupt the use of technology by others, to harass or discriminate against others, and to infiltrate unauthorized computer systems. Illegal activities are strictly forbidden.
6. Users of the Internet on University-owned equipment are not permitted to locate,

view, print, or download pornographic material, inappropriate files, or files dangerous to the integrity of the University's network, equipment, or software.

7. Users must adhere to copyright laws as may be applicable in the use of hardware and software and in the transmission of copyrighted text or files on the Internet or from other resources.
8. All software installed on University computers must have an appropriate license owned by Cleary University and provided to the ITD. Microsoft Office Suite is the software standard supported and provided by the University. The ITD must be notified before installing any other software on a University-owned computer. Student copies of software purchased for a class may only be installed in the student computing lab under the direction of the instructor.
9. Users may not change, add to, or in any way alter the operating system or software configuration on a University-owned computer.
10. Passwords are the property of the User and are not to be used by anyone else.
11. Users must use and are not allowed to circumvent University virus-scanning software.
12. Cleary email Users may be asked by the ITD to discontinue using the cleary.edu address for subscriptions to a discussion forum or news group that causes large volumes of e-mail traffic on University servers.
13. All Users of Cleary University property are expected to take reasonable care to protect it from loss or damage. Intentional damage, misuse, or careless disregard for the safeguarding of University property is prohibited.
14. All students, faculty, and staff agree to comply with the acceptable use policies of Cleary University's vendors, partners, and affiliates.

15. All persons are expected to abide by the generally accepted rules of e-mail etiquette.

These include, but are not limited to, the following:

- Be polite. Do not be abusive in your messages to others.
- Use appropriate language. Do not swear, use vulgarities, or use any other inappropriate language.
- Do not reveal your personal address or phone number, or those of students or colleagues.
- Do not send unsolicited e-mail that would be considered unwanted by a recipient.
- All e-mail is considered private, but e-mail messages may be used as evidence in the event of litigation arising out of possible illegal activities.

Telephone Usage

The use of telephones is necessarily restricted to business purposes. Personal use and incoming calls should be limited to emergencies and urgent matters. Personal long-distance calls charged to the University are not permitted. Additionally, the use of cell phones during class is prohibited.

CLEARY UNIVERSITY OMBUDSMAN

The role of the Ombudsman is to provide assistance to students, faculty, and staff in identifying and evaluating their options for resolving and managing conflicts, provide mediation support, and make referrals to other appropriate university and community resources.

The Ombudsman provides a completely confidential, independent and neutral dispute resolution service for all members of the university community.

In the event of an emergency, the Ombudsman is the main contact between the student, the student's family and the University. When a student emergency exists, the Ombudsman has the responsibility for notifying the student's instructors, and for contacting family members and other appropriate personnel.

The Ombudsman may advise an individual on how to make an official complaint to the University about a particular problem. They may also identify problem and conflict areas within the University and recommend improvements to the University leadership.

Conflict Management Process

As an institution committed to continuous improvement, Cleary University takes the concerns of its students seriously. Accordingly, the university follows a process through which complaints may be submitted for investigation and resolution.

A complaint is defined as: Communication from a student or other stakeholder alleging the university or its employees acted in one or more of the following ways:

1. Failure to follow established university policies, processes, or procedures
2. Discourteous or dismissive treatment of an

individual or group

3. Other conduct/communication deemed unreasonable, unethical, or unprofessional in nature

Students should not view this complaint process as the first step in solving problems. It is almost always better for a student to work directly with the involved individual(s) and/or department(s) to resolve an issue. Use of this form should be reserved for problems that have not been satisfactorily resolved, or for problems that seem to re-occur. All complaints must be submitted using the below online form.

Anonymous submissions will be accepted. Those submitting anonymous complaints must understand that anonymity can impede the university's ability to fully investigate the concern. Those submitting anonymous complaints will not receive specific feedback and status reports.

Individuals who provide their names will receive acknowledgment of a form's submission within two business days. An investigation status report will be sent via e-mail to the student within five business days. Unless extenuating circumstances warrant, a final resolution report will be sent via e-mail to the student no later than ten business days from the date the complaint was received.

Report a complaint to the Ombudsman

Students need to first attempt to resolve their conflicts with faculty, staff, or other students directly or through the university ombudsman before a formal complaint is filed with an outside agency. Students do have the right to file a complaint with the university's accreditor and state regulator.

Student Appeals Policy

Students at Cleary University are permitted to appeal decisions using the various appeal processes by submitting an appeal in writing to the student ombudsman. All civil rights complaints and appeals are handled by the department of human resources.

Policy Statement

Students at Cleary University shall have a right to appeal decisions by submitting an appeal in writing to the student ombudsman within the timeline of the applicable procedure.

Student Record Appeals: Students may dispute the accuracy of registration transactions, transfer evaluation, articulated credit, residency charges, and other matters involving student records, within one semester following the course or action that is being disputed. The student must first try to reach a solution with the registrar. If a resolution cannot be reached, the student may submit an appeal to the student ombudsman using the non-academic appeal form.

Financial Aid Exception Appeals: Cleary University adheres to federal, state, lender and third party payer requirements regarding financial aid eligibility and amounts. In areas that may be subject to professional judgment (i.e., according to the financial aid appeal policy), an appeal may be submitted to the Student Ombudsman using the financial aid appeal form before the mid-point of the semester in which the student is requesting to

receive funds.

Billing and Contract Appeals: Disputes regarding bills and contracts must first be addressed with the University business office one semester following the charge in question. If a resolution cannot be reached, the student may submit an appeal to the student ombudsman using the non-academic appeal form.

Student Academic Complaints and Appeals: Students may dispute classroom-related matters (i.e., grades) within four weeks of the semester following the class end date. The student must have a formal meeting with their instructor to address the concern, as stated in the academic complaint process. If a resolution cannot be reached, the student may submit an appeal to the student ombudsman using the academic appeal form.

Student Disciplinary Appeals: Actions involving student discipline are handled in accordance with the student judicial process. Students who wish to appeal a disciplinary decision may submit an appeal to the student ombudsman using the non-academic appeal form.

Ombudsman Resources

Student Success Center

The Student Success Center (SSC) at Cleary University's Howell Campus is here to help you succeed in your University studies both academically and personally. SSC offers a variety of services including free tutoring for enrolled students in our drop-in learning lab, the Writing Center, special software, free workshops, accommodations for students with documented disabilities, mental health referrals, and special events.

Contact the Student Success Center at studentsuccesscenter@cleary.edu.

Academic Advising

Academic advisors will work to build relationships with students, enable them to develop academic skills, encourage them to explore their strengths, and create goals to advance their careers. Our proactive advising model will help identify academic challenges prior to the occurrence of problems.

Contact Academic Advising at studentsuccesscenter@cleary.edu.

Tutoring

Want to be a tutor? Need a tutor? Help is available. **Click here.**

Disability Services

Disability Serves assists and advocates on behalf of individuals and families who deal with the effects of disease and disabilities.

Contact Disability Services at disabilityservices@cleary.edu.

Counseling

Confidential mental health and relational counseling for students of the Livingston Campus community are provided free of charge. A Licensed Professional Counselor (LPC) staffs the Cleary University Counseling Office. Additional services provided are counseling assessment, crisis intervention, referrals, and one-on-one, group, and relationship counseling.

Contact counseling@cleary.edu

Community Resources

LACASA empowers survivors of domestic and sexual violence by providing shelter, services, programs, and counseling. **Click here.**

Community Mental Health Services of Livingston County:

CMHSLC provides emergency services, assessment, health and medication services,

client services management, individual and group therapy, assertive community treatment, older adult services, respite, substance abuse services, community supported living, wrap-around and psychosocial rehabilitation.

Our staff includes trained and licensed social workers; psychologists; psychiatrists; occupational, physical, and speech therapists; nurses; support staff; administrators and others who maintain professional licensure or certification as required by law.

<http://www.cmhliv.org/index.htm>

Livingston County United Way:

Livingston County United Way brings people together to build stronger communities and improve lives.

<https://lcunitedway.org>

Gleaners:

Gleaners exist to provide households with access to sufficient, nutritious food, and related resources.

They accomplish this through collaboration, efficient operations, education, and innovative solutions to achieve a hunger-free community in southeast Michigan.

<https://www.gcfb.org/>

Livingston County Sheriff's Department

<https://www.livgov.com/sheriff/Pages/About.aspx>

TITLE IX SEXUAL HARASSMENT POLICY

Revised 8-12-2020

Cleary University is committed to maintaining an environment conducive to learning for all students and a professional workplace for its employees that are free from offensive and unwelcome conduct, actions and words directed at anyone, but especially because of one's membership in a protected class. Cleary University prohibits discrimination, discriminatory harassment, and sexual harassment, including sexual violence and any type of sexual misconduct. Cleary University prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking (as defined by the Clery Act/Violence Against Women Act). This policy also prohibits retaliation against a person who reports, complains about, or who otherwise participates in good faith in any matter related to this policy.

This policy applies to all Cleary University administrators, faculty, staff, and students and all forms of prohibited conduct under this policy are regarded as serious University offenses, and violations may result in disciplinary sanctions, including the possibility of separation from the University. Persons engaged in prohibited conduct may also be subject to criminal and civil procedures at state and/or federal levels independent of any disciplinary action instituted by Cleary University.

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access our educational programs and opportunities.

This policy prohibits all forms of harassment and discrimination under Title IX of the Education Amendments of 1972, 2020 Title IX Regulations (34 CFR § 106), Section 304 of the Violence Against Women Reauthorization Act

of 2013 (VAWA), Title VII of the Civil Rights Act of 1964, and other applicable statutes, including the Elliott-Larsen Civil Rights Act, Michigan PA 453 of 1976. This policy prohibits a broad continuum of behaviors, some of which are not legally prohibited but which reflect Cleary University's standards and expectations for a positive working and learning environment.

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972 that:

- Defines the meaning of "sexual harassment" (including forms of sex-based violence)
- Addresses how this institution must respond to reports of misconduct falling within that definition of sexual harassment, and
- Mandates a grievance process that this institution must follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment.

See, 85 Fed. Reg. 30026 (May 19, 2020). The full text of the Final Rule and its extensive Preamble are available here:

<http://bit.ly/TitleIXReg>

This Title IX Sexual Harassment policy is based on definitions set forth in regulations promulgated by the U.S. Department of Education under Title IX of the Education Amendments Act of 1972, and this policy limits the scope of

Title IX Sexual Harassment to, among other things, conduct that occurs within the United States and conduct that occurs within the University's education program or activity (a concept further defined and discussed below).

The University will not deprive an individual of rights guaranteed under federal and state law (or federal and state anti-discrimination provisions; or federal and state law prohibiting discrimination on the basis of sex) when responding to any claim of Title IX Sexual Harassment.

In recent years, "Title IX" cases have become a shorthand for any campus disciplinary process involving sex discrimination, including those arising from sexual harassment and sexual assault. Yet under the Final Rule, Cleary University must narrow both the geographic scope of its authority to act under Title IX and the types of "sexual harassment" that it must subject to its Title IX investigation and adjudication process. Only incidents falling within the Final Rule's definition of sexual harassment will be investigated and, if appropriate, brought to a live hearing through the Title IX Grievance Procedures (below).

Cleary University remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Final Rule.

Specifically, our campus has a separate Student Code of Conduct Policy, located at <http://www.cleary.edu/operational-policies>, and the Anti-Harassment Policy, beginning on page 20 of the Cleary University Employee Handbook, that addresses the types of sex-based offenses constituting a violation of campus policy. To the extent that alleged

misconduct falls outside the Title IX Sexual Harassment Policy, or misconduct falling outside the Title IX Sexual Harassment Policy is discovered in the course of investigating covered Title IX misconduct, the institution retains authority to investigate and adjudicate the allegations under the policies and procedures defined within the Student Code of Conduct Policy through a separate grievance proceeding. Student appeals to disciplinary action outside of the Title IX Sexual Harassment Policy take place through the Student Ombudsmen as detailed beginning on page 35 of Cleary University's 2020-21 Academic Catalog.

The elements established in the Title IX Sexual Harassment Policy under the Final Rule have no effect and are not transferable to any other policy of the University for any violation of the Student Code of Conduct, employment policies, or any civil rights violation except as narrowly defined in this Policy. This Policy does not set a precedent for other policies or processes of the University and may not be cited for or against any right or aspect of any other policy or process.

Effective Date

The Title IX Grievance Policy will become effective on August 14, 2020 and will only apply to sexual harassment alleged to have occurred on or after August 14, 2020. Incidents of sexual harassment alleged to have occurred before August 14, 2020, will be investigated and adjudicated according to the process in place at the time the incident allegedly occurred.

Revocation by Operation of Law

Should any portion of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require the elements of this policy, this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the

process that occur after that date if a case is not complete by that date of opinion or order publication. Should the Title IX Grievance Policy be revoked in this manner,

any conduct covered under the Title IX Grievance Policy shall be investigated and adjudicated under the existing Sexual Misconduct Policy.

Non-Discrimination in Application

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

Privacy vs. Confidentiality

References made to confidentiality refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or university officials without permission, except for extreme circumstances, such as a health and/or safety, emergency or child abuse.

References made to privacy mean Cleary University officers and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. Cleary University will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

Disability Accommodations

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Process that do not fundamentally alter the Process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

Title IX Coordinator

Under Title IX: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. The Title IX Coordinator is charged with monitoring the university's compliance with Title IX; ensuring appropriate education and training; coordinating the university's investigation, response, and resolution of all reports under this policy; and ensuring appropriate actions to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. The Title IX Coordinator is available to meet with any student, employee, or third party to discuss these procedures.

The Dean of Academic Operations and the Associate Dean of Students serve as Cleary University's Title IX Coordinators. The Title IX Coordinator is responsible for coordinating the University's compliance with Title IX, the 2013 Amendments to the Violence Against Women Act (VAWA) and the University's conduct policies related to sexual misconduct.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to

be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinators, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

CONTACT INFORMATION FOR THE TITLE IX COORDINATORS

Sara Barnwell

Dean of Academic Operations/Title IX Coordinator

Email: sbarnwell@cleary.edu

Telephone: 800-686-1883 x1601

Matt Oliver

Associate Dean of Students/Title IX Coordinator

Email: moliver@cleary.edu

Telephone: 800-686-1883 x1456

Erica Smith

Human Resources Generalist

Email: esmith@cleary.edu

Telephone: 800-686-1883 x1203

Such a report may be made at any time (including during non-business hours) by using the telephone numbers or electronic mail addresses, or by mail to the office addresses listed above for the Title IX Coordinators.

DEFINITIONS

Complainant means any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this policy.

Consent is an affirmative decision to engage willingly in mutually acceptable sexual activity given by clear words or actions. Consent must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard or being asleep or unconscious.

Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act) includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.

Domestic violence (as defined in the VAWA amendments to the Clery Act) includes any felony or misdemeanor crimes of violence

committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under Michigan domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Michigan.

Education Program or Activity is any Cleary University educational program or activity on any on-campus premises, any off-campus premises that Cleary University has substantial control over. This includes buildings or property owned or controlled by a recognized student organization and/or an activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of Cleary University's programs and activities over which the University has substantial control.

Fondling is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Formal Complaint, for the purposes of this Title IX Grievance Policy, means a document - including an electronic submission - filed by a complainant with a signature or other indication that the complainant is the person filing the formal complaint, or signed by the Title IX Coordinator, alleging sexual harassment against a respondent about conduct within Cleary University's education program or activity and requesting initiation of the

procedures consistent with the Title IX Sexual Harassment Policy to investigate the allegation of sexual harassment. Cleary University's Formal Title IX Complaint Form is Appendix I of this document.

Incapacitation is the inability to make informed, rational judgments and decisions. If alcohol or drugs are involved, incapacitation may be assessed by evaluating how the substance has affected a person's decision-making capacity, awareness, and ability to make informed judgments. The impact of alcohol and drugs varies from person to person; however, warning signs of possible incapacitation include slurred speech, unsteady gait, impaired coordination, inability to perform personal tasks such as undressing, inability to maintain eye contact, vomiting, and emotional volatility. The perspective of a reasonable person will be considered in the University's determination of whether a person knew, or reasonably should have known under the circumstances, whether the other party was incapacitated. Being intoxicated or incapacitated does not diminish one's responsibility to obtain consent and will not be an excuse for sexual misconduct.

Incest is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Preponderance of the evidence standard means that a decision of responsibility for a policy violation will be made on whether it is more likely than not that the respondent violated the policy on the totality of information gathered during the investigation.

Quid Pro Quo Sexual Harassment: An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.

Rape is defined as the penetration, no matter how slight, of the vagina or anus with any body

part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Statutory Rape is defined as sexual intercourse with a person who is under the statutory age of consent.

Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to--

(A) fear for their safety or the safety of others; or

(B) suffer substantial emotional distress.

Relevant evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true. "Relevant" evidence and questions do not include the following types of evidence and questions, which are deemed "irrelevant" at all stages of the Title IX Grievance Process:

1. Evidence and questions about the complainant's sexual predisposition or prior sexual behavior unless:
 - They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
 - They concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. 34 C.F.R. § 106.45(6)(i).
2. Evidence and questions that constitute, or seek disclosure of, information protected under a legally recognized privilege.
3. Any party's medical, psychological, and similar records unless the party has given voluntary, written consent. 85 Fed. Reg. 30026, 30294 (May 19, 2020).

Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment as defined under this policy.

Sexual Assault is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes and/or genders.

Title IX Sexual Harassment is unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies an individual equal access to the University's athletic program or activity or education program or activity.

Making a Report Regarding Covered Sexual Harassment to Cleary University

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

At Cleary University, all faculty, staff and employees are considered 'responsible employees.' A responsible employee is required to report all instances of suspected Title IX Sexual Harassment violations to a Title IX Coordinator. Responsible employees should not investigate the claims, responsibility ends with Title IX Coordinator communication.

Only employees considered confidential are exempt from this policy and detailed below.

Prohibited Conduct Under Title IX

1. Sexual Assault: having or attempting to have sexual intercourse or sexual contact with another individual by force or threat of force, without consent, or where the person is incapacitated, as defined below:
 - a. Sexual Contact: any intentional sexual touching, however slight, with any object or body part, performed by a person upon another person, and includes:
 - i. Intentional touching of the breasts, buttocks, groin or genitals, whether clothed or unclothed, or intentionally touching another with any of these body parts;
 - ii. Making another touch you or themselves with or on any of these body parts;
 - iii. Causing another to touch one's intimate parts, disrobing or exposure of another without permission.
 - b. Sexual Intercourse: vaginal or anal penetration, however slight, with any object or body part, performed by a person upon another person; and/or oral penetration involving mouth to genital contact, and includes:
 - i. Vaginal penetration by a penis, object, tongue, or finger;
 - ii. Anal penetration by a penis, object, tongue, or finger;
 - iii. Any contact, no matter how slight, between the mouth of one person and the genitalia of another person.
2. Intimate Partner Violence: any act of Domestic Violence or Dating Violence as defined below:
 - a. Domestic Violence: any act of violence

committed by any of the following individuals: (1) a current or former spouse or intimate partner of the victim; (2) person with whom the victim shares a child in common; (3) person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; and/or, (4) a resident or former resident of the victim's household in the event such household residents have a current or prior intimate relationship.

- i. An incident of domestic violence can consist of a single act of violence or a pattern of violent acts that includes, but is not limited to, sexual or physical abuse, or the threat to engage in such abuse.
- b. Dating Violence: any act of violence committed by a person who is, or has been, in a social relationship of a romantic or intimate nature with the victim that does not fall within the definition of "domestic violence."
 - i. Dating violence includes, but is not limited to, sexual or physical abuse or assault or the threat of such abuse or assault.
 - ii. For the purposes of determining Intimate Partner Violence, whether the relationship is of a romantic or intimate nature is determined by a variety of factors, including: (a) the length of the relationship, (b) the type of relationship, and (c) the frequency of interaction between the persons involved in the relationship.
 - iii. A relationship of a romantic or intimate nature means a relationship that is characterized by the expectation of affection or sexual involvement between the parties.
 - iv. An incident of dating violence can consist of a single act of violence or a pattern of violent acts that includes,

but is not limited to, sexual or physical abuse, or the threat to engage in such abuse.

3. Stalking: when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear bodily injury or to experience substantial emotional distress.
 - a. Course of conduct means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.
 - b. Reasonable person means a reasonable person under similar circumstances.
 - c. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
 - d. Stalking includes "cyber-stalking," a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact. This policy prohibits all stalking, not just stalking that occurs within the context of a relationship.
4. Sexual Exploitation: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited. Examples include, but are not limited to:
 - a. Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent (as defined in this policy) to sexual activity;

- b. Allowing third parties to observe private sexual activity from a (a) hidden location (e.g., closet), or (b) through electronic means (e.g., Skype or live streaming of images);
 - c. Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing another person's intimate parts (including genitalia, groin, breasts or buttocks) in a place where that person would have a reasonable expectation of privacy);
 - d. Recording or photographing private sexual activity and/or a person's intimate parts (including genitalia, groin, breasts or buttocks) without consent;
 - e. Disseminating or posting images of private sexual activity and/or a person's intimate parts (including genitalia, groin, breasts or buttocks) without consent;
 - f. Knowingly exposing another person to a sexually transmitted infection or virus without the other's knowledge;
 - g. Arranging for others to have non-consensual sexual contact, as defined by this policy, with a non-consenting person.
5. Sexual Harassment: unwelcome or unwanted conduct of a sexual nature whether verbal or nonverbal, graphic, physical or otherwise, where Quid Pro Quo is present and/or rises to the level of creating a Hostile Environment.
6. Gender-Based Harassment: unwelcome or unwanted conduct based on gender, sexual orientation, transgender, gender non-conforming, transitioning, gender identity, or gender expression that may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, where Quid Pro Quo is present and/or rises to the level of creating a Hostile Environment.
- a. Transgender is an umbrella term that can be used to describe people whose gender identity and/or expression is different from their sex assigned at birth.
 - b. Gender non-conforming describes people who have, or are perceived to have, gender characteristics and/or behaviors that do not conform to traditional or societal expectations.
 - c. Transition/Transitioning is the process of changing one's gender from the sex assigned at birth to one's gender identity.
 - d. Gender Identity is a personal, internal sense of oneself as, for example, male, female, both, or neither.
 - e. Gender Expression is the external appearance of one's gender identity, or how one represents one's gender through hair style, clothing, mannerisms, etc.
7. Discriminatory Harassment: conduct on the basis of that person's actual or perceived membership in one or more of the protected classes listed below, that could reasonably be understood as having the purpose or effect of creating an intimidating, hostile, or offensive environment; having the purpose or effect of unreasonably interfering with an individual's work performance or access to educational activities and programs; adversely affecting an individual's employment opportunities or access to educational activities and programs.
 - a. Protected Classes are age, color, disability, familial status, gender, gender expression, gender identity, gender non-conforming, height, marital status, national origin, political affiliation, race, religion, sex, sexual orientation, transgender, transitioning, veteran or active duty military status, or weight.
8. Retaliation: taking or attempting 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: reported an incident of prohibited conduct under this policy, participated in a grievance process related to this policy, supported an impacted party, assisted in providing information relevant to an investigation, and/or acted 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 Coordinator and will be promptly investigated. Cleary University will take all appropriate and available steps to protect individuals who are concerned that they may be subjected to retaliation.

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

a. Retaliation under Title IX also includes:

Charges against an individual for 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.

Charging an individual with a 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.

9. Title IX and Sexual Misconduct

a. Title IX defines sexual harassment as conduct on the basis of sex that satisfies one or more of the following:

- i. An employee of Cleary University conditioning the provision of aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
- ii. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Cleary University's education programs or activities; or
- iii. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v) (forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Sexual Assault Amnesty

The health and safety of every student and employee at Cleary University is of utmost importance. The University recognizes that students who have been drinking and/or using drugs (whether use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs, may be hesitant to report such incidents due to fear of potential consequences for their own conduct.

Cleary University strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to University officials.

A bystander acting in good faith or a reporting individual (complainant) acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to University officials and/or law enforcement will not be subject to the University's code of conduct action for

violations or alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

Anonymous Reporting

Anonymous reports may be submitted however, the nature of anonymity makes responsive actions more difficult and, at times, impossible.

Confidential Reporting

The following Officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited under this policy:

- Title IX Coordinators or designees

The following personnel may provide confidentiality:

- Michael Barnes, Cleary University Legal Counsel
- Andrew Chamberlin, Cleary University Licensed Counselor, 800-686-1883 x1455

Consistent with the definition of confidential employees and licensed community professionals, there are a number of resources within the university and local communities where students and employees can obtain confidential, trauma-informed counseling and support. Community resources include:

- YWCA Flint, 801 S. Saginaw Street, Flint MI, 24- hour confidential crisis line (810) 238-7233
- LACASA, 2895 W. Grand River Avenue, Howell MI, 24-hour confidential crisis line (866) 522-2725
- National hotlines

1. Rape, Abuse and Incest National Network (RAINN) (800) 656- HOPE
2. National Center for Victims of Crime Victim

Service (800) FYI-CALL or (800) 211-7996 (TTY/TDD).

Employees can also obtain counseling through the Lincoln Employee Assistance Program (888) 628-4824.

False Reports

Cleary University takes the accuracy of information very seriously, as a report of prohibited conduct may have severe consequences. A good-faith complaint that results in a finding of 'not responsible' is not considered a false or fabricated report of prohibited conduct. However, when a Complainant or third-party witness is found to have fabricated allegations or given false information with malicious intent or in bad faith, the Complainant may be subject to disciplinary action.

Supportive Measures

Complainants (as defined above), who report allegations that could constitute covered sexual harassment under this policy, have the right to receive supportive measures from Cleary University regardless of whether they desire to file a complaint. These measures may include:

- Assisting with accessing other available victim advocacy, academic support, alternative instruction, counseling, disability, health or mental health services;
- Providing security and support, transportation assistance, campus escort services, increased security and monitoring of certain areas of the campus;
- Issuing, helping arrange a change of living or working arrangements or course schedules or adjustments for assignments or tests; and leaves of absence;
- Informing of the right to report a crime to local law enforcement and assisting with the reporting;
- And other assistance if requested and

reasonably available.

Supportive measures are non-disciplinary and non-punitive.

Emergency Removal

Cleary University retains the authority to remove a respondent from the University's program or activity on an emergency basis, where the University (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies a removal.

If Cleary University determines such removal is necessary, the respondent will be provided notice and an opportunity to challenge the decision immediately following the removal. This challenge will be directed toward the Student Ombudsman and be will be handled in the same manner as a non-academic Student Disciplinary Appeal as detailed in Cleary University's 2020-21 Academic Catalog. The office of the Student Ombudsman handling anonymous complaints and appeals can be reached as follows:

Student Ombudsman

Phone: (800) 686-1883 ext. 1252

Email: studentconcerns@cleary.edu

Website: <https://www.cleary.edu/ombudsman/>

Administrative Leave

Cleary University retains the authority to place a non-student employee respondent on administrative leave during the Title IX Grievance Process.

General Expectations for Complainants and Respondents

Pursuant to these procedures, complainants and respondents can expect:

1. Prompt and equitable resolution of allega-

tions of prohibited conduct;

2. Privacy in accordance with the policy and any legal requirements;
3. Reasonably available interim remedial measures, as described in these procedures;
4. Freedom from retaliation for making a good faith report of prohibited conduct or participating in any proceeding under the policy; [see Sexual Harassment policy for definition of retaliation]
5. The responsibility to refrain from retaliation directed against any person for making a good faith report of prohibited conduct or participating in any proceeding under the policy;
6. The responsibility to provide truthful information in connection with any report, investigation, or resolution of prohibited conduct under the policy or these procedures;
7. The opportunity to articulate concerns or issues about proceedings under the policy and these procedures;
8. Timely notice of any meeting at which the party's presence is contemplated by these procedures;
9. The opportunity to choose an advisor, including the right to have that advisor attend any meeting at which the party's presence is contemplated by these procedures, including cross examination hearings;
10. Written notice of an investigation, including notice of potential policy violation(s);
11. The opportunity to offer information, present evidence, and identify witnesses during an investigation;
12. The opportunity to be notified, orally and/or in writing, as to the determination of a policy violation and the imposition of any sanction(s);
13. Timely and equal access to any information

that will be used during resolution and related meetings;

14. Reasonable time to prepare any response contemplated by these procedures;
15. Written notice of any extension of time-frames for extenuating circumstances; and
16. Written notice of the outcome of any determination of a policy violation, imposition of any sanction(s), and the rationale for each.

Grievance Procedures for Title IX Sexual Harassment Complaints

Initial Complaint and Assessment

Upon receipt of a report of prohibited conduct, received orally or written, the Title IX Coordinator will make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report. This initial assessment will complete the following:

1. Assess the complainant's safety and well-being and offer the university's immediate support and assistance;
2. Inform the complainant of the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence;
3. Inform the complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
4. Inform the complainant about university and community resources, the right to seek appropriate and available remedial and protective measures, and how to request those resources and measures;
5. Inform the complainant of the right to seek university investigation and resolution under these procedures; ascertain the complainant's expressed preference (if the complainant has, at the time of the initial

assessment, expressed a preference) for pursuing university investigation and resolution; and discuss with the complainant any concerns or barriers to participating in any University investigation and resolution under these procedures;

6. Explain the university's prohibition against retaliation and that the university will take prompt action in response to any act of retaliation;
7. Assess the nature and circumstances of the report, including whether it provides the names and/or any other information that personally identifies the complainant, the respondent, any witness, and/or any other third party with knowledge of the reported incident;
8. Ascertain the ages of the complainant and the respondent, if known, and, if either of the parties is a minor (under 18), contact the appropriate child protective service agency; and
9. Communicate with appropriate university officials to determine whether the report triggers any Clery Act obligations; including entry of the report in the daily crime log and/or issuance of a timely warning and take steps to meet those obligations.

The Title IX Coordinator will ensure that the complainant receives a written explanation of all available resources and options and is offered the opportunity to meet to discuss those resources and options. When a decision is reached to initiate an investigation or to take any other action under these procedures that impacts a respondent (including the imposition of interim protective measures), the Title IX Coordinator will ensure that the respondent is notified, receives a written explanation of all available resources and options, and is offered the opportunity to meet to discuss those resources and options.

Filing a Formal Complaint

After the initial complaint, the timeframe for the Title IX Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) calendar days after the filing of the Formal Complaint, provided that the Process may be extended due to extenuating circumstances, including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged utilizing the Cleary University Title IX Complaint Form. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of Cleary University, including as an employee. For complainants who do not meet these criteria, the University will utilize existing policy in the Anti-Harassment Policy located in the Cleary University Employee Handbook.

If a complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine if a Formal Complaint is necessary. Cleary University will inform the complainant of this decision in writing, and the complainant need not participate in the process further but will receive all required notices issued under this Policy and Procedure.

Nothing in the Title IX Sexual Harassment Policy or the Anti-Harassment Policy or the Student Code of Conduct prevents a complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

Notice of Allegations

The Title IX Coordinator will draft and provide the Notice of Allegations to any party to the allegations of sexual harassment. Such notice will occur as soon as practicable, but no more than five (5) days after the institution receives a Formal Complaint of the allegations if there are no extenuating circumstances. The Title IX Coordinator will promptly inform the complainant of any action(s) undertaken by the university to respond to reported prohibited conduct, including the decision to proceed with an investigation. The Title IX Coordinator also will promptly inform the respondent of any action(s) (including any interim protective measures) that will directly impact the respondent and provide an opportunity for the respondent to respond to such action(s). The Title IX Coordinator retains the discretion to impose and/or modify any interim protective measures based on all available information. Interim protective measures will remain in effect until the resolution, unless new circumstances arise which warrant reconsideration of the protective measures.

The parties will be notified by their Cleary University email accounts if they are a student or employee, and by other reasonable means if they are neither.

The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator or designee may determine that the Formal Complaint must be dismissed on the mandatory grounds identified below and will issue a Notice of Dismissal. If such a determination is made, any party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations.

Contents of Notice

The Notice of Allegations will include the following:

- Notice of the institution's Title IX Grievance Process including any informal resolution process.
- Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, as required under 34 C.F.R. § 106.45(b)(5)(iv);
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source, as required under 34 C.F.R. § 106.45(b)(5)(vi);

A statement that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

Health and Safety Concerns

The Title IX Coordinator will determine whether the reported information and any other available information provides a rational basis for concluding that there is a threat to the health and/or safety of the complainant and/or to any other member of the university community. This determination is based upon a review of the totality of the known circumstances, and will be guided by a consideration of the following factors:

- Whether the respondent has prior arrests, is the subject of prior reports and/or complaints related to any form of prohibited conduct, or has any history of violent behavior;
- Whether the respondent has a history of failing to comply with any university no-contact directive, other university protective measures, and/or any judicial protective order;
- Whether the respondent has threatened to commit violence or any form of prohibited conduct;
- Whether the prohibited conduct involved multiple respondents;
- Whether the prohibited conduct involved physical violence. Physical violence: means exerting control over another person through the use of physical force. Examples include hitting, slapping, kicking, restraining, strangling, brandishing or using any weapon;
- Whether the report reveals a pattern of prohibited conduct (i.e. by the respondent, by a particular group or organization, around a particular recurring event or activity, or at a particular location);
- Whether the prohibited conduct was facilitated through the use of rape facilitated drugs or similar drugs or intoxicants;

- Whether the prohibited conduct occurred while the complainant was unconscious, physically helpless or unaware that the prohibited conduct was occurring;
- Whether the complainant is (or was at the time of the prohibited conduct) a minor (under 18); and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.

Determining Jurisdiction

The Title IX Coordinator or designee will determine if the Title IX Grievance Process should apply to a Formal Complaint. The Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred in Cleary University's education program or activity; and
4. The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

If all of the elements are met, Cleary University will investigate the allegations according to the Grievance Process.

Informal Resolution

Parties who do not wish to proceed with an investigation and live hearing, and instead seek the University's assistance to resolve allegations of Title IX-covered misconduct, may elect to enter the informal resolution process. Generally speaking, these resolution options are less time intensive than an investigation and live hearing, while still affording students

an opportunity to actively participate in a process led by the University for the resolution of their complaints.

The Parties may elect to enter the University's informal resolution process at any time after the filing of the Formal Complaint through an informed written consent. This informed written consent will include all terms of the elected informal process, including a statement that any agreement reached through the process is binding on the Parties.

No Party may be required to participate in informal resolution, and the University may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.

The Parties may elect to leave the informal resolution process at any point until the informal resolution process is concluded. If a Party elects to leave the informal resolution process, the formal resolution process recommences. In participating in the informal resolution process, the Parties understand that the timeframes governing the formal process temporarily cease, and only recommence upon reentry into the formal process.

Even where the Parties agree to submit a matter to informal resolution, the Title IX Coordinator or other designated official may approve the decision to move the matter to the informal resolution process and may determine that informal resolution is not appropriate under the circumstances.

Factors that the Title IX Coordinator or other designated official may weigh in considering the appropriateness of the informal resolution process include, but are not limited to, the gravity of the allegations, whether there is an ongoing threat of harm or safety to the campus, whether the Respondent is a repeat offender, and whether the Parties are participating in good faith. This determination is not subject to appeal.

Informal resolution is only permitted to

address allegations of student-on-student sexual harassment and is never allowed as an option to resolve allegations that an employee sexually harassed a student. See, 85 Fed. Reg. 30026, 30054 (May 19, 2020).

At any time after the commencement of the informal resolution process, the Title IX Coordinator or other designated official may determine that the informal resolution process is not an appropriate method for resolving the matter, and may require that the matter be resolved through the formal process. This determination is not subject to appeal.

Role of the Facilitator

Informal resolution processes are managed by facilitators, who may not have a conflict of interest or bias in favor of or against complainants or respondents generally or regarding the specific Parties in the matter. The Title IX Coordinator may serve as the facilitator, subject to these restrictions.

All facilitators must have training in the definition of sexual harassment under 34 C.F.R. § 106.30(a), the scope of the institution's education program or activity, how to conduct informal resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, or bias.

Confidentiality

In entering the informal resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the Formal Complaint is confidential while the parties are participating in the informal resolution process. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent,

friend, advisor, or other source of emotional support, or with an advocacy organization. Should the Parties withdraw from the informal resolution process, information disclosed or obtained for purposes of the informal resolution process may be incorporated into the formal investigation and live hearing, provided that this information is disclosed and reviewed by the Parties under the investigatory and hearing procedures described in the Title IX Grievance Process.

Informal Resolution - Mediation

The purpose of mediation is for the parties who are in conflict to identify the implications of a student's actions and, with the assistance of a trained facilitator, identify points of agreement and appropriate remedies to address them. Either party can request mediation to seek resolution; mediation will be used only with the consent of both Parties, who will be asked not to contact one another during the process. The Title IX Coordinator will also review any request for mediation and may decline to mediate based on the facts and circumstances of the particular case. Either Party has the right to terminate the mediation process and choose or resume another option for resolution at any time.

The mediation process will typically commence within ten (10) days after the Office of Title IX receives consent to mediate from both Parties and will continue until concluded or terminated by either party or the Office of Title IX. During mediation, any potential investigation will halt, and calculations for time frames will be stayed. If the mediation results in a resolution, the disciplinary process will be concluded, and the matter will be closed. If a

resolution cannot be reached, the matter will be referred to the Title IX Coordinator or designee to re-evaluate other options for resolution, including investigation.

During mediation, a facilitator will guide a discussion between the parties. In circum-

stances where the Parties do not wish to meet face to face, either Party can request “caucus” mediation, and the facilitator will conduct separate meetings. Whether or not the Parties agree to meet face to face, each Party will be permitted to bring an advisor of their choice to any meetings who may be, but is not required to be, an attorney.

At the conclusion of the mediation, the facilitator will memorialize the agreement that was reached between the Parties. The Office of Title IX will monitor adherence to the proposed solution and close the matter when compliance is satisfactory.

Multi-Party Situations

The institution may consolidate Formal Complaints alleging covered sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of covered sexual harassment arise out of the same facts or circumstances.

Allegations Potentially Falling Under Two Policies

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied in the investigation and adjudication of all of the allegations.

Mandatory Dismissal

If any one of these jurisdictional elements are not met, the Title IX Coordinator or designee will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Sexual Harassment Policy, but may fall under another student-facing or employee-facing policy. Each party may appeal this dismissal using the procedure outlined in “Appeals,” below.

Discretionary Dismissal

The Title IX Coordinator or designee may dismiss a Formal Complaint brought under the Title IX Sexual Harassment Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint, or any allegations raised in the Formal Complaint;
- The respondent is no longer enrolled or employed by Cleary University; or,
- If specific circumstances prevent Cleary University from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any party may appeal a dismissal determination using the process set forth in “Appeals,” below.

Notice of Dismissal

Upon reaching a decision that the Formal Complaint will be dismissed, the institution will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties through their Cleary University email accounts. It is the responsibility of parties to maintain and regularly check their email accounts.

Notice of Removal

Upon dismissal for the purposes of Title IX, Cleary University retains discretion to utilize Student Code of Conduct or Anti-Harassment Policy to determine if a violation has occurred. If so, Cleary University will promptly send written notice of the dismissal of the Formal Complaint under the Title IX Grievance Process

and removal of the allegations to the conduct process.

Ongoing Notice

If, in the course of an investigation, the institution decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations and are otherwise covered “sexual harassment” falling within the Title IX Sexual Harassment Policy, the institution will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means.

The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

Student Groups and Organizations

If the Title IX Coordinator determines that a report of prohibited conduct reveals involvement of, or a pattern of behavior by, a particular student group or organization (e.g., special status organization, fraternity, club sport and/or athletic team), the Title IX Coordinator or designee may impose any appropriate remedial or protective measures contemplated by these procedures (e.g., training and/or prevention programs targeted to student members of the group or organization). The Title IX Coordinator or designee will also consult with relevant university officials regarding any appropriate University action directed at the student group or organization, including, but not limited to, modification, suspension or termination of the student group’s or organization’s agreement or status with the university.

Advisor of Choice and Participation of Advisor of Choice

Cleary University will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally.

The University has a long-standing practice of requiring students to participate in the process directly and not through an advocate or representative. Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, as consistent with the Final Rule, Advisors of Choice shall not participate directly in the process as per standard policy and practice of Cleary University.

Cleary University will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for all parties are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

Cleary’s obligations to investigate and adjudicate in a prompt timeframe under Title IX and other university policies apply to matters governed under this Policy, and the University cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee. The University will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of Choice, and may offer the party the opportunity to obtain a different Advisor of Choice or utilize one provided by the University.

Notice of Meetings and Interviews

Cleary University will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

Delays

Each party may request a one-time delay in the Grievance Process of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator or designee) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties.

For example, a request to take a five day pause made an hour before a hearing for which multiple parties and their advisors have traveled to and prepared for shall generally not be granted, while a request for a five day pause in the middle of investigation interviews to allow a party to obtain certain documentary evidence shall generally be granted.

The Title IX Coordinator or designee shall have sole judgment to grant further pauses in the Process.

Investigation

General Rules of Investigations

The University's designated Title IX Investigator will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations. All investigators will receive, at minimum, annual training on issues related to sex and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of complainants and the university community while promoting accountability.

Cleary University, and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of this Policy has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does

not shift the burden of proof away from the University and does not indicate responsibility.

Cleary University cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. The University will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.

The Title IX Coordinator (or designee) will notify the complainant and the respondent in writing of the commencement of an investigation. Such notice will (1) identify the complainant and the respondent; (2) specify the date, time (if known), location, and nature of the alleged prohibited conduct; (3) identify potential policy violation(s); (4) include information about the parties' respective expectations under the policy and these procedures; (5) explain the prohibition against retaliation; (6) instruct the parties to preserve any potentially relevant evidence in any format; and (7) provide a copy of the policy and these procedures. Upon notice of a potential Title IX violation, the respondent is presumed non-responsible.

The investigator may visit relevant sites or locations and record observations through written, photographic, or other means.

The investigator may consult medical, forensic, technological or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation. All experts must be impartial and free from bias or conflict of interest.

The investigator and/or Title IX Coordinator may contact any law enforcement agency that is conducting its own investigation to inform that agency that a university investigation is also in progress; to ascertain the status of the criminal investigation; and to determine

the extent to which any evidence collected by law enforcement may be available to the university in its investigation. At the request of law enforcement, the university may delay its investigation temporarily while an external law enforcement agency is gathering evidence. The university will promptly resume the investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.

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 prohibited conduct by the respondent, either before or after the incident in question, regardless of whether there has been a prior finding or a policy violation, may be deemed relevant to substantiate the behavior that was the subject of the complaint. 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 prohibited conduct. Such prior or subsequent conduct may also constitute a violation of university policy, in which case it may subject the respondent to additional sanctions.

The sexual history of a complainant or respondent will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history of either of the parties is generally not relevant to substantiate the behavior that was the subject of the complaint and will be considered only in limited circumstances. For example, if the existence of affirmative consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether affirmative consent was sought and given during the incident in question. However, even in the context of a relationship, affirmative consent to one sexual act does

not, by itself, constitute affirmative consent to another sexual act, and affirmative consent on one occasion does not by itself, constitute affirmative consent on a subsequent occasion. In addition, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve another question raised by the report. The investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.

Inspection and Review of Evidence

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

1. Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility;
2. Inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

All parties must submit any evidence they would like the investigator to consider prior to when the parties' time to inspect and review evidence begins. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

The University will send the evidence made available for each party and each party's Advisor, if any, to inspect and review through an electronic format or a hard copy. The University is not under an obligation to use any

specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

The parties will have ten (10) calendar days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before completing the Investigative Report. Parties may request a reasonable extension as their designated extension request.

The institution will provide copies of the parties' written responses to the investigator to all parties and their Advisors, if any. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

The parties and their advisors agree not to photograph or otherwise copy the evidence. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

Inclusion of Evidence Not Directly Related to the Allegations

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will not be disclosed, or may be appropriately redacted before the parties' inspection to avoid disclosure of personally identifiable information of a student. Any evidence obtained in the investigation that is kept from disclosure or appropriately redacted will be documented in a "privilege log" that may be reviewed by the parties and their advisors, if any. See, 85 Fed.

Reg. 30026, 30438 (May 19, 2020).

Investigative Report

The Title IX Investigator will create an Investigative Report that fairly summarizes relevant evidence and provide that Report to the parties at least ten (10) calendar days prior the hearing in an electronic format or a hard copy for each party's review and written response.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence without a determination provided by the investigator.

Only relevant evidence (including both inculpatory and exculpatory - i.e. tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant. See, 85 Fed. Reg. 30026, 30304 (May 19, 2020).

The investigator will not make a finding or recommended finding of responsibility. The investigator's report may include credibility assessments based on the investigator's experience with the Complainant, Respondent, and witnesses, as well as the evidence. However, credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.

Copies of the final report will be sent to the parties and their advisors, who will have ten (10) days to respond to the investigative report prior to a hearing, see § 106.45(b)(5) (vii). Responses to the investigative report must be provided to the Title IX Coordinator with a copy to the opposing party. If neither party responds, the investigative report is considered to be final. If one or both parties respond to the investigative report, the Title IX Coordinator will determine whether any

modifications are required. After making any such modifications, the investigative report is final, and the Title IX Coordinator will provide a copy of the final report to both parties and their advisors. No response to the final report will be permitted. The Complainant and Respondent may only share the investigative report for the purpose of receiving counsel or advice related to the Title IX process.

Hearings

General Rules of Hearings

Cleary University will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing unless otherwise resolved through an informal resolution process.

The live hearing may be conducted with all parties physically present in the same geographic location, or, at Cleary's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through Zoom Videoconferencing. This technology will enable participants simultaneously to see and hear each other. At its discretion, the University may delay or adjourn a hearing based on technological errors not within a party's control.

All proceedings will be recorded to an audio/visual format and a written transcript of the proceedings will be created. That recording or transcript will be made available to the parties for inspection and review.

Prior to obtaining access to any evidence, the parties and their advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

Continuances or Granting Extensions

Cleary University may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, the University will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

Newly Discovered Evidence

As a general rule, no new evidence or witnesses may be submitted during the live hearing.

If a party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing.

The Hearing Panel will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.

If the Hearing Panel answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness.

Participants in the live hearing

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

Complainant and Respondent (The Parties)

- The parties cannot waive the right to a live hearing.
- The institution may still proceed with the live hearing in the absence of a party and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a “statement” by that party. 85 Fed. Reg. 30026, 30361 (May 19, 2020).
- For example, a verbal or written statement constituting part or all of the sexual harassment itself is not a “prior statement” that must be excluded if the maker of the statement does not submit to cross-examination about that statement. In other words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint. See, OCR Blog (May 22, 2020), available at <https://www2.ed.gov/about/offices/list/ocr/blog/20200522.html>
- Cleary University will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party’s participation. See 34 C.F.R. § 106.71; see also 85 Fed. Reg. 30026, 30216 (May 19, 2020).
- If a party does not submit to cross-examination, the decision-maker cannot rely on any prior statements made by that party in reaching a determination regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a “statement” by that party.
- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on

a party’s absence from the live hearing or refusal to answer cross examination or other questions. See 34 C.F.R. §106.45(b)(6)(i).

The Decision-maker

- The hearing body will consist of a Hearing Panel consisting of THREE (3) officers of the University with one member of the panel functioning as the Administrative Hearing Officer.
- No member of the hearing body will also have served as the Title IX Coordinator, Title IX investigator, or advisor to any party in the case, nor may any member of the hearing body serve on the appeals body in the case.
- No member of the hearing body will have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The hearing body will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
- The parties will have an opportunity to raise any objections regarding a decision-maker’s actual or perceived conflicts of interest or bias at the commencement of the live hearing.

Advisor of choice

- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.
- The advisor of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination and

direct examination.

- In addition to selecting an advisor to conduct cross-examination, the parties may select an advisor who may accompany the parties to any meeting or hearing they are permitted to attend but may not speak for the party.
- The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the institution will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The advisor is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The advisor is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf. 85 Fed. Reg. 30026, 30340 (May 19, 2020).
- If neither a party nor their advisor appear at the hearing, the University will provide an advisor to appear on behalf of the non-appearing party. See, 85 Fed. Reg. 30026, 30339-40 (May 19, 2020).

Witnesses

- Witnesses cannot be compelled to participate in the live hearing and have the right not to participate in the hearing free from retaliation. See, 85 Fed. Reg. 30026, 30360 (May 19, 2020).
- If a witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that witness in reaching

a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing. 85 Fed. Reg. 30026, 30347 (May 19, 2020).

Hearing Procedures

For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- The Administrative Hearing Officer will open and establish rules and expectations for the hearing;
- The Parties will each be given the opportunity to provide opening statements;
- The Hearing Panel will ask questions of the Parties and Witnesses;
- Parties will be given the opportunity for live cross-examination after The Hearing Panel conducts its initial round of questioning; During the Parties' cross-examination, The Hearing Panel will have the authority to pause cross-examination at any time for the purposes of asking The Hearing Panel's own follow up questions; and any time necessary in order to enforce the established rules of decorum.
- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to The Hearing Panel. A Party's waiver of cross-examination does not eliminate the ability of The Hearing Panel to use statements made by the Party.

Live Cross-Examination Procedure

Each party's advisor will conduct live cross-examination of the other party or parties and witnesses. During this live-cross examination

the advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those questions challenging credibility, directly, orally, and in real time.

Before any cross-examination question is answered, The Hearing Panel will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including those by The Hearing Panel, may be deemed irrelevant if they have been asked and answered.

Review of Transcript or Recording

The recording and transcript of the hearing will be available for review by the parties within (10) business/school days, unless there are any extenuating circumstances. The recording and transcript of the hearing will not be provided to witnesses or advisors of choice.

Determination Regarding Responsibility

Standard of Proof

Cleary University uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Policy occurred.

General Considerations for Evaluating Testimony and Evidence

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision-maker.

Decision-makers shall not draw inferences regarding a party or witness' credibility based on the party or witness' status as a complainant, respondent, or witness, nor shall it

base its judgments in stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Still, credibility judgments should not rest on whether a party or witness' testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

Decision makers will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Except where specifically barred by the Title IX Final Rule, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

The Final Rule requires that Cleary University allow parties to call "expert witnesses" for direct and cross examination. Note, the University does not provide for expert witnesses in other proceedings. While the expert witness will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses.

The Final Rule requires that Cleary University

allow parties to call character witnesses to testify. While the character witnesses will be allowed to testify and be cross-examined as required by the Final Rule, the decision-maker will be instructed to afford very low weight to any non-factual character testimony of any witness.

The Final Rule requires that Cleary University admit and allow testimony regarding polygraph tests (“lie detector tests”) and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about them will be allowed to testify and be cross-examined as required by the Final Rule, the decision-maker will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.

Where a party or witness’ conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Hearing Panel may draw an adverse inference as to that party or witness’ credibility.

Components of the Determination Regarding Responsibility

The written Determination Regarding Responsibility will be issued simultaneously to all parties through their institution email account, or other reasonable means as necessary. The Determination will include:

1. Identification of the allegations potentially constituting covered sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section of the

Title IX Sexual Harassment Policy, if any, the respondent has or has not violated.

5. For each allegation:

- a. A statement of, and rationale for, a determination regarding responsibility;
- b. A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the respondent; and
- c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient’s education program or activity will be provided by the recipient to the complainant; and

6. The recipient’s procedures and the permitted reasons for the complainant and respondent to appeal (described below in “Appeal”).

Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility will be issued by Cleary University within ten (10) calendar days of the completion of the hearing.

Finality

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in “Appeals” below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

The respondent may, at any time, elect to resolve the resolution process by accepting responsibility for the prohibited conduct, in which case the Title IX Coordinator will refer the matter to the Provost to discuss and determine the appropriate sanction(s).

Sanctions

Once a determination of responsibility has been reached, the Hearing Panel would also determine sanctions appropriate to the severity of the policy violation. Sanctions may include any of the sanctions that are available for violations of the University's Standards of Conduct, including but not limited to:

- **Expulsion:** Termination of student status for any indefinite period.
- **Suspension:** Exclusion from classes and other privileges or activities or from the university for a definite period of time.
- **Suspension held in abeyance:** Exclusion from classes and other privileges or activities or from the university for a definite period of time to be enforced should another violation occur.
- **Disciplinary Probation:** Exclusion from participation in privileged or extracurricular activities for a definite period of time. Including restriction from entering specific university areas and/or from all forms of contact with certain person(s).
- **Restriction from employment at the University** Prohibition of, or limitation of University employment.
- **University Housing Transfer or Removal:** Placement in another room or housing unit, or removal from university housing. Housing transfers or removals may be temporary or permanent depending on the circumstances.
- **Professional Assessment:** Completion of a professional assessment that could help the student or the university ascertain the student's ongoing supervision or support needed to successfully participate in the university community. The cost of professional assessment will be paid by the sanctioned student.
- **Removal or non-renewal:** of scholarship,

extracurricular or travel restrictions for employees.

- **Restitution:** Reimbursement for damages or misappropriation of property.
- **Reprimand:** A written censure for violation of the policy placed in the student's or employee's record, including the possibility of more severe disciplinary sanctions should another violation occur within a stated period of time.
- **Warning Notice:** A notice, in writing, that continuation or repetition of conduct found wrongful, within a period of time stated in the warning, may be cause for more severe disciplinary action.

Appeals

Each party may appeal (1) the dismissal of a formal complaint or any included allegations and/or (2) a determination regarding responsibility. To appeal, a party must submit their written appeal within five (5) calendar days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a party appeals, the institution will as soon as practicable notify the other party in writing of the appeal, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals will be decided by an Appeal Panel consisting of (3) University Officers, who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or original Hearing Panel in the same matter.

Outcome of appeal will be provided in writing simultaneously to both parties and include rationale for the decision.

Record Retention

The University will maintain for a period of seven (7) years records of the following:

- Each Title IX Sexual Harassment grievance process conducted under this policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript from a hearing, any disciplinary sanction imposed on the respondent, and remedies provided to the complainant designed to restore or preserve access to the University's education program or activity;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom; and
- All materials used to train University Sexual Misconduct/Title IX Coordinators, investigators, Hearing Panel members, Appeal Panel members, and any individual who facilitates the informal resolution process with

regard to Title IX Sexual Harassment;

- Records of any actions, including any supportive measures, taken in response to a report or formal complaint of Title IX Sexual Harassment. In each instance, the University will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's educational and working program or activity.

Retaliation

Cleary University will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Title IX Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under this Title IX Grievance Policy.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual 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 Title IX Sexual Harassment Policy.

Any intimidation, threats, coercion, or discrim-

ination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment.

If retaliation is suspected, a written complaint can be filed with the Title IX Coordinator.

Modification and Review of Policy

Cleary University reserves the right to modify this policy to take into account applicable legal requirements or extraordinary circumstances. At regular intervals, the University will review this policy to determine whether modifications should be made.



APPENDIX ONE: TITLE IX FORMAL COMPLAINT FORM

Title IX Formal Complaint Report Form

Cleary University is committed to the prompt resolution of complaints in a manner consistent with the University's Title IX Policy. The Cleary University Title IX Coordinator's role is to assist those who believe they have been subjected to conduct in violation of Title IX in any educational program or activity. All members of the Cleary University community are entitled to report allegations to the police and do not need to wait until Cleary University's process and investigation is complete before reaching out to local law enforcement (i.e., processes may work simultaneously).

The following information must be completed by the Complainant, the Title IX Coordinator.

Incident Report Form: <https://cleary.edu/forms/incident-report/>

RESIDENCE HALL FIRE STATISTICS 2020

Fire Statistics in 2008 the Higher Education Opportunity Act (HEOA) expanded and reauthorized the Higher Education Act (HEA) of 1965. Thus resulting amendments include mandatory annual reporting of fire Statistics. Those statistics have been compiled and are included as part of a separate section in the Annual Security that is put out. Data will continue to be collected and reported annually in this manner in accordance with the provisions of the HEOA. Residence Hall Fire Stats.

Residence Hall Fire Statistics 2020									
Building Name	Building Address	Total in each Building	Fire number	Date	Time	Cause of fire	Number injured Treated at Medical Facility	Number of Deaths	Value of Property damage
South Residence Hall	3720 Cleary Dr.	0					0	0	0
North Residence Hall	3730 Cleary Dr.	0					0	0	0

Residence Hall Fire Statistics 2019									
Building Name	Building Address	Total in each Building	Fire number	Date	Time	Cause of fire	Number injured Treated at Medical Facility	Number of Deaths	Value of Property damage
South Residence Hall	3720 Cleary Dr.	0					0	0	0
North Residence Hall	3730 Cleary Dr.	0					0	0	0

Residence Hall Fire Statistics 2018									
Building Name	Building Address	Total in each Building	Fire number	Date	Time	Cause of fire	Number injured Treated at Medical Facility	Number of Deaths	Value of Property damage
South Residence Hall	3720 Cleary Dr.	0					0	0	0
North Residence Hall	3730 Cleary Dr.	0					0	0	0

CLEARY UNIVERSITY CAMPUS CRIME STATISTICS

Cleary University Campus Crime Statistics									
	On Campus			Non-Campus Property			Public Property		
Offense	2020	2019	2018	2020	2019	2018	2020	2019	2018
Murder/Non-negligent Manslaughter	0	0	0	0	0	0	0	0	0
Manslaughter by Negligence	0	0	0	0	0	0	0	0	0
Rape	0	0	0	0	0	0	0	0	0
Fondling	0	0	0	0	0	0	0	0	0
Satutory rape	0	0	0	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0
Robbery	0	0	1	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0
Domestic Violence	0	0	0	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0	0	0	0
Stalking	0	0	0	0	0	0	0	0	0
Arrest									
Liquor law violations	0	0	0	0	0	0	0	0	0
Drug law violations	0	0	0	0	0	0	0	0	0
Weapons law violations	0	0	0	0	0	0	0	0	0
Disciplinary referrals									
Liquor law violations	0	0	0	0	0	0	0	0	0
Drug law violations	0	0	0	0	0	0	0	0	0
Weapons law violations	0	0	0	0	0	0	0	0	0

Hate Crimes

2020: No hate crimes reported

2019: No hate crimes reported

2018: No hate crimes reported

Unfounded Crimes

2020: No unfounded crimes reported

2019: No unfounded crimes reported

2018: NO unfounded crimes reported



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