

SEXUAL MISCONDUCT POLICY

2023-2024

This Policy addresses the reporting of sexual assault and may contain content or subject matter that is sensitive or upsetting. Nazareth University can direct students, faculty, and staff to on- and off-campus resources to provide assistance and support.

This Policy is one of several Nazareth policies that prohibits a variety of forms of sex discrimination. Other policies that address sex and gender-based discrimination include the Title IX Policy and the Non-Discrimination Policy contained in the Nazareth University Staff Handbook.

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I. INTRODUCTION

Nazareth University prohibits sex discrimination and harassment, sexual harassment, sexual violence, stalking, domestic violence, dating violence, and sex- and gender-based harassment in every setting and in every program organized, sponsored, and hosted by the University. Such conduct is detrimental to the University community and the productive, living and working environment the University wishes to foster and maintain. Sex discrimination and harassment is prohibited by this Sexual Misconduct Policy (the Policy), as well as other Nazareth University policies such as the [Nazareth University Title IX Policy](#), the [Nazareth University Staff Employee Handbook](#) and [Nazareth University Faculty Manual](#). Sexual misconduct is also prohibited under a number of state and federal laws, including but not limited to, Title VII of the Civil Rights Act of 1964, New York State Human Rights Law, and New York State Education Law.

Sexual misconduct is a broad term used to describe discrimination on the basis of sex, including sex and gender harassment, harassment on the basis of gender identity or sexual orientation, and sexual violence (including sexual assault, domestic violence, dating violence, and stalking). Please refer to the [Prohibited Conduct](#) and [Related Definitions](#) sections for detailed descriptions of behaviors prohibited by this Policy.

Nazareth University strongly encourages all community members to report any suspected incidents of sexual misconduct directly to the Title IX Coordinator or any other “responsible employee” (defined further below).

The University expects all community members to participate in creating a safe, welcoming, and respectful environment on campus. Retaliation, as defined in Section II.iv., against any person or group who makes a complaint, cooperates with an investigation, or participates in a grievance procedure, is a violation of this Policy. Retaliation should be reported promptly to the Title IX Coordinator and/or Nazareth University Campus Safety for investigation, and individuals suspected of retaliation may face disciplinary action independent of any sanction or interim measures imposed in response to the underlying allegations of discrimination and/or harassment.

i. NOTICE OF NON-DISCRIMINATION

Nazareth University is an equal employment opportunity employer. The University does not permit discrimination or harassment in its programs and activities on the basis of race (including traits historically associated with race), color, creed, national origin, ancestry, sex, gender, gender identity, gender expression, sexual orientation, age, religion, disability, medical condition, reproductive health decision making, pregnancy-related condition, genetic information or predisposing characteristic, military or veteran status, political affiliation or belief, arrest or conviction record, domestic violence victim status, marital status, familial status, or any other protected status under applicable law. The University does not discriminate on the basis of sex or gender in its educational, extracurricular, athletic or other programs or in the context of employment.

The University, as an educational community, will respond promptly and equitably to reports of sex discrimination and harassment, sexual harassment, sexual violence, stalking, intimate partner violence, and gender-based harassment in order to eliminate the harassment, prevent its recurrence, and address its effects on any individual or the community.

ii. The University's Title IX Coordinator

The Title IX Coordinator oversees the University’s review, investigation, and resolution of reports of sexual misconduct; advises Nazareth community members about options available to address sexual misconduct and how to respond appropriately to reports of sexual misconduct. The University’s Title IX Coordinator is:

Heather Sourwine
Title IX Coordinator
titleix@naz.edu
585.389.2877
Shults Center 100A

The Title IX Coordinator can be reached using the contact information listed above Monday through Friday from 8:30 a.m. to 4:30 p.m. Outside of those hours, individuals requiring emergency support should contact Campus Safety at extension 3333 or 585.389.2850 or another appropriate Emergency Support Resource detailed in Appendix A below.

iii. Scope of the policy

Nazareth University has multiple policies related to the prevention of and response to harassment and discrimination. This Policy applies to incidents of alleged sex or gender-based harassment which do not meet the jurisdictional requirements of Nazareth's [Title IX Policy](#) and allege a Nazareth student has engaged in the complained about harassing behaviors. In cases where a non-student is alleged to have engaged in sexual misconduct Nazareth may utilize the Nazareth University [Staff Employee Handbook](#), the [Nazareth University Faculty Manual](#), and/or other relevant policies and procedures.

This Policy may address conduct that takes place on or off Nazareth's campus including conduct which occurs in

- any building or property owned or controlled by the University and used in direct support of, or in a manner related to, the school's educational purposes, including residence halls, dining halls, and public property within or immediately adjacent to and accessible from campus.
- any building or property owned or controlled by a student organization that is officially recognized by the University and any building or property not within the same reasonably contiguous geographic area of the University that supports or relates to the school's educational purposes and is frequently used by students.
- off campus locations that have a nexus to the University community, such as conduct during a study abroad program or an off-campus program or activity.

iv. Education and prevention programs

The University is committed to educating and promoting community awareness about the prevention of sex discrimination and harassment, sexual harassment, sexual violence, stalking, intimate partner violence, and sex- and gender-based harassment that does not involve conduct of a sexual nature. The University will offer programs to promote awareness and prevention of such issues throughout the year, including an overview of the University's policies and procedures, relevant definitions (including prohibited conduct, discussion of the impact of alcohol and illegal drug use, effective consent, safe and positive options for bystander intervention), and information about bystander intervention and risk reduction.

II. PROHIBITED CONDUCT

Prohibited behaviors described below which have been determined NOT to be Title IX sexual harassment as defined by the Nazareth College Policy on Title IX Sex Discrimination: Dating Violence, Domestic Violence, Sexual Assault, Stalking, and Title IX Sexual Harassment Policy are violations of this Policy. Prohibited conduct under this policy includes:

- i. *Dating Violence* Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person against whom the violent act is/acts are committed. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- ii. *Domestic Violence* A felony or misdemeanor crime of violence committed by:

- a. a current or former spouse or intimate partner of the person against whom the violence is committed;
- b. a person with whom the person against whom the violence is committed shares a child in common;
- c. a person who is cohabiting with, or has cohabited with, the person against whom the violence is committed as a spouse or intimate partner;
- d. a person similarly situated to a spouse of the person against whom the violence is committed under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- e. 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 the jurisdiction in which the crime of violence occurred.

This definition does not apply to roommates who have not expressed interest in entering into, or who have not entered into, a dating or sexual relationship.

- iii. *Gender Harassment* A form of sexual harassment which may include any unwelcome act based on an individual's self-identified or perceived: sex; sexual orientation, gender expression and gender identity.

A single isolated incident of sexual or gender harassment may create a hostile environment if the incident is sufficiently severe, particularly if the harassment is physical.

- iv. *Retaliation* Actions either intended to dissuade a person from making a report of sexual misconduct and/or participating in an investigation of sexual misconduct; or actions which would cause a reasonable person to be dissuaded from making a report of sexual misconduct and/or participating in an investigation of sexual misconduct. Retaliation can be committed by any individual or group of individuals. Retaliation can take many forms, including threats, intimidation, pressuring, continued abuse, violence, or other forms of harm to others.
- v. *Sexual Assault* Having or attempting to have sexual intercourse or sexual contact with another person without consent.
 - *Sexual intercourse* includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
 - *Sexual contact* means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- vi. *Sexual Exploitation* When an individual takes non-consensual sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to:
 - a. secretly observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
 - b. non-consensual sharing or streaming of images, photography, video or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
 - c. exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances;
 - d. knowingly exposing another individual to a sexually transmitted disease or virus without their knowledge;
 - e. falsely claiming the use of contraceptive and prophylactics
 - f. causing incapacitation, by means of drugs, alcohol, or other physical restraint limiting the ability to consent or for the purpose of making another person vulnerable to non-consensual sexual activity.
- vii. *Sexual Harassment* Any unwelcome sexual advance, request for sexual favors or other unwelcome conduct of a sexual nature when:

- a. submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, evaluation of academic work or participation in any aspect of a University's program or activity; or (quid pro quo)
 - b. such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently serious, pervasive or persistent as to create an intimidating, hostile, humiliating, demeaning or sexually offensive working, academic, residential or social environment under both a subjective and objective standard. (hostile environment)
- viii. *Stalking* The term “stalking” means 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. Where stalking is directed at an individual with whom the perpetrator has, had, or sought some form of sexual or romantic relationship, it will be addressed under this Policy. Stalking that lacks a sexual or gender-based nexus may be addressed under the Code of Conduct.
- a. *Course of conduct* means two or more acts, including but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person's property.
 - b. *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
 - c. *Reasonable person* means a reasonable person under similar circumstances and with similarities to the Complainant.

III. RELATED DEFINITIONS

- i. *Affirmative Consent* A knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression. The following principles provide guidance to our community regarding affirmative consent:
 - a. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
 - b. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
 - c. Consent may be initially given but withdrawn at any time.
 - d. Individuals choosing to engage in sexual activity must evaluate whether consent is present in an ongoing manner and communicate clearly throughout all stages of sexual activity.
 - e. Consent cannot be given when a person is incapacitated. See Incapacitation below.
 - f. Consent cannot be given when it is the result of any coercion, intimidation, pressuring, force or threat of harm, or by taking advantage of the incapacitation of another individual.
 - g. When consent is withdrawn or can no longer be given, sexual activity must stop.
 - h. New York state law establishes that an individual less than 17 years old is incapable of consent.
- ii. *Coercion* The improper use of pressure to compel another individual to initiate or continue sexual activity against that individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include threatening to “out” someone based on sexual orientation, gender identity or gender expression, and threatening to harm oneself if the other party does not engage in the sexual activity.

- iii. *Incapacitation* A state in which an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) and/or is physically helpless. An individual is incapacitated, and therefore unable to give consent, if the individual is asleep, unconscious or otherwise unaware that sexual activity is occurring.

Incapacitation may result from the use of alcohol and/or drugs. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impact an individual's: decision-making ability; awareness of consequences; ability to make informed judgments; and capacity to appreciate the nature of their surroundings or actions.

Evaluating incapacitation also requires an assessment of whether a Respondent knew or should have known the Complainant was incapacitated.

- iv. *Force* The use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether or not to participate in sexual activity.

IV. CONFIDENTIAL AND LIMITED CONFIDENTIALITY RESOURCES FOR GETTING HELP

Nazareth University wants you to get the information and support you need regardless of whether you would like to move forward with a report of sexual misconduct to campus officials or to police. You may want to talk with someone about something you observed or experienced, even if you are not sure that the behavior constitutes sexual misconduct. Nazareth University has several confidential resources for individuals seeking help for experiencing or witnessing sexual misconduct.

i. Confidential Resources

Individuals who are confidential resources will not report prohibited behaviors to law enforcement or college officials without your permission, except for extreme circumstances, in accordance with their professional responsibilities. Sharing information with a Confidential Resource will not result in their sharing information with other Nazareth offices, nor will it result in investigatory or disciplinary action against the Respondent. At Nazareth, confidential resources include all staff in [Health and Counseling](#) and [Athletic Trainers](#) ("Confidential Resources").

ii. Limited Confidential Resources

Staff members in the [Center for Spirituality](#) serve in a limited confidentiality role ("Limited Confidentiality"), meaning counselors in and affiliates of the Center for Spirituality can talk to a Complainant without any obligation to reveal to the University any personally identifying information about an incident. A Reporting Party can seek assistance and support from these individuals without triggering an investigation that could reveal the reporting student's identity or that the student has disclosed the incident. While maintaining a Complainant's confidentiality, these individuals and all other staff in the Center for Spirituality must report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report—which will include no information that would directly or indirectly identify the reporting student—helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so that they can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, Center for Spirituality staff members will consult with the Complainant to ensure that no personally identifying details are shared.

Confidential off campus reporting options are also available. A complete list of off-campus resources providing Confidentiality can be found at the end of this policy. (See Appendix A).

A Complainant who at first requests confidentiality may at any time decide to file a complaint with the school or report the incident to local law enforcement.

Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, “survivor speak outs” or other forums in which people disclose incidents of sexual misconduct are not considered notice to the University for purposes of triggering its obligation to investigate any particular incident(s) of sexual violence. Such events may, however, inform the need for campus-wide education and prevention efforts, and the University will provide information about community members’ rights at these events.

V. REPORTING PROHIBITED CONDUCT

This Policy’s definitions of key terms, and standard of review differ from New York criminal¹ law. A Complainant who wishes to make a report of sexual misconduct has a number of options to resolve a complaint, through: the University’s complaint process; criminal action; or both the University’s complaint process and criminal action. See Appendix B for a complete list of Students’ Bill of Rights.

i. Reporting to Nazareth University

The University is committed to providing a variety of accessible means of reporting sexual misconduct so that all instances of sexual misconduct will be reported. The Title IX Coordinator is specifically charged with coordinating the initial assessment, initiating the investigation, and responding to allegations of sexual misconduct to stop the harassing conduct, address its effects, and prevent its recurrence.

A Complainant does not have to decide whether or not to request disciplinary action at the time they make an initial report. The University recognizes not every individual will be prepared to make a report to the University or to law enforcement, and individuals are not expected or required to pursue a specific course of action. To the extent possible, the University will respect an individual’s autonomy in making these important decisions and provide support that will assist each individual in making that determination.

1. Reporting Considerations: Timeliness of Report, Location of Incident

While the University does not limit the timeframe for reporting, Complainants and third-party witnesses are encouraged to report sexual assault and harassment as soon as possible in order to maximize the University’s ability to respond promptly and effectively. If the Respondent is no longer a student or employee, the University may not be able to take action against them, but it will still seek to take steps to end the harassment, prevent its recurrence, and address its effects.

2. Requesting Confidentiality and/or Requesting the University NOT Investigate

If a Complainant discloses an incident to a Nazareth University employee who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality or do not consent to the institution’s request to initiate an investigation, the Title IX Coordinator must weigh the request against the obligation to provide a safe, non-discriminatory environment for all members of the campus community, including the Complainant. Nazareth will assist Complainants with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of the Complainant’s reporting choices. While Complainants may request accommodations through several University offices, the Title IX Office will serve as the primary point of contact. (See Section VI. 1. Supportive Measures, below). Proactive steps, such as training or awareness efforts, may also be taken in order to combat sexual misconduct in a general way that does not identify Complainants.

Nazareth University will seek consent from Complainants prior to conducting an investigation. Complainants may decline to consent to an investigation, and that determination will be honored unless Nazareth University's failure to act does not adequately mitigate the risk of harm to members of the Nazareth University community. Honoring a request for confidentiality may limit the ability to meaningfully investigate and pursue conduct action against an accused individual.

Nazareth University will consider many factors to determine whether to proceed with an investigation despite the request for confidentiality. These factors include, but are not limited to:

- Whether the Respondent has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation in Prohibited Conduct on behalf of the Respondent from previously noted behavior, the increased risk that the Respondent will commit additional acts of violence;
- Whether the Respondent used a weapon or force;
- Whether the Complainant a minor; and
- Whether Nazareth possesses other means to obtain evidence such as security footage, and whether the report reveals a pattern of perpetration at a given location or by a particular group.

If Nazareth University determines that it must move forward with an investigation, the Complainant will be notified and Nazareth will take immediate action as necessary to protect and assist them.

ii. Anonymous Reporting

Any individual may report sexual misconduct without disclosing one's name, identifying the Complainant or Respondent, or requesting any action. Depending on the level of information available about the incident or the individuals involved, anonymous reporting may impact the University's ability to respond or take further action.

All anonymous reports are reviewed by Campus Safety and the Title IX Coordinator to determine the appropriate response and action.

iii. Campus Reporting Options (Private)

Even Nazareth University offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource 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 under the law for tracking patterns and spotting systemic issues. Nazareth University will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored. To enable the University to respond to all reports in a prompt and equitable manner, the University encourages all individuals to directly report any incident to any of the following individuals or offices:

Heather Sourwine
Title IX Coordinator
titleix@naz.edu
585.389.2877
Shults Center 100A

Campus Safety
Ext. 3333 or 58.289.2850
Lower level of Shults Center

iv. Reporting to Law Enforcement

The University encourages Complainants to pursue criminal action for incidents of sexual misconduct that may also be crimes under New York criminal statutes. The University will assist a Complainant, at the Complainant's request, in contacting local law enforcement. If a Complainant decides to pursue the criminal process, Nazareth will cooperate with law enforcement agencies to the extent permitted by law. Individuals who wish to pursue a formal

complaint with local law enforcement can enlist the help of the Title IX Coordinator, Campus Safety, or call the Monroe County Sheriff's Office (MCSO) directly by dialing 911.

Except where the Complainant is less than 18 years old, the University will generally respect a Complainant's choice whether or not to report an incident to local law enforcement, unless the University determines that there is an overriding issue with respect to the safety or welfare of the Nazareth community. Where a report involves suspected abuse of a minor less than 18, certain individuals at the University may be required by state law to notify law enforcement and/or the New York Statewide Central Register of Child Abuse and Maltreatment, as discussed further in Section XVII.

Whether a Respondent is charged with a violation of criminal law or found responsible in a criminal justice system is irrelevant to a determination of whether harassment has or has not occurred under this Policy. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings on the same matter.

1. Victim Assistance Programs

The Monroe County Sheriff's Office has a victim assistance program available to individuals who file a report with law enforcement. Victim assistance programs provide individual counseling, transportation to court, accompaniment to court, assistance in filing with the Crime Victims Board for compensation for crime-related out-of-pocket costs, property release, restitution assistance, referral, public awareness, and an explanation of the criminal justice system. Monroe County Sheriff's Department Victim Assistance Program: 585.753.4389 (<http://www.monroecountysheriff.info/>)

The following other agencies also provide assistance to individuals who pursue criminal complaints:

- Willow Domestic Violence Center: 585.232.5200 (<http://www.willowcenterny.org/>)
- Monroe County District Attorney Victim/Witness Assistance Bureau: 585.753.4573 (<http://www.monroecounty.gov/da-assistance.php>)
- Planned Parenthood of the Rochester/Syracuse Region: 585.546.2595 (<http://www.pprsr.org/>)
- Society for the Protection and Care of Children - Family Violence Program: 585.325.6101 (<http://www.spcc-roch.org/>)
- The Legal Aid Society of Rochester, NY, Inc.: 585.232.4090 (<http://www.lasroc.org/>)

To learn more about these programs, visit the website for the New York State Office of Victim Services (<http://www.ovs.ny.gov/>), which funds local victim assistance programs.

2. Sharing of Information Between the University and Law Enforcement in Parallel Investigations.

The MCSO and Nazareth's Campus Safety Department will timely share information in parallel investigations except that the MCSO may manage sharing of information so as not to impede the MCSO's ongoing law enforcement investigation. The University will work similarly with other law enforcement agencies as necessary. In addition, the University's ability to share information related to its own investigation and/or adjudication of certain offenses involving a student or students will be governed by the Family Educational Rights and Privacy Act, which prohibits disclosure of student education records containing personally identifiable information except under certain circumstances.

v. Employees obligation to report

The University recognizes students may choose to report sexual misconduct to any employee of the University. At Nazareth, with the exception of those employees designated as [Confidential Resources](#), all University employees,

including faculty², staff, administrators, and students who are Resident Assistants, are required to share with the Title IX Coordinator any report of sexual assault or harassment they receive or of which they become aware, including the identities of the parties involved in the sexual misconduct, if known.

VI. WHAT TO EXPECT AFTER REPORTING

i. Initial Assessment

Upon learning of a potential incident of sexual misconduct, the Title IX Coordinator promptly reaches out to the Complainant, if their identity is known, and requests a meeting to discuss their rights and options. During this meeting an initial assessment of the report will be made to determine whether the alleged behavior may be addressed utilizing the procedures in this policy or if another policy is more appropriate. During this meeting the Title IX Coordinator:

- assesses the nature and circumstances of the allegation;
- addresses the immediate physical safety and emotional well-being of the Complainant;
- notifies the Complainant of the right to contact law enforcement (or not) and seek medical treatment;
- notifies the Complainant of the importance of preservation of evidence;
- provides the Complainant with information about on- and off-campus resources;
- notifies the Complainant that the institution can provide assistance in initiating legal proceedings in family court or civil court;
- notifies the Complainant of the range of interim accommodations and responses;
- provides the Complainant with an explanation of the procedural options;
- assesses for pattern evidence or other similar conduct by Respondent;
- enters the report into the University's daily crime log;
- assesses the reported conduct for the need for a timely warning under the Clery Act;
- discusses the Complainant's expressed preference for the manner of resolution and any barriers to proceeding; and
- explains the University's policy prohibiting retaliation.

If a request for a meeting is declined, the Title IX Coordinator conducts an initial assessment utilizing the information available. As necessary, one or more additional campus officials (including but not limited to a Deputy Title IX Coordinator, the Director of Campus Safety, the Associate Vice President for Student and Campus Life/Dean of Students, and/or Assistant Director of Counseling Services) may also be included in the initial assessment or in evaluating information gathered in the initial assessment. In certain cases, the Title IX Coordinator may convene the University's Behavior Intervention Team to participate in evaluating information gathered in the initial assessment.

During the initial assessment period the Title IX Coordinator maintains consistent contact with the Complainant, and if applicable, the Respondent, to ensure all safety and emotional and physical well-being concerns are being addressed.

At the conclusion of the initial assessment, the Title IX Coordinator may direct an investigation commence or continue depending on a variety of factors, such as the Complainant's wish to pursue disciplinary action, the risk posed to any individual or the campus community by not proceeding, and the nature of the allegation. Where possible, the University will seek action consistent with the Complainant's expressed preference for the manner of resolution.

When the assessment concludes that the alleged conduct does not fall within the scope of this Policy, the matter will be referred to the appropriate policy for further consideration or otherwise addressed with the Complainant.

² Faculty are not required to make reports to the Title IX Coordinator when they learn of allegations of sexual assault or harassment through classroom writing assignments or class-related discussions unless the Complainant expressly requests reporting.

The Title IX Coordinator will continue to evaluate the need for supportive measures to protect or support the parties to the process and any involved third parties on an ongoing basis.

1. Supportive Measures

Supportive Measures are intended to assist individuals in accessing their education program or activity regardless of reporting options. The University implements supportive measures promptly and at no cost to the parties. Potential supportive measures that may be applied to the Complainant and/or the Respondent include:

- access to counseling services and assistance in setting up an initial appointment, on and off campus;
- rescheduling of exams and assignments;
- providing alternative course completion options;
- changing class schedules, including the ability to transfer course sections or withdrawal from a course without penalty;
- changing work schedules or job assignments;
- changing a student's University-owned housing;
- assistance from University's support staff in completing housing relocation;
- providing an escort to ensure safe movement between classes and activities;
- providing medical services;
- providing academic support services, such as tutoring;
- imposition of an on-campus mutual "no contact" directive;
- rescheduling of exams and assignments;
- limiting an individual's or organization's access to certain University facilities or activities pending resolution of the matter;
- University-imposed interim leave; and/or
- any other remedy that can be tailored to the involved individuals to achieve the goals of this Policy.

When the assessment concludes Supportive Measures are appropriate, the Title IX Coordinator evaluates potential responses and discusses them with the Complainant and/or Respondent.

2. Interim Restrictions

A Respondent is notified when the University takes action impacting them, such as issuing a Mutual No Contact Order, otherwise restricting Respondent's presence or movement on campus, or initiating an investigation. Even if a Complainant declines to participate in an investigation, the University may require the Respondent to participate in remedial measures. If the Title IX Coordinator, in consultation with the Director of Campus Safety, decides at any point that the well-being of a student or of any member of the University's community is at stake, an interim restriction, including interim suspension may be imposed on a Respondent who poses a continuing threat to the health and safety of the campus. All interim restrictions imposed are effective throughout the investigation and adjudication process. Interim restrictions do not presume the Respondent's responsibility for the alleged behaviors. The Title IX Coordinator will attempt to schedule a hearing as soon as possible in cases where an interim suspension is imposed.

3. Review and Appeal of Certain Measures

With respect to interim suspensions, no contact orders, changes to academic, housing, employment, and transportation arrangements in order to help ensure safety, prevent retaliation, and avoid an ongoing hostile environment, both parties shall, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of such interim measure that directly affects the party, including potential modification, and shall be allowed to submit evidence in support of their request.

Such requests must be directed to the Vice President for Culture, Community & Belonging, in writing within 24 hours of notice of the interim suspension or measure. The request must include an explanation of the objection to the interim restriction, and may include evidence in support of the request. The written request is provided to the other party, who has the opportunity to respond to the request. In most instances, the response will be provided within 24 hours. Both parties are notified of the University's decision as soon as possible. While this review is pending, the interim suspension remains in place.

ii. Broader Remedial Action

Because the University is under a continuing obligation to address the issue of sexual misconduct campus-wide, reports of sexual misconduct (including non-identifying reports) will prompt the University to consider broader remedial action, such as: increased monitoring, supervision, and/or security at locations where the reported sexual misconduct occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

VII. PROCEDURES FOR THE RESOLUTION OF SEXUAL MISCONDUCT CHARGES

After the Title IX Coordinator has determined Nazareth University must respond to a report, the following procedures will be followed. If there is any conflict with these procedures and those contained in the Student Handbook at Section IV of the Student Conduct Code, Statement of the Conduct Code, Disciplinary Sanctions and Conduct Hearing Procedures (“Student Conduct Procedures”), these procedures prevail.

i. Investigation

When the initial assessment determines the alleged conduct falls within the scope of this Policy and the University's hearing process or disciplinary action may be an appropriate response, the University initiates an investigation. The University's investigation is designed to provide a fair and reliable gathering of the facts. Information gathered during the investigation is used to evaluate the Respondent's responsibility, provide for the safety of the Complainant and the campus community, and provide (additional) remedies as deemed necessary to address the effects of the alleged conduct.

1. Investigators

The Title IX Coordinator determines who serves as investigator(s) in each case and supervises the investigation. When deemed appropriate, the investigator may be a Nazareth employee, an external investigator engaged to assist the University in its fact-gathering or a team of investigators that pairs an external investigator with a Nazareth employee. All investigators must have specific training and experience investigating allegations of sexual misconduct. Any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest.

The investigator(s) conducts the investigation in a manner appropriate in light of the circumstances of the case, and typically includes interviews with the Complainant, the Respondent, and any witnesses. Interviews are supplemented by gathering physical, documentary, and other evidence, as appropriate and available. The investigator(s) decide which individuals to interview. The Title IX Coordinator may also direct that additional interviews be conducted. As part of the investigation, the University provides an opportunity for the parties to suggest witnesses and present other evidence. The investigations are conducted with the goal of being thorough, impartial, and fair; all individuals are treated with appropriate sensitivity and respect.

2. Investigative Report

At the conclusion of the investigation, the investigator(s) prepares a report setting forth the facts gathered. The University shares the report with the Complainant and Respondent, and each party has the opportunity to prepare and submit a written response. Before the parties access the investigative report, the Title IX Coordinator (or designee) reviews the report and appended materials to determine whether any information contained therein is relevant and material to the determination of the charged violations of this Policy given the nature of the allegation(s). The Title IX Coordinator (or designee) may redact information that is: irrelevant; more prejudicial to a party or witness than relevant to a determination of a Policy violation; an unwarranted invasion of an individual's privacy; immaterial; a statement of personal opinion rather than direct observations or reasonable inferences from the facts; and statements as to general reputation for any character trait, including honesty.

The investigator(s) may find it necessary to follow up on information provided in a written response submitted by any party and supplement their prior report accordingly. All of the written submissions and all information gathered during the investigation are collectively considered the investigative report.

ii. Determination After Investigation

Following the conclusion of the investigation, the Title IX Coordinator (or designee) reviews the investigative report and determines whether there is sufficient cause to believe that the alleged sexual misconduct may have occurred, warranting further review of the matter.

If the Title IX Coordinator or designee determines there is not sufficient cause to believe the alleged sexual misconduct may have occurred or that the alleged misconduct does not fall within the scope of this Policy, the Title IX Coordinator will issue a notice informing the parties of this determination.

Further review may result in a referral to an alternate dispute resolution process. Provided the parties both agree—the Title IX Coordinator refers the matter to an appropriate alternative dispute resolution practitioner. A hearing will be scheduled, but may then be adjourned for up to thirty (30) business days to allow the parties to participate in the alternative dispute resolution process. If the parties participate in the alternative dispute resolution process and agree the matter pertaining to the violation is resolved, the Title IX Coordinator may cancel the hearing.

At any time during the alternate dispute resolution process, either the Complainant or Respondent may request the complaint proceed to formal resolution.

1. Notice of Charge

At least seven (7) business days before a scheduled hearing date, a notice of charges is sent to the parties by email or hand delivery. The notice includes the following:

- the date, time, location, and type of hearing (formal or informal);
- a brief factual summary of the conduct alleged to have violated the Policy, including date, time, and location;
- the specific Policy provision(s) at issue;
- possible sanctions associated with a finding of responsibility for the alleged Policy violation(s); and
- the composition of the hearing board, if any, empaneled by the Title IX Coordinator (for a formal hearing) or the identities of the designated decision-maker(s) (for an administrative hearing)

2. Challenge of Decision-Maker or Title IX Coordinator

Each party has the right to request the Title IX Coordinator remove a member of the Hearing Board or a decision-maker(s), based on reasonable and articulable grounds of bias, conflict of interest, or an inability to be fair and impartial. This challenge must be raised in writing within two (2) business days of receipt of the notice of hearing. The Title IX Coordinator will determine whether to remove the panelist or decision-maker(s).

Similarly, each party may request someone other than the Title IX Coordinator oversee the investigation and hearing process based on reasonable and articulable grounds of bias, conflict of interest or an inability to be fair and impartial. Any such request should be submitted in writing to the Vice President for Culture, Community & Belonging as soon as a party becomes aware of any such grounds for removal.

Note that students may be accountable for additional violations discovered through the hearing process and not part of the initial notice of charges. In this circumstance, a separate investigation and, if applicable, hearing may be conducted.

iii. Advisors

Students meeting with any University employee regarding an incident of sexual misconduct have the right to be accompanied by an advisor of choice (at the party's own expense, if the advisor is a paid advisor) who can assist and advise throughout the sexual misconduct investigation and adjudication process, including during all related meetings and hearings. Students are strongly encouraged to identify an advisor as soon as practical. Advisors play an important role in supporting individuals in a sexual misconduct process. The following guidelines have been identified to ensure advisors are able to effectively assist their students during meetings and hearings:

- The advisor is present to provide support to the involved party and not to serve as a proxy voice for the involved party.
- Advisors may not speak during the sexual misconduct hearing process, including questioning witnesses, speaking to the board, or making statements or arguments.
- Advisors can confer quietly with their advisee as needed, but if there is a need for an extended discussion, the party should ask for a break in the proceedings.
- Advisors cannot direct the advisee how to answer a question. Advisors may not confer with their advisees or write notes to them when a question to them is pending-parties should provide their own response to the question, not the response their advisor believes would be best.
- As this process is not a legal process, formal rules of evidence do not apply. Objections to questions or evidence are not permitted.
- Advisors should conduct themselves quietly and professionally and must not disrupt the proceedings.

VIII. DISCIPLINARY HEARINGS: FORMAL AND ADMINISTRATIVE SEXUAL MISCONDUCT HEARINGS

Generally, sexual misconduct cases are resolved through a hearing process overseen by the Title IX Coordinator or designee. Hearings can be either:

1. Administrative. The Title IX Coordinator (or designee) convenes and presides over administrative hearings; or
2. Formal. The Title IX Coordinator (or designee) attends formal hearings as chair, serving as a process and policy advisor to the Hearing Board.

Regardless of which hearing format is used, all involved students can expect the University's adjudication process will respond in a caring, sensitive, and supportive manner ensuring equal rights are afforded to all parties.

i. Parties' Rights

Parties to a sexual misconduct investigation and/or adjudication are entitled to the following:

- To be treated with dignity, respect, and compassion by all persons involved in the disciplinary process.
- Information regarding the University's sexual misconduct resolution process.
- Information about accessing support services on and off campus.
- Freedom from intimidation and harassment.
- Timely, similar access to information and documents to be used at the hearing, including any investigative report.

- Discuss and share information related to the complaint with others that may support them or assist them in presenting their case.
- To separate hearing rooms (connected by telephonic/electronic means) in order to allow full participation of the parties while at the same time avoiding any re-traumatization, undue embarrassment or intimidation. Where a party does not conduct themselves in a proper civil and respectful manner and/or disrespects or obstructs the hearing process, the Chair of the Hearing Board will issue a warning. If the disrespectful and/or obstructive behavior persists, the party will be dismissed and the individual will later be provided an opportunity to listen to the recording of testimony.
- To be accompanied at the hearing and any related meeting or proceeding by an advisor of choice. See advisor above)
- The right not to answer any questions asked during the hearing.
- To learn of the decision of the Hearing Board and/or decision maker(s) at the same time and in the same manner as the other party.
- Privacy throughout the student conduct process in relation to campus and other media, and in relation to all other involved parties.
- In instances where the Respondent(s) is found responsible, the opportunity to provide an impact statement to the Title IX Coordinator prior to a sanction determination. Such a statement (either written or an oral synopsis delivered by the Title IX Coordinator) becomes part of the case record/file and shared with anyone charged with determining sanctions, as well as anyone reviewing the case on appeal.
- To be advised in writing of the appropriate procedures for requesting an appeal. The notice will be included with the written decision sent to the parties. A party submitting an appeal may request an opportunity to listen to a copy of the recording of the hearing by submitting a written request to the Title IX Coordinator. This request must be made within the timeframes identified for appeals. The recording will then be made available to the party in the company of a University employee, and in a location identified by the Title IX Coordinator. The recording will be accessible to any person determining the outcome of the appeal.

ii. Sexual Misconduct Hearings

The Title IX Coordinator (or designee) may independently hear and resolve a complaint or may empanel a Hearing Board composed of members of the faculty and/or staff to resolve a complaint. Cases heard by a Hearing Board are convened by the Title IX Coordinator, who oversees all related activities. In rare circumstances when the Title IX Coordinator is unavailable or ineligible due to, for example, a conflict of interest, the Title IX Coordinator will appoint a substitute to convene and oversee the hearing board process.

The Title IX Coordinator (or designee) will be the non-voting chair of all Formal hearings, serving as a process and policy advisor to the Hearing Board.

The Nazareth University sexual misconduct process is not a court of law, nor is it intended to be, and legal rules of evidence and procedure do not apply. With guidance from the Title IX Coordinator, the Hearing Board determines in its sole discretion, which witnesses will appear before it and the scope of relevant information, which will be guided by principles of fundamental relevance and fairness.

All procedural questions are decided in the sole discretion of the Hearing Board, in consultation with the Title IX Coordinator. It may decide to adjourn the hearing for a reasonable period of time. The Hearing Board accommodates concerns for the personal safety, well-being, and/or fears of confrontation by parties, and/or witnesses during the hearing by providing separate facilities and/or permitting participation via appropriate technology to allow the testimony while not depriving either party of access to information. In matters involving more than one Respondent, the Hearing Board may permit hearings concerning each Respondent to be conducted separately or simultaneously.

University officials' individualized assessments of each matter may require additional safety and security measures to be employed. For example, in order to minimize risk, the Title IX Coordinator, and/or Hearing Board may determine that it is necessary to conduct hearings at off-campus locations, limit personal items or bags that may be brought into the hearing (all may be subject to search before entering) or the use of electronic wands and any additional related safety precautions as identified and recommended to the Associate Vice President for Student &

Campus Life/Dean of Students by the Campus Safety Director. The parties will be notified of these conditions by the Title IX Coordinator and/or Campus Safety Director.

1. Formal Hearings Procedures

The Formal Student Sexual Misconduct Hearing process include the following:

a. Prior to the Hearing

- Both the Complainant and the Respondent receive a Notice of Charge referencing the specific prohibited conduct in this Policy alleged to have been violated for which charges are pending and the possible outcomes.
- The parties will have similar access to review the information and related documents to be used at the hearing, including any investigative report.
- The hearing is not open to the public. Witnesses may only be present for their individual meeting with the Hearing Board. Advisors and the parties may be present throughout the proceeding (in person or via technology), however, the parties are not required to be present at the hearing in order for the Hearing Board to make a determination of responsibility.

b. Opening Stages

- The Title IX Coordinator/Chair calls the hearing to order, explains the hearing process, and provides an opportunity for all parties to ask procedural questions.
- The Title IX Coordinator/Chair reads the charges brought against the Respondent by the University.
- The parties are informed that the hearing is being recorded. The recording is the sole official verbatim record of the hearing and is the property of the University. No other recordings of the hearing are allowed.
- The Title IX Coordinator/Chair provides a brief opening statement summarizing the investigation focusing on the areas of agreement and disagreement in order to assist the Hearing Board in prioritizing areas of inquiry.
- The Title IX Coordinator/Chair advises the parties only members of the Hearing Board may ask questions of any person testifying.

c. Initial Statements

- The Complainant and Respondent both may make a brief statement, starting with the Complainant.
- The Board may pose questions to the Complainant (see questioning below). The Respondent is encouraged to compile a written list of questions they wish the Board to pose to the Complainant. The Board asks the Complainant those questions it deems relevant and appropriate.
- The Board may then pose questions to the Respondent. The Complainant is encouraged to compile a written list of questions they wish the Board to pose to the Respondent. The Board asks the Respondent those questions it deems relevant and appropriate.

d. Questioning

The Hearing Board must ensure it has sought and evaluated all information necessary to make an informed decision. At times, the Board may need to ask difficult or sensitive questions to understand areas of factual dispute or gain a full understanding of the context.

The parties are each given the opportunity to request the Board ask additional questions of the parties and witnesses at the conclusion of the Board's initial questioning.

Questions may not include the prior sexual history of the parties, unless with each other, and in that instance only where the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. The mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.

Questions regarding any mental health diagnosis and/or treatment are excluded from evidence at the hearing, unless provided by the individual with whom the diagnosis is assigned to.

e. Witnesses

- The Hearing Board meets with each witness separately. The parties can listen to/watch this meeting through use of technology. Each witness is permitted, but not required, to give a brief statement. The parties may present a list of written questions to the members of the Hearing Board, who will determine the relevance of the questions and will pose to the witness any questions deemed relevant.
- The Title IX Coordinator, Hearing Board members and the parties may request that any person be called to be questioned as a witness. Party requests for witnesses must be submitted in writing to the Title IX Coordinator within three (3) business days of being notified of the charges. Exceptions to this timeline will only be made when there are extenuating circumstances preventing the names of witnesses to be submitted in a timely fashion. If any proposed witness was not identified to the investigator(s) or Title IX Coordinator during the investigation, then the individual requesting such witness must explain why that person was not identified. The hearing may be postponed to permit the investigator to meet with the proposed witness and alter the investigative report accordingly. The Title IX Coordinator may elect not to grant witness requests when it is determined that a specific witness is not likely to provide relevant evidence, or the testimony provided will be cumulative or duplicative. The Title IX Coordinator may call other witnesses if they or the Hearing Board deems appropriate.

f. Closing and Impact Statements

- At the conclusion of the meetings with all witnesses, the parties will each be given the opportunity to separately give a brief closing statement.
- The closing statement can include an impact statement for all parties.

g. Determining and Sharing the Outcome

The Hearing Board shares its determination regarding responsibility and sanction(s) (if applicable) with the Title IX Coordinator, who notifies the parties of the outcome simultaneously via email.

All parties have access to the hearing record.

2. Administrative Hearings

The Title IX Coordinator has the discretion to decide if the case will be resolved by a hearing panel as described above or through the Administrative Hearing process. Sanctions imposed after an administrative hearing, other than oral admonitions and written administrative warnings, may be appealed using the appeal procedures described in this Policy in Section XI. At any time during the administrative process or in the event that administrative resolution is not achieved, either party may request that the matter proceed to formal resolution.

3. Standard of Proof

The Hearing Board applies a preponderance of evidence standard during its deliberations, meaning that in order to find someone responsible for a violation the information provided in the hearing makes it highly and substantially more probable that the alleged conduct occurred. Decisions of the Hearing Board (when applicable) are based on the vote of the majority.

4. Admission and use of prior sexual history and/or pattern evidence at a formal student sexual misconduct hearing is evaluated as follows:

Pattern evidence by a Respondent. Where there is evidence of a pattern or conduct similar in nature by the Respondent, either prior to or subsequent to the conduct in question, this information may be deemed relevant and aid in the determination of assigning of a sanction. Relevance will be assessed based on the presence of the following information regarding a previous incident (a) substantial similarity to the present allegation or information

and (b) a pattern of behavior and substantial conformity with that pattern by the Respondent. Where there is a prior finding of responsibility for a similar act of sexual misconduct the finding may be considered in or assigning of a sanction.

IX. SANCTIONS

In general, any student who is determined to have committed sexual assault may receive a sanction ranging from suspension to expulsion. Any student who is determined to have engaged in any other prohibited form of conduct may receive a sanction ranging from conduct warning to expulsion. The Title IX Coordinator (or Hearing Board when applicable) may broaden or lessen any range of recommended sanctions based on mitigating circumstances or egregiously offensive behavior. The Title IX Coordinator (or Hearing Board when applicable) will not deviate from the range of recommended outcomes unless compelling justification exists to do so. A single sanction or a combination of sanctions may be issued.

In considering the appropriate sanction within the recommended outcomes, the Title IX Coordinator (or Hearing Board when applicable) will consider the following factors:

- the Respondent's prior discipline history;
- how the University has sanctioned similar incidents in the past;
- the nature and violence of the conduct at issue;
- the impact of the conduct on the Complainant;
- the impact of the conduct on the University community, its members or the University's property;
- whether the Respondent's has accepted responsibility;
- whether the Respondent is reasonably likely to engage in the conduct in the future;
- the need to deter similar conduct by others; and
- any other mitigating or aggravating circumstances, including the University's values.

Absent compelling justifications, if the Respondent has engaged in the same or similar conduct in the past, the sanction will be expulsion.

Set forth below is a full list of the range of sanctions:

- Expulsion (permanent separation)
- Suspension
- Deferred suspension
- Disciplinary Probation
- Disciplinary probation with deferred removal from the residence halls
- Loss of housing contract
- Residence hall probation
- Conduct warning
- Additional conditions that may be imposed (list is not exhaustive):
 - Sexual misconduct education
 - Parent or guardian notification (subject to privacy restrictions)
 - Financial restitution
 - Organizational sanctions including probation and rescinding recognition or other organizational restrictions
 - Fine
 - Community restoration and/or community service
 - Loss of campus privileges
 - Loss of campus employment and/or opportunities for campus employment
 - Withholding records or degree
 - Revocation of admission and/or degree
 - Bar against registration
 - Substance abuse education and/or evaluation

Sanctions imposed in connection with findings of responsibility under this Policy are effective immediately and remain in effect pending the outcome of any appeal.

Refusal to Comply with the sanctions or conditions imposed by the Title IX Coordinator (or Hearing Board when applicable) will result in institutional action, including the possibility of additional sanctions.

X. TIMEFRAME FOR DECISION AND NOTIFICATION

i. Hearing Outcomes

Typically, outcomes are delivered within two (2) weeks following the hearing (administrative or formal). The Hearing Board shares its determination regarding responsibility and sanction(s) (if applicable) with the Title IX Coordinator. The University will issue the parties a letter containing the Hearing Board's decision with findings of fact, the disciplinary sanction(s) (if applicable), and the rationale for the decision and sanction. This letter will be simultaneously delivered to the parties via email. The information contained in the letter sent to the Complainant will be provided in accordance with FERPA and the Clery Act. Unless shown to be otherwise, the decision shall be deemed received by the parties three (3) calendar days after the date it was mailed.

ii. Timeframes for Resolution

The University seeks to resolve all reports of sexual misconduct (exclusive of any appeal) in a prompt and meaningful way. All time frames expressed in this Policy are meant to be guidelines rather than rigid requirements. The University will inform the parties at regular intervals of the status of its investigation and resolution process. Circumstances may arise that require the extension of time frames. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation or other unforeseen circumstances.

The University will make its best efforts to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

University proceedings are administrative in nature, intended to enforce this Policy at Nazareth University, and are held independent of any criminal and/or civil proceedings that may be concurrently in process. Even when a Complainant decides to report to law enforcement, the University remains obligated to conduct its own investigation. However, at law enforcement's request, the University may agree to defer its fact-gathering or sexual misconduct proceedings at the request of law enforcement and/or as it otherwise deems appropriate. The University will nevertheless communicate with the Complainant regarding rights, procedural options, and the implementation of interim measures to ensure safety and well-being. The University will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation.

XI. APPEALS

Sanctions, other than oral admonitions and written administrative warnings, may be appealed using the appeal procedures provided below.

The parties will both have the right to direct an appeal to the Vice President for Culture, Community & Belonging. If neither party appeals by the deadline, the parties will be notified that the original decision is upheld.

Any request for appeal must be received by the Vice President for Culture, Community & Belonging on or before a date, specified in the written notice of outcome, which will be no later than five (5) business days after the delivery of the written decision.

An appeal may be requested if the student believes one or more of the following conditions exists:

- the discovery of previously unavailable relevant evidence that could significantly impact the finding of the hearing;
- procedural error(s) that had a material impact on the fairness of the hearing; and/or
- the sanctions imposed were substantially disproportionate to the violation committed.

If the Title IX Coordinator determines it appropriate, interim suspensions or conditions may be imposed during the time of an appeal or until the time to appeal has passed.

When the Vice President for Culture, Community & Belonging receives a request for an appeal, the Vice President will provide the request to a panel of three individuals to determine whether the appeal will be accepted, based upon the three criteria set forth above. The panel will initiate one of the following actions:

1. Reject the request for appeal due to insufficient reason(s). This decision cannot be appealed.
2. Analyze the materials related to the appeal and render a decision.

In the event that an appeals panel has been convened to render a decision, the non-appealing party will be permitted to read the appeal and invited to submit a response within forty-eight (48) hours of notification of the non-appealing party's review of the appeal.

After considering the information submitted in support of and in opposition to the appeal, if any, the panel will take one of the following actions:

1. Uphold the original decision.
2. Send the matter back to the Hearing Board when there is a procedural irregularity that could be corrected in a review or the presentation of previously unavailable relevant information that could significantly impact the result of the Board's determination.
3. Refer the matter to the Title IX Coordinator and the Hearing Board for further consideration, if substantial reason for such action has been presented.

The outcome of the appeal will be simultaneously conveyed to both parties in writing.

All appeal decisions made by the appeals panel are final.

XII. XII. TRANSCRIPT NOTATIONS AND RECORD RETENTION

i. Transcript Notations

New York law requires the University to make specific notations on the transcripts of Respondents found responsible for the following conduct prohibited by this Policy: sexual assault, dating violence, domestic violence, and stalking.

Students suspended after a finding of responsibility will receive the following notation on their transcript: "suspended after a finding of responsibility for a code of conduct violation." Such notations will remain for at least one year after the conclusion of the suspension, at which point a suspended student can seek removal of the notation by appealing to the Vice President for Culture, Community, & Belonging. Students seeking removal of the notation should contact the Vice President for removal procedures.

Students expelled after a finding of responsibility will receive the following notation on their transcript: "expelled after a finding of responsibility for a code of conduct violation." Such notation will not be eligible for removal.

Students who withdraw pending resolution of alleged violations of this Policy will receive the following notation on their transcript: "withdrew with conduct charges pending." Such notation will not be eligible for removal.

If the University vacates a finding of responsibility for any reason, any such transcript notation will be removed.

ii. Disciplinary Records

Records related to matters processed under this Policy are maintained by the Title IX Office and are confidential in nature. These records will include: notices sent to the parties, documentation regarding no contact orders and other interim measures, the investigative report and supporting materials, the hearing recording, and appeal materials. These records will be maintained for seven (7) years. Disciplinary files for students who withdraw from the University or are suspended or expelled for disciplinary reasons are maintained for an indefinite length of time depending upon the circumstances.

XIII. PARENT/LEGAL GUARDIAN NOTIFICATION

The University reserves the right to notify parents of dependent students when action has resulted in serious disciplinary sanctions.

XIV. AMNESTY FOR ALCOHOL OR OTHER DRUGS

Sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and drugs impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual harassment, sexual violence, stalking or intimate partner violence and does not diminish one's responsibility to obtain consent.

i. Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases

The health and safety of every student at Nazareth University is of utmost importance. Nazareth University recognizes that students who have been drinking and/or using drugs (whether such 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.

Nazareth University strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Nazareth University officials or law enforcement will not be subject to Nazareth University's code of conduct action for violations of 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.

XV. COMPLIANCE WITH OTHER LAWS

i. Timely Warnings

Significantly, if the University determines that the Respondent(s) poses a serious and ongoing threat to the Nazareth community, the University may decide to issue a timely warning to the community (discussed below). However, any such warning will not include any information that identifies the Complainant seeking resources and support. If a report of misconduct discloses a serious or continuing threat to the Nazareth community, the University may issue a campus-wide timely warning (which can take different forms, including an email to campus) to protect the health or safety of the community. Any such timely warning issued by the University will omit the name of the Complainant. In deciding whether to release the Respondent's name in a timely warning, the University will consider the need to release the name to make the timely warning effective.

ii. Compliance with all Applicable Laws Related to Privacy and Confidentiality

All University proceedings will be conducted in compliance with the requirements of Family Educational Rights and Privacy Act ("FERPA"), the Clery Act, Title IX, and other appropriate state and federal law. Nazareth will not release any information from such proceedings except as required or permitted by law and University policy.

iii. Institutional Crime Reporting

Reports of certain crimes occurring in certain geographic locations will be included in the Nazareth University Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the reporting individual or victim/survivor.

Nazareth University is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the reporting individual or victim/survivor). A Complainant will never be identified in a timely warning. The Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either parents' prior year federal income tax return. Generally, Nazareth University will not share information about a report of sexual violence with parents without the permission of the reporting individual.

XVI. FALSE REPORTING

Given that a charge of sexual misconduct may have severe consequences, the University takes very seriously the truthfulness of information provided in support of an allegation of sexual misconduct. A Complainant who is later found to have made a report that was intentionally false or made maliciously without regard for truth may be subject to disciplinary action. To be clear: this provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation or do not result in a finding of responsibility. Similarly, a Complainant or witness who is later proven to have intentionally given false information during the course of an investigation or judicial action may be subject to disciplinary action.

XVII. REPORTS INVOLVING MINORS

The University's Protection of Minors Policy imposes an obligation on all members of the University community—regardless of mandated reporter status—to report upon reasonable cause to suspect that a minor (a person under the

age of 18) is a victim of child abuse, neglect or sexual harassment based on: information shared by the minor or any other individual; or personal observations or knowledge.

The duty to report is triggered by reasonable suspicion or belief. There is no requirement that there be actual evidence of abuse, nor should any individual seek to investigate the matter before reporting. The source of abuse does not need to be known in order to file a report. Any doubt as to whether or not to report should be resolved in favor of making the report to ensure that the appropriate professionals in child protective services can assess the report and evaluate the safety of the minor. Please see the [Protection of Minors Policy](#) for reporting options and procedures.

APPENDIX A

Off Campus Resources

Off-campus options to disclose sexual violence confidentially include (note that these outside options do not provide any information to the campus):

- Off-campus counselors and advocates. Crisis services offices will generally maintain confidentiality unless you request disclosure and sign a consent or waiver form. More information on an agency's policies on confidentiality may be obtained directly from the agency.
- o [Check <http://nyscasa.org/>. Provide specific names if possible, contact information, and information about office, such as whether it provides compensation to victims/survivors of crimes or helps replace property lost or damaged during the crime].

o [Local SANE hospitals and programs] • Off-campus healthcare providers

o Note that medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. More information may be found here:

http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf, or by calling 1-800-247-8035. Options are explained here:

<http://www.ovs.ny.gov/helpforcrimevictims.html>.

It is important for an individual who has experienced sexual violence and is considering campus and/or law enforcement options to visit a Sexual Assault Forensic Examiner Nurse (SAFE Nurse or sometimes referred to as a Sexual Assault Nurse Examiner). SAFE nurses provide free medical care for victims of sexual assault, and are specially trained in conducting sexual assault exams and collecting and preserving forensic evidence of the assault for possible prosecution of the assailant.

SAFE Nurse:	Strong Memorial Hospital
	601 Elmwood Avenue
	Rochester, New York
	585.275.4551
	Rochester General Hospital
	1425 Portland Avenue
	Rochester, New York
	585.922.4000

A SAFE nurse conducts a medical exam (commonly referred to as a "rape kit") with two goals: (1) to diagnose and treat the full extent of any injury or physical effect and (2) to properly collect and preserve evidence. The exam may include testing and prophylactic treatment for HIV/AIDS, STIs, and pregnancy; a vaginal examination; collecting fingernail scrapings and/or clippings; examining for injuries; and drawing blood. There is a limited window of time (typically 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Gathering such evidence does not commit an individual to pursuing legal action against the assailant, but does preserve that option. Although it may be difficult following a sexual assault, individuals who are considering or may consider legal action should try not to shower, rinse mouth, brush teeth or change clothes to allow for the maximum possible collection of evidence by a SAFE nurse or other health care provider.

Hospitals are not required to report any non-identifying information to the University or to anyone else. However, hospitals providing care to individuals reporting sexual assault are required to:

collect and maintain the chain of custody of sexual assault evidence for not less than 30 days unless the patient signs a statement directing the hospital not to collect it;

advise the individual seeking medical treatment related to sexual assault of the availability of the services of a local rape crisis or victim assistance organization to accompany the individual through the sexual offense examination;

contact a rape crisis or victim assistance organization providing assistance to the geographic area served by that hospital to establish the coordination of non-medical services to individuals reporting sexual assault who request such coordination and services; and provide emergency contraception upon the patient's request.

Even if an individual who has experienced sexual violence does not have injuries requiring emergency attention, the University encourages that individual to seek medical care as soon as possible, whether at Health and Counseling Services or another health care provider or hospital. The primary purpose of the medical evaluation is to check for physical injuries, reduce risk of complications from sexually transmitted diseases as a result of the assault, and/or (if appropriate) reduce risk of pregnancy.

Please know that, in most instances, any health care provider will likely encourage an individual reporting sexual assault to authorize collection of evidence. For individuals who seek initial medical treatment at Health and Counseling Services and agree to evidence collection, the individual will be escorted to the nearest hospital by Campus Safety or will be escorted to a taxi (the University will provide a voucher) to be transported to the chosen medical provider. A Reporting Party can receive follow-up health care at Health and Counseling Services or the chosen health care provider or hospital.

Note that even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him or herself or others and the mandatory reporting of child abuse.

1. Campus Safety and Law Enforcement: The University's Campus Safety Department and the Monroe County Sheriff's Office provide assistance 24 hours a day, 365 days a year. Campus Safety can escort students to a safe place, provide transportation to the hospital, assist in making a report to law enforcement, and provide information about the University's resources and complaint processes. SHOULD THIS INCLUDE WHAT MCSO and NYS Police can do?
 - Campus Safety at extension 3333 or 585.389.2850
 - Monroe County Sheriff's Office at 911
 - New York State Police 24/7 hotline at 1.844.845.7269
2. University Health Services: The University's Health and Counseling Services (or any local medical provider) can provide confidential emergency medical and mental health care.
 - Health and Counseling Services offers students free, confidential health care services. Emergency mental health services are also accessible at University Health and Counseling Services 24 hours a day, 7 days a week when classes are in session.
 1. A student can access mental health services by calling Campus Safety at ext. 3333 or 585.389.2850. Emergency medical care can be accessed during normal business hours (8:30 a.m. to 4:30 p.m.) by calling 585.389.2500.

For emergencies that occur while Health and Counseling Services are closed, students can call Campus Safety: 585.389.2850; use the individual's Safe@Naz app or utilize local emergency health care resources identified below

3. Local Emergency Health Care Services. The Rochester area has several local hospitals providing emergency medical care. You can access these hospitals at any time by
 - calling Campus Safety at extension 3333 or 585.389.2850
 - calling 911
 - proceeding directly to the Emergency Department at Strong Memorial Hospital (601 Elmwood Avenue in Rochester / 585.275.4551),
 - which has a Sexual Assault Forensic Examination (SAFE) Center; or
 - proceeding to Rochester General Hospital (1425 Portland Avenue in Rochester)
 - please note you should call 585.922.4000 to access a Sexual Assault Forensic Examiner at Rochester General Hospital

4. Local Emergency Mental Health Care Services: For after-hours mental health emergencies occurring off campus or when classes are not in session (resources are available 24 hours/day):
 - calling Campus Safety at extension 3333
 - calling Life Line at 585.275.5151; or
 - calling 211; or
 - calling 911; or
 - go to the Psychiatric Emergency Department at University of Rochester Medical Center (601 Elmwood Avenue in Rochester / 585.275.4501); or
 - call Restore Sexual Assault Service's confidential rape crisis hotline at
 1. 585.546.2777 (Monroe County)
 2. 800.527.1757 (Genesee, Livingston, Orleans & Wyoming Counties); or
 - calling Willow Domestic Violence Center's confidential hotline (585.232.7353) for victims of domestic violence

APPENDIX B

Students' Bill of Rights

All students who report conduct allegedly in violation of this Policy or invoke the processes described in this Policy have the right to:

- make a report to local law enforcement and/or state police;
- have disclosure of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
- participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
- be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
- be protected from retaliation by the University, any student, the accused and/or the Responding Party, and/or their friends, family, and acquaintances within the jurisdiction of the University;
- access to at least one level of appeal of a determination;
- be accompanied by an advisor of choice who may assist and advise a reporting individual, accused or Responding Party throughout the judicial or conduct process including during all meetings and hearings related to such process; and
- exercise civil rights and practice of religion without interference by the investigative, criminal justice or judicial or conduct process of the institution.