



TITLE IX SEXUAL HARASSMENT POLICY (Effective August 14, 2020)

PURPOSE

In order to maintain an environment that is free from discrimination on the basis of sex, Pima Medical Institute (“PMI”) is committed to complying with Title IX of the Education Amendments of 1972, which prohibits sex-based discrimination in any educational program or activity, including employment therein, and admission thereto. PMI is committed to preventing, investigating, and remedying violations of this Policy. This Policy has been updated to reflect the requirements of the 2020 revised Title IX regulations, issued by the U.S. Department of Education (“2020 Title IX Regulations”). This Policy addresses sexual harassment as defined by the 2020 Title IX Regulations and hereafter referred to as *Title IX Sexual Harassment*.

TRAINING

PMI shall take steps to ensure that any individual designated as a Title IX Coordinator, Investigator, Hearing Officer(s) or other hearing decision-maker, informal resolution facilitator, Appeal Decision-maker, or other individual designated by PMI to participate on behalf of PMI in the investigation and resolution of *Title IX Sexual Harassment* complaints receives training as required by Title IX. PMI will post the training materials on its website.

APPLICABILITY

This Policy applies solely to alleged violations of Title IX’s prohibition against sexual harassment in an education program or activity. The Policy applies to conduct by and against all persons involved in the operation of PMI, including PMI employees, supervisors, co-workers, trainees, contractors, unpaid collaborators, interns, students, volunteers, any individuals providing services pursuant to a contract, visitors and third-party non-employees or applicants for an employment, volunteer, or training position with PMI (hereinafter collectively referred to as “personnel”).

This Policy applies to prohibited conduct that occurs in an education program or activity, which includes conduct:

1. on PMI property;
2. in the context of any PMI program or activity; and
3. in any other location, event, or circumstance over which PMI exercises substantial control over both the Respondent and the context in which the alleged violation of this Policy occurs.

POLICY

PMI prohibits *Title IX Sexual Harassment* and Retaliation, as defined below. Such conduct will not be tolerated by PMI. PMI employees, students, interns or other covered individuals who violate this Policy will be subject to appropriate disciplinary action, up to and including termination.

For the purposes of this Policy, the individual who is reported to have experienced prohibited conduct is referred to as the "Complainant." The "Respondent" is the individual who is reported to have committed the prohibited conduct.

PROHIBITED CONDUCT

The following conduct is prohibited under this Policy.

A. Title IX Sexual Harassment

Conduct on the basis of sex that is:

1. Taken against a person in the United States;
2. Occurs in a PMI education program or activity, as defined above; and
3. Satisfies one or more of the following:
 - a. *Quid Pro Quo Harassment* -- An employee of PMI conditioning the provision of an aid, benefit, or service of PMI on an individual's participation in unwelcome sexual conduct;
 - b. *Hostile Environment* - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to PMI's education program or activity; or
 - c. "*Sexual Assault*," "*Dating Violence*" "*Domestic Violence*," or "*Stalking*," as defined by this Policy.

B. Retaliation

All persons covered by this Policy are protected by law from retaliation as defined below. PMI will take disciplinary action up to and including the immediate termination of any employee who retaliates against any covered individual. Any incident of retaliation must be reported immediately to the Title IX Coordinator and/or a supervisor. Complaints of retaliation will be promptly and thoroughly investigated in accordance with the Complaint Process set forth below.

Retaliation is an adverse action taken against an individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy or as reprisal for filing a complaint or report, supporting a Complainant, and/or otherwise participating or refusing to participate in a proceeding pursuant to this Policy. Retaliation may include intimidation, threats, coercion or discrimination. Under no circumstances will PMI tolerate any

retaliation against an individual or group for making a complaint in good faith under this Policy or for participating in an investigation.

Retaliation does not include charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a proceeding under this Policy, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Retaliation can be committed by or against any individual or group of individuals, including a Respondent or Complainant. Retaliation is still prohibited even when there is a finding of no responsibility for the allegation.

RELATED DEFINITIONS

Actual knowledge means notice or allegations of *Title IX sexual harassment* to the Title IX Coordinator or to any PMI official who has authority to PMI corrective measures on behalf of PMI.

Advisor. An individual chosen by either party (or provided by PMI in limited circumstances described below solely for the purpose of conducting Cross-Examination) at a hearing, to accompany the party to meetings regarding the investigation or to a hearing. The Advisor of choice may be, but is not required to be, an attorney.

Affirmative consent is 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. 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. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Consent cannot be given when it is the result of any coercion intimidation, force, or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop.

Authority to Take Correct Measures. A PMI official designated as having the authority to take corrective measures on behalf of PMI in response to notice or complaints under this Policy. PMI has designated the Title IX Coordinator, the Chief Operating Officer and Regional Directors of Operations as having this authority.

Complaint means a written document filed by a Complainant or signed by the Title IX Coordinator alleging *Title IX Sexual Harassment* against a Respondent and requesting that PMI investigate the allegation. At the time of filing a complaint, the Complainant must be participating in or attempting to participate in an education program or activity of PMI. A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information for the Title IX Coordinator listed in this Policy, and by any additional method designated by PMI. The phrase "document filed by a Complainant" means a document or electronic submission that contains the physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint.

Dating Violence is defined at 34 U.S.C. 12291(a)(10) in the Violence Against Women Act

of 1994 (“VAWA”). This misconduct is violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the person subjected to such violence, and (2) where the existence of such a relationship is determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence is defined at 34 U.S.C. 12291(a)(8) in VAWA. This misconduct is a crime of violence committed by any person (including a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with, or has cohabitated with, the victim as a spouse or intimate partner, or a person similarly situated to a spouse of the victim) against a person who is protected under the state domestic or family violence laws or the laws of the jurisdiction in which the crime was committed.

Incapacity occurs when an individual lacks the ability to knowingly choose to participate in sexual activity (e.g., the person lacks the ability to understand the “who, what, when, where, why, or how” of engaging in sexual activity). Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. This Policy covers a person whose incapacity results from mental, intellectual, or other disability, involuntary physical restraint, and/or from the use of alcohol or drugs.

Remedies are measures taken by PMI that are intended and designed to restore access or preserve equal access to PMI’s education programs and activities. Remedies may include supportive measures, as defined below.

Report means any written or oral report to the Title IX Coordinator and/or any PMI official with the authority to take corrective action on behalf of PMI (as defined above) of information that could constitute a potential violation of this Policy. The term “report” includes “complaints,” as defined by this Policy, and also includes other situations where a complaint has not been made, but PMI has actual notice of *Title IX Sexual Harassment* or allegations of *Title IX Sexual Harassment*, as defined by this Policy.

Sexual Assault is defined at 20 U.S.C. 1092(f)(6)(A)(v) of the Clery Act. This offense includes rape and fondling.

Stalking is defined at 34 U.S.C. 12291(a)(30) of VAWA. This misconduct includes engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. This definition incorporates the concept of cyber-stalking, which employs the use of the internet, social media, blogs, texts, cell phones, or other similar devices or forms of communication.

Supportive measures mean services offered without fee or charge as appropriate and to the extent reasonable to the Complainant or the Respondent.

TITLE IX COORDINATOR

The administration of this Policy shall be the responsibility of the Title IX Coordinator. For purposes of this Policy, this individual will be referred to as the Title IX Coordinator. The Title IX

Coordinator is responsible for coordinating PMI's compliance with Title IX, including coordinating the effective implementation of supportive measures and, as appropriate, remedies. References to "Title IX Coordinator," throughout this Policy include a designee of the Title IX Coordinator.

The contact information for the individual responsible for ensuring compliance with this Policy, and for receiving and responding to reports of conduct prohibited under this Policy, is as follows:

Liby Lentz
Title IX Coordinator
520 323-5975
TitleIXCoordinator@pmi.edu

Questions or concerns may be directed externally to the Office for Civil Rights (OCR), U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202.

CONFLICTS OF INTEREST OR BIAS

Both parties have a right to an investigation and resolution process free of conflicts of interest or bias by any PMI employee or individual designated by PMI to participate on PMI's behalf in the process, including but not limited to the Title IX Coordinator, Investigator, hearing officer(s), Appeal Decision-maker. The individual involved in the process should disqualify themselves in a matter or proceeding in which the member's impartiality might reasonably be questioned, including but not limited to instances where:

- The individual has a personal bias or conflict of interest concerning a participant in the process, or has personal knowledge of disputed facts concerning the matter;
- The individual has a personal bias or prejudice against Complainants or Respondents generally;
- The employee was directly involved in the matter in controversy, or a subordinate whom the employee previously supervised is involved in the matter,
- The individual was a witness to the matter; or
- The individual or a person in the individual's family is related to a participant in the process.

A Complainant and the Respondent have the opportunity to object to the participation of any PMI official or employee or other individual designated by PMI to participate in the process on PMI's behalf on the grounds of bias or conflict of interest. The investigation or proceeding will be temporarily suspended and the Title IX Coordinator or another appropriate official who is not the subject of the objection will evaluate whether the objection is substantiated. The parties will be notified in writing of the findings within five (5) Business Days.

COMPLAINT PROCESS

Any person may report a violation or alleged violation of this Policy (whether or not the person reporting is the person alleged to be the victim), in person, by mail, by telephone, or by electronic mail or online portal, 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. A report may also be made to any PMI official designated as having the authority to take corrective action on behalf of PMI. 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. All employees who receive a report or complaint under this Policy must promptly refer the report or complaint to the Title IX Coordinator.

If an individual feels that they have been subjected to prohibited conduct under this Policy, they should report this conduct immediately but not later than 365 days following the date on which the alleged misconduct occurred, or the date on which the Complainant first learned of the discrimination. A third-party Complainant should make the complaint when the third-party first obtains knowledge of the facts of the alleged illegal harassment or discrimination. Requests for filing extensions should be made to the Title IX Coordinator in writing. The Title IX Coordinator may grant an extension for good cause following the expiration of the time normally allowed.

The formal written complaint should contain the name and address of the Complainant, the date of the complaint, the nature and date of the alleged discrimination, the name or names of those allegedly engaging in the conduct, where the alleged conduct occurred, a detailed statement of the circumstances surrounding the alleged conduct, the names of any witnesses or others affected by the violation and, optionally, the requested relief or corrective action.

The Title IX Coordinator and/or investigator(s) will keep the parties informed of the status of the investigation and inform the parties of any extensions of time to complete the process and the reason(s) for the extensions.

A Complainant will be informed that the Complainant may pursue a criminal complaint with the appropriate law enforcement agency (if applicable), pursue a complaint through this Policy and Procedures, or pursue both processes consecutively or concurrently. A Complainant may withdraw a complaint or involvement from PMI process at any time. If a Complainant pursues a criminal complaint, PMI may temporarily defer the investigation and/or resolution process for a reasonable time to allow law enforcement to complete their factual finding. PMI will maintain documentation of the date of deferral. PMI may continue its investigation where it has reason to believe that the Respondent may be an imminent threat to the safety of the Complainant and/or other individuals. PMI will provide written notice to the Complainant and Respondent when it resumes its investigation and resolution process as appropriate. If a Complainant elects to pursue a criminal complaint exclusively, PMI will request that the Prosecutor's Office immediately inform PMI of its decision on whether to prosecute the complaint. PMI will maintain documentation relating to the request.

SUPPORTIVE MEASURES

Upon receipt of a report or complaint alleging *Title IX Sexual Harassment* under this Policy, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures under this Policy, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a report and explain to the Complainant the process for filing a complaint. PMI will offer supportive measures without fee or charge as appropriate and reasonably available to the Complainant and/or to the Respondent. Supportive measures will be offered before or after the filing of a complaint or where no complaint has been filed. Such measures are non-disciplinary, non-punitive, individualized, and designed to restore or preserve equal access to PMI's programs and/or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or PMI's educational environment, or deter discrimination or harassment. Both parties will be informed in writing of the applicable supportive measures

available to them.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Examples of supportive measures include, but are not limited to, schedule modifications separating the Respondent and the Complainant, limiting a Respondent's access to PMI or PMI events, interim suspension of a Respondent, and/or placing an employee Respondent on administrative leave.

Supportive measures do not indicate PMI has made a decision about the report of Prohibited Conduct. Any supportive measures will be kept private to the extent that maintaining such confidentiality would not impair the ability of PMI to provide the supportive measures. Failure to comply with supportive measures may result in a separate Policy violation.

Both the Complainant and the Respondent may submit a written request to the Chief Operating Officer to be afforded prompt review, reasonable under the circumstances, of the need for and terms of any supportive measure and accommodation that directly affects them, and shall be allowed to submit evidence in support of their request. The designated PMI Appeal Decision-Maker will issue a determination regarding the supportive measures within five (5) calendar days of the receipt of such a request.

TIME FRAME

PMI strives to complete all investigations, hearings, and appeals within ninety to one-hundred twenty (90 – 120) calendar days. PMI's goals are to complete informal resolutions, investigations and hearings within ninety (90) calendar days after receipt of a complaint or report and to complete the appeals process within thirty (30) calendar days after receipt of the appeal. If an Informal Resolution Process is used, PMI strives to resolve the matter through that process within thirty (30) calendar days. These processes may be temporarily delayed or extended for a limited time frame for good cause. Good cause may include considerations such as the absence of a party, a party's Advisor or witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. The Title IX Coordinator will provide written notice of any delays and/or extensions to the parties and describe the reason(s) for the delays and/or extension.

PRIVACY AND CONFIDENTIALITY

In all cases, privacy of information about complaints and investigations will be maintained to the extent required by law and to the extent possible given PMI's obligations under the law and under this Policy. PMI will, to the extent permitted or required by law, keep confidential the identity of any individual who has made a report or filed a complaint under this Policy, 2) any Complainant, 3) any individual who has been reported to be the perpetrator of a Policy violation, 4) any Respondent, and 5) and any witness. The identity of the Complainant, Respondent, and any witnesses, as well as information about the investigation and any supportive measures, will only be shared with those involved in the complaint process to the extent possible. PMI does not restrict the ability of either party to discuss an investigation with other individuals.

The potential Complainant may request that the Title IX Coordinator not share their name (or other identifiable information) with the Respondent, or that the Title IX Coordinator take no action in response to a Report. The Title IX Coordinator will evaluate a request for confidentiality or no action on a complaint in the context of PMI's obligations to provide a safe and nondiscriminatory

environment for all community members, and to remain true to the principle of fundamental fairness which requires that a Respondent be provided with notice of the allegations and an opportunity to respond before any action is taken against a Respondent. The Title IX Coordinator will make this determination consistent with the following considerations: 1) the seriousness of the conduct; 2) the respective ages and roles of the Complainant, and the Respondent; 3) whether there have been other complaints against the Respondent; and 4) the right of the Respondent to receive notice and relevant information before disciplinary action is sought. Therefore, while absolute confidentiality cannot be promised, PMI will treat the concerns of the Complainant with sensitivity and respect. A Complainant will be informed that a request for confidentiality may limit PMI's ability to respond.

INVESTIGATION

When PMI receives a complaint or report under this Policy, in an education program or activity of PMI against a person in the United States, it will respond promptly in a manner that is not deliberately indifferent, including by following the requirements of the Procedures described in this Policy to provide appropriate supportive measures and/or conduct an investigation of the complaint.

The following apply to all investigations conducted under this Policy:

1. The Title IX Coordinator will conduct a thorough, objective, and equitable investigation of the complaint, or will designate appropriate individuals to do so.
2. In this process, PMI will treat Complainants and Respondents equitably by providing remedies to a Complainant where a determination of responsibility has been made against the Respondent, and by following the investigation and resolution process described in this section before the imposition of any disciplinary sanctions or other actions that are not supportive measures, as defined in this Policy, against a Respondent.
3. PMI recognizes, and will advise the parties, that there is a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the investigation and resolution process.
4. PMI will use the preponderance of evidence standard to determine responsibility for any alleged violation of this Policy. A preponderance of the evidence means that it is more likely than not that the alleged misconduct occurred.
5. In all investigations and determinations of responsibility, PMI will conduct an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.
6. PMI will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

7. The sexual predisposition and prior sexual behavior of the Complainant are generally not relevant and will not be considered as evidence. However, either party's prior sexual behavior may be offered as evidence under the following limited circumstances:
- To provide that someone other than the Respondent committed the conduct alleged by the Complainant; and
 - To prove consent by offering specific incidents of the Complainant's prior sexual behavior with respect to the Respondent. As noted, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.

A. Initial Determination

The Title IX Coordinator will make an initial determination as to whether the reported conduct, if true, could constitute a violation of the Policy.

If the reported conduct does not appear to allege a violation of this Policy, the Title IX Coordinator will dismiss the complaint if:

1. The Complainant is no longer enrolled or employed by PMI;
2. The alleged conduct did not occur in PMI's education program or activity;
3. The alleged conduct did not occur against a person in the United States.

PMI may also dismiss the complaint or any allegations, if at any time during the investigation, hearing or appeal:

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

The Title IX Coordinator will promptly provide written notice to the Complainant (and Respondent, if the Respondent has been notified of the investigation) of PMI's determination to dismiss a complaint or any allegations, the reason(s) therefore, and the available appeal process for dismissals.

In all other instances, if the Title IX Coordinator determines that the allegations, if true, could constitute a violation of the Policy, and that an investigation will commence, the matter will proceed to an investigation. An impartial investigator(s) will be assigned by the Title IX Coordinator to conduct an investigation to determine if the Policy may have been violated. Upon notice of the assignment of the investigator(s), the parties will have seven (7) calendar days to raise any objections to the Title IX Coordinator regarding the ability of the investigator to conduct an impartial investigation.

The parties have the option of using formal or informal resolution procedures under this Policy. However, informal resolution is not an option for complaints of *Title IX Sexual Harassment*

made by a student or students against an employee.

PMI may consolidate complaints as to allegations of violations of this Policy 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 arise out of the same facts or circumstances.

B. Notice of the Investigation to the Parties

The Title IX Coordinator will notify the Complainant and Respondent, in writing and simultaneously, of its decision to proceed to investigation of any alleged violation of this Policy. The written notification to the Complainant and to the Respondent will include the following, where known at that time:

1. A description of this Policy and the Procedures, including the Informal Resolution process.
2. A description of the allegations potentially constituting a violation of this Policy, including sufficient details known at the time about the identities of the parties involved in the incident, the conduct allegedly constituting a violation of this Policy, and the date and location of the alleged incident.
3. Notice that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the investigation and resolution process in this Policy and Procedures.
4. Notice to the parties that they may have an Advisor of their choice, who may be, but is not required being an attorney.
5. Notice to the parties of PMI's Employee Standards of Conduct and Student Conduct Expectations, as applicable that prohibits knowingly making false statements or knowingly submitting false information under this Policy.
6. Notice to the parties that the investigation, including written reports and other written statements, will be handled as confidentially as possible, consistent with a thorough investigation, an appropriate disposition of the matter, and current state and federal confidentiality and disclosure laws.
7. Notice to the parties that they may, as described below in this Policy, inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in a complaint.

PMI will provide the parties with sufficient time to review the written notice and prepare a response before any initial interview. In the course of the investigation, PMI will provide written notice of any additional allegations to the parties if PMI decides to investigate additional or different allegations.

C. Informal Resolution Process

The purpose of the informal resolution process is to allow individuals who believe they have been harassed or discriminated against to resolve the issue through a voluntary consultation process rather than the formal resolution process provided by this Policy. The use of the informal resolution process is voluntary and must be agreed to in writing by the Complainant, the Respondent, and the investigator(s). The Informal Resolution Process may be used at any time prior to reaching a determination regarding responsibility and after the filing of a complaint. Either the Complainant or the Respondent may end an informal process at any time until the conclusion of the informal resolution process and choose to pursue the formal resolution process. Informal Resolution will not be used to address allegations that an employee sexually harassed a student.

PMI will provide the parties with written notice disclosing: 1) the allegations; 2) the requirements of the Informal Resolution process, including the circumstances under which it precludes the parties from resuming an investigation arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the formal resolution process; and 3) any consequences resulting from participating in the Informal Resolution process, including records that will be maintained or could be shared.

Individuals may be accompanied by an Advisor at any meetings related to the Informal Resolution process. Information shared or obtained during Informal Resolution will be treated as confidential to the extent permitted by law and will not result in subsequent disciplinary actions by PMI, unless additional action is deemed necessary to fulfill PMI's legal obligations.

Written notification will promptly be sent by the Title IX Coordinator to the Complainant and the Respondent of the conclusion of the informal resolution process. The notification will describe the terms of the approved resolution, if any. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the resolution may result in appropriate responsive actions.

PMI strives to resolve complaints within thirty (30) calendar days of PMI's receipt of the complaint under this Policy.

D. Formal Resolution Process

If the complaint proceeds to the formal resolution process, the investigator(s) will conduct a prompt, adequate, thorough, reliable, impartial and equitable, incorporating applicable investigation techniques, including, but not limited to, interviewing relevant parties and witnesses, and obtaining available and relevant evidence.

When investigating a complaint under this Policy, PMI will—

- Ensure that the burden of proof and the burden of gathering evidence rest on PMI and not on the parties;
- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The Complainant and

Respondent will be asked to provide a list of possible witnesses to the incident, as well as any supporting documents (e.g., text messages, emails, social media, photographs, telephone records, etc.) that they wish to be considered during the investigation." A "witness to the incident" is defined as an individual who had direct contact with at least one of the individuals involved in the incident(s) before, during, or after the incident(s) occurred. Character witnesses are not permitted.

- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- Provide the parties with the same opportunities to have others present during the Procedures, including the opportunity to be accompanied to any related meeting or proceeding by the Advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice of Advisor for either the Complainant or Respondent in any meeting or proceeding under this Policy;
- 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 sufficient time for the party to prepare to participate;
- Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a complaint. PMI will also make all such evidence subject to the parties' inspection and review available at any hearing; and
- Prior to completion of the Investigative Report, PMI will send to each party and Advisor the evidence subject to inspection and review in an electronic format or a hard copy.

a. Investigation Report

i. *Draft Investigation Report*

Once the investigation is complete, the Title IX Coordinator will prepare a written Draft Investigation Report that fairly summarizes relevant evidence gathered during the course of the investigation. The Draft Investigation Report will state specific factual findings.

The Draft Investigation Report will be provided in electronic format or in a hard copy to the parties and their Advisors, if any, for review at least ten (10) business days prior to a hearing. The parties must respond to the Draft Investigation Report within ten (10) Business Days of receipt. The parties may provide: 1) a written response to the information in the Draft Investigation Report, including the provision of additional clarifying information; 2) identification of new witnesses; and/or 3) submission of new evidence. The Title IX Coordinator will review any responses provided and consider whether the responses establish a basis for additional investigation and/or for altering any information in the Draft Information Report.

ii. *Final Investigation Report*

The Title IX Coordinator will issue a Final Investigation Report that will include: the Draft

Investigation Report; the parties' responses to the Draft Investigation Report (if applicable); and the Title IX Coordinator's determinations regarding the parties' responses (if applicable). The Final Investigation Report will also, if applicable, describe any sanctions or discipline proposed for the Respondent or remedies for the Complainant. The Final Investigation Report will be simultaneously provided to both parties. Factors relating to possible sanctions, discipline and remedies are described below.

b. Hearing

PMI will provide a live hearing for both parties. The Hearing Officer will not be the same person(s) as the Title IX Coordinator, the investigator(s) or the Appeal Decision-maker. The Hearing Officer will determine whether the evidence supports a finding of "Responsible" under the Policy using the preponderance of the evidence standard. The Hearing Officer will also determine any applicable sanctions or discipline for violations of the Policy. The Hearing Officer will not re-investigate facts in a report and will consider only the evidence presented and any facts that may be pertinent to the determination of responsibility and the sanctioning or discipline determination.

Hearings will be held in accordance with the following procedures:

1. Live hearings may be conducted with all parties physically present in the same geographic location or, at PMI's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. Both the Complainant and the Respondent may choose to request that the live hearing occur with the parties located in separate rooms. The technology used for virtual hearings or hearings with the parties in separate rooms must allow the participants simultaneously see and hear the party or the witness answering questions each as one another.
2. The Title IX Coordinator and/or Investigator may be called to testify about the investigation and investigation report.
3. Both the Complainant and the Respondent are entitled to have one Advisor or support person present, who may be an attorney. If a party does not have an Advisor present at the live hearing, PMI will provide without fee or charge to that party, an Advisor of PMI's choice, who may be, but is not required to be, an attorney, to conduct Cross-Examination on behalf of that party.
4. The Hearing Officer will provide each party with an opportunity for Cross-Examination:
 - o Each party's Advisor will be permitted to ask the other party and any witnesses all relevant questions and follow up questions, including those challenging credibility.
 - o Cross-Examination will be conducted directly, orally, and in real time by the party's Advisor and never by a party personally, notwithstanding the discretion of PMI to otherwise restrict the extent to which Advisors may participate in the proceedings.
 - o Only relevant Cross-Examination and other questions may be asked of a party or

witness. Before a Complainant, Respondent, or witness answers a Cross-Examination or other question, the Hearing Officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

- If a party or witness does not submit to Cross-Examination at the live hearing, the Hearing Officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing.
5. Both the Complainant and the Respondent may provide an impact statement.
 6. PMI will create an audio or audiovisual recording, or transcript, of the hearing and make it available to the parties, upon request, for inspection and review.

SANCTIONS AND REMEDIES

Sanctions that may be taken against a Respondent in response to findings of a violation of this Policy include, but are not limited to, reprimand, reassignment, transfer, disciplinary action, or termination.

Title IX Sexual Harassment will be deemed to constitute just and reasonable cause for discipline up to and including termination and will be deemed to be insubordination and refusal to obey the policies of PMI.

Appropriate action will be taken if further acts of *Title IX Sexual Harassment* occur or if there is any retaliation by either party or individuals acting on behalf of either party.

The Hearing Officer may also decide to provide remedies to the Complainant.

WRITTEN DETERMINATION

Both the Complainant and the Respondent shall be simultaneously provided with a written determination, which will include:

1. Identification of the allegations, names of the parties, and name of the Investigator;
2. A description of the procedural steps taken from the receipt of the 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. Applicable policies and procedures;
4. Information considered during investigation (witnesses questioned, documents and other evidence);
5. Supportive measures requested/provided;
6. Responses from either the Complainant or Respondent to the investigator's Draft Investigation Report;
7. Findings of fact to support the determination;
8. Conclusions, using the preponderance of evidence standard, regarding the application of PMI's Policy to the facts;
9. A statement of, and rationale for, the result as to each allegation, including a

- determination regarding responsibility, any disciplinary sanctions PMI imposes on the Respondent, and whether remedies will be provided by PMI to the Complainant; the sanctions and/or other appropriate measures and remedies will be approved by the Hearing Officer; and
10. PMI's appeal procedures and the permissible bases for the Complainant and Respondent to appeal.

The determination regarding responsibility becomes final either on the date that PMI provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

APPEALS

The Respondent and/or the Complainant may appeal PMI's closure or dismissal of a complaint or allegations therein, or the Hearing Officer's written determination of responsibility. Either party may also appeal the sanctions or discipline imposed by the Hearing Officer. The Appeal Decision-maker(s) will not be the same person as Hearing Officer or the decision-maker(s) that reached the determination regarding dismissal, the investigator(s), or the Title IX Coordinator.

PMI will implement the appeal procedures equally for both parties and will use the preponderance of the evidence standard for its determination. A request for an appeal must be submitted in writing to the Title IX Coordinator for consideration by an Appeal Decision-maker within seven (7) calendar days of the issuance of the written determination. Upon notice of the assignment of Appeal Decision-maker, the parties will have seven (7) calendar days to raise any objections to the Title IX Coordinator regarding the ability of the Appeal Decision-maker to conduct an impartial appeal. When an appeal is filed by one party, PMI will notify the other party in writing that an appeal has been filed. PMI will provide both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

An appeal of the decision may be considered if one of the following grounds is present:

1. **Procedural Error:** A procedural error occurred that affected the outcome, including the findings and/or sanctions or discipline. A description of the error and its impact on the outcome of the case must be included in the written appeal. Minor or harmless deviations from the process will not invalidate the proceedings.
2. **New Evidence:** New evidence that was not reasonably available at the time that the determination of responsibility was made and that could affect the outcome, including the findings and/or sanctions. Information that was known to the Complainant or Respondent during the investigation, but which he or she chose not to present, is not new evidence. A summary of this new evidence and its potential impact on the investigation findings and/or sanctions must be included in the written appeal.
3. **Conflict of Interest or Bias:** PMI's Title IX Coordinator, Investigator(s), or the Hearing Officer, or any individual designated by PMI to perform the functions of the Title IX Coordinator, Investigator(s), or the Hearing Officer, had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

Once an appeal request is received, a decision will be issued on eligibility for appeal usually within five (5) business days. If the process is extended beyond five (5) days, the Appeal Decision-maker will inform the parties of the extension of time to complete the appeal and the reason(s) for the extension. If the grounds for an appeal are not met, the request for an appeal will be denied and the parties will be simultaneously informed in writing. Regardless of whether all parties request an appeal, the Complainant and Respondent will be informed in writing, and permitted to participate in the appeal and to respond to the information provided by the other party.

The role of the Appeal Decision-maker regarding appeals is limited. Appeals are not intended to be a full rehearing of the complaint. PMI strives to complete the appeals process within thirty (30) calendar days after receipt of the appeal.

Appeals are confined to a review of the statements submitted by the parties and the investigative and hearing record for the grounds stated above, including but not limited to evidence presented at the hearing and documentation pertinent to the grounds for appeal.

The Appeal Decision-maker will simultaneously notify both parties in writing of that outcome, including the result of the appeal and the rationale for the result. The decision shall be final.

RECORDS

PMI will maintain records relating to allegations of Prohibited Conduct under this Policy for a period of seven years and as required by any applicable state requirements. Complaints and information gathered in the course of an investigation will be kept private to the extent permitted by law. The records shall include:

- i. Each *Title IX Sexual Harassment* investigation, including any determination regarding responsibility and any recording or transcript of the hearing, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant;
- ii. Any appeal and the result of the appeal;
- iii. Any informal resolution and the result;
- iv. All materials used to train Title IX Coordinators, Investigators, Hearing Officers, others decision-makers, Advisors, any person who facilitates an informal resolution process, and any other individual designated by PMI to participate on PMI's behalf in the investigation and resolution of complaints under this Policy; and
- v. Records of any actions, including any supportive measures, taken in response to a *Title IX Sexual Harassment* report or complaint. PMI will document the basis for its conclusion that its response was not deliberately indifferent, and that it has taken measures designed to restore or preserve equal access to its education program or activity. If PMI decides not to provide a Complainant with supportive measures, it will document why such a response was not clearly unreasonable in light of the known circumstances. Documentation of certain bases or measures does not limit PMI from providing additional explanations or detailing additional measures taken.