



# Title IX and Sex Discrimination Policies

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**To make a report to Grace College of sexual harassment or sexual violence, contact:**

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McClain 102

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## I. INTRODUCTION

Grace College and Grace Theological Seminary (“Grace”) is committed to providing a safe, respectful, and God-honoring environment, free from unlawful sex discrimination in all aspects of its Education Programs and Activities. All members of its community have the right to be free from harassment that impedes the realization of Grace’s mission. Grace does not discriminate based on race, color, national origin, age, sex, or disability in admissions, scholarship and loan programs, athletics, or any other education programs and activities<sup>1</sup>.

## II. POLICY STATEMENT

This Sex Discrimination and Title IX Policy and Procedures (the “Policy”) prohibits all forms of Sex Discrimination, Sex-Based Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and other conduct as described in [Section X](#), and details the resolution options available when an allegation of Prohibited Conduct is made. All forms of sexual harassment and sexual misconduct will be addressed under this Policy, regardless of whether they meet the jurisdictional requirements under Title IX<sup>2</sup>.

## III. SCOPE

This Policy applies to any report of sex-based discrimination or harassment that is alleged to have occurred in any Grace Education Program or Activity, including on campus and in buildings owned by Grace. It applies to all members of the Grace community, including, but not limited to, students, prospective students, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, and camp attendees.

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<sup>1</sup> See Grace’s *Notice of Nondiscrimination*.

<sup>2</sup> Title IX refers a 1972 Higher Education Amendment, 10 U.S.C. § 1681 et seq., to the U.S. Civil Rights Act (1964) that states: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

This Policy is not intended to infringe upon or limit a person's right to free speech or academic freedom, even if that discourse is uncomfortable; however, speech that constitutes harassment or is a serious threat to a person's physical safety is not protected and will be subject to investigation and possible disciplinary action under this Policy.

#### IV. REPORTING

All Grace employees who are not Confidential Resources have a duty to promptly report information that may reasonably constitute Prohibited Conduct or violations of this Policy. This obligation also extends to student Resident Assistants and student Campus Safety Officers while in the scope of their employment. Members of Grace's board of trustees are also required to report potential violations of this Policy, even though they are not employees of Grace. Allegations of Prohibited Conduct as described in Section X can be reported directly to the Title IX Coordinator or by using the online reporting form.

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Grace accepts anonymous reports; however, anonymous reports may limit Grace's ability to respond effectively.

Grace employees designated as Campus Security Authorities must also report non-identifying information regarding any Clery crime to the Director of Campus Safety<sup>3</sup>.

Anyone at Grace who suspects a child has been neglected or abused must, by Indiana state law, make a report. Reports can be made in Indiana to the Indiana Department of Child Services hotline at 1-800-800-5566<sup>4</sup>.

There is no time limitation for a Complainant to file a complaint of Prohibited Conduct; however, if the Respondent is no longer subject to Grace's jurisdiction or if significant time has passed, the ability for Grace to investigate, respond, and provide remedies may be limited or impossible.

In addition to reporting violations to Grace, an individual has the option to pursue a criminal complaint with the appropriate law enforcement agency. Complainants may (a) notify local police,

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<sup>3</sup> Student RAs and student campus safety officers are also designated CSAs.

<sup>4</sup>See Grace's child abuse and neglect *Mandatory Reporting Policy* for more information about reporting.

(b) be assisted by Grace in notifying law enforcement authorities if the Complainant so chooses, or (c) decline to notify law enforcement authorities. Regardless of a Complainant's decision to file a police report, Grace will offer Supportive Measures as described in [Section VI](#). Grace's process and procedures are distinct from a criminal investigation as a result of Grace's obligation under Title IX. Grace may independently notify law enforcement if it determines that the physical health or safety of a member of the Grace Community is at risk, regardless of whether the Complainant notifies law enforcement.

Individuals with questions about nondiscrimination laws may contact the following U.S. Department of Education, Office for Civil Rights, which serves Indiana:

Office for Civil Rights  
U.S. Department of Education  
Cesar E. Chavez Memorial Building  
1244 Speer Boulevard, Suite 310  
Denver, CO 80204-3582  
Telephone: 303-844-5695  
FAX: 303-844-4303; TDD: 800-877-8339  
Email: [OCR.Denver@ed.gov](mailto:OCR.Denver@ed.gov)

## V. RESOURCES FOR HELP

### 1. Emergency Help and Preserving Evidence

Grace encourages anyone who has experienced harm or violence to report it as soon as possible, both for their safety and the ability to preserve evidence. For guidance when preserving evidence, click [here](#).

### 2. Campus and Community Resources

Both Complainants and Respondents have equal access to support, information, and counseling through on-campus or off-campus resources.

Grace's Health and Counseling Services, located in the Gordon Health and Wellness Center, provides direct counseling, support, and information for local students who experienced or are affected by conduct that is the subject of this Policy regardless of whether the incident happened on campus, was perpetrated by another Grace student or employee, or whether a they choose to make a Formal Complaint ([Section XIV](#)) or participate in a Complaint Resolution Process under this Policy ([Section XVII](#)). It can also assist in making referrals for individuals who desire counseling, support, or information in their local communities.

Grace's Health Services provides nursing services, including assessment, triage, and referral for

health and medical needs resulting from Sexual Assault.

Local, off-campus advocates are available at the Winona Lake Police Department or the prosecuting attorney's office in Warsaw, Indiana. They help in a crisis and can provide information, referrals, and personal advocacy to those who experience or are affected by violent crimes.

For a comprehensive list of resources, click [here](#), including information about legal assistance, visa and immigration assistance, student financial aid, and other services available at Grace and in the community.

### 3. Confidential Resources

Grace recognizes that not every individual will choose to report conduct prohibited by this Policy to Grace or to law enforcement. Accordingly, Confidential Resources are available to provide critical support and information, and can assist individuals in evaluating whether to make a report to Grace and/or to law enforcement.

Confidential Resources on campus are certain Grace employees who are required by law to protect confidentiality when acting in the course of their professional duties at Grace to which privilege or confidentiality applies at the time they receive Notice. The following are Confidential Resources at Grace:

- Health and Counseling Services counselors and clinical interns
- Dean of Chapel and Community Life (chaplain)
- Campus nurse
- Athletic trainers

## VI. SUPPORTIVE MEASURES

### 1. Supportive Measures

Upon notice of alleged Prohibited Conduct, Grace will offer non-disciplinary, non-punitive individualized services to both Complainant and Respondent as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent. Supportive measures are designed to restore or preserve a Party's access to Grace's Education and Programs and Activities without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the educational environment or to deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, leaves of absence in the case of employees, increased security and monitoring of certain areas of the campus, and other similar measures.

Grace will consider providing reasonable Supportive Measures to third parties as appropriate and available, taking into account the role of the third party and the nature of any contractual relationship with Grace.

Supportive Measures may only be disclosed to the extent necessary to provide the Supportive Measure or restore or preserve a Party's access to Grace's Education Programs or Activities or as permitted by law.

## 2. Mutual No Contact Directives

A Mutual No Contact Directive may be requested by any Party or issued by the Title IX Coordinator. Typically, a No Contact Directive prohibits conduct directly, indirectly, or through third parties acting on behalf of the Party (including attorneys) between specific individuals for an identified period of time. Means of contact include, but are not limited to, in-person, phone, written, text, instant messaging, and all social and digital media. Unintentional contact is not considered a violation if it does not result in the initiation of communication by either Party. A No Contact Directive does not normally preclude either Party from using all campus buildings and amenities unless specifically stated so in the written directive.

No Contact Directives are separate and distinct from court-administered actions such as protective orders and restraining orders. Questions about these should be directed to law enforcement.

## 4. Administrative Leave

Grace may place employee Respondents on administrative leave from their employment responsibilities, consistent with Grace's *Employee Handbook*, during the pendency of the Informal or Formal Resolution process conducted pursuant to this Policy and its procedures.

## VII. AMNESTY

Grace strongly encourages individuals to report conduct prohibited by this Policy, but also recognizes that individuals who have been drinking or using drugs or have engaged in consensual sexual relationships that are otherwise prohibited by Grace's policies may be hesitant to report incidents of Prohibited Conduct due to fear of potential consequences for their own conduct.

Although Grace does not condone this conduct, the importance of addressing harassment and sex-based misconduct outweighs Grace's interest in addressing lesser violations. Students who report conduct prohibited under this Policy will not be subject to discipline under other Grace policies for potential conduct violations that arise out of the same facts and circumstances. Grace may, however, pursue non-disciplinary responses, such as counseling, developmental, and/or educational efforts to help students.

## VIII. FALSE ALLEGATIONS AND EVIDENCE

An individual found to have knowingly made a false report, provided false information or evidence, or deliberately misled an official as part of an investigation of conduct prohibited under this Policy may be subject to disciplinary or corrective action. Students may be referred to student conduct, and employees referred to human resources for additional review and possible further or progressive corrective action, including suspension, expulsion, and/or termination from Grace. This obligation does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

## IX. EMERGENCY REMOVAL

Grace does not automatically alter the status of Respondents upon the report of alleged prohibited conduct. If, after an individualized safety and risk analysis, Grace determines that the Respondent poses an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the Prohibited Conduct, Grace may remove the Respondent from its education program(s) or activity(ies) on an emergency basis. The Respondent will be notified promptly in writing of the emergency removal and provided an opportunity to challenge the decision.

## X. PROHIBITED CONDUCT

This Policy prohibits a broad range of behaviors defined by federal regulations issued in 2020 by the U.S. Department of Education as sexual harassment. They are used in this Policy to refer to sex-based offenses defined below and referred to collectively as “Prohibited Conduct.” In determining whether reported conduct violates this Policy, Grace will consider the totality of the facts and circumstances involved in the incident, including the nature of the reported conduct and the context in which it occurred. Prohibited Conduct can be committed by or against individuals of the same or different sex. It can occur between strangers or acquaintances, between individuals involved in a professional relationship, and between people involved in domestic or dating relationships. Lack of familiarity with Grace’s Policy is not a defense to a violation of this Policy. Unless specifically noted, intent is not a required element to establish a policy violation.

### 1. Title IX Prohibited Conduct

Sexual harassment<sup>5</sup> means conduct on the basis of sex that satisfies one or more of the following:

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<sup>5</sup> Federal Title IX regulations §106.30(a) Sexual Harassment.

a. **Quid Pro Quo**

A Grace employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; or

b. **Hostile Environment**

Unwelcome conduct<sup>6</sup> determined by a reasonable person to be so severe, pervasive, *and* objectionably offensive that it effectively denies a person equal access to Grace's Education Programs or Activities; and

c. **Sexual Assault/Sexual Violence<sup>7</sup>**

Sexual Assault is having or attempting to have Sexual Contact with another individual without Consent or when the individual cannot Consent because of age or temporary or permanent mental Incapacity (see [Section XXIV](#)).

Sexual Assault and Sexual Violence include:

- **Non-Consensual Sexual Intercourse** (anal, oral, or vaginal), including penetration with a body part (e.g., penis, finger, hand, or tongue) or an object, or requiring another to penetrate themselves with a body part or an object, however slight; or
- **Non-Consensual Sexual Contact** is the intentional touching of the clothed or unclothed genitals, buttocks, groin, or other body parts of the Complainant by the Respondent, or the forced touching by the Complainant of the Respondent's clothed or unclothed body parts, without the Consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation; or
- **Attempts to commit** Sexual Assault.

d. **Dating Violence<sup>8</sup>**

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.

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<sup>6</sup> "Unwelcome" is subjective and determined by the Complainant except when the Complainant is a Minor. Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances and with similar identities to the Complainant, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

<sup>7</sup> "Sexual assault" as defined in the Clery Act 20 § U.S.C.1092(f)(6)(A)(v).

<sup>8</sup> "Dating violence" as defined in 34 U.S.C. 12291(a)(10).

The existence of such a relationship shall be determined based on the statement of the Complainant and in consideration of the following factors:

1. Length of the relationship.
2. Type of relationship.
3. Frequency of interaction between the persons involved in the relationship.

For the purposes of this definition, 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.

e. **Domestic Violence<sup>9</sup>**

The use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over the Complainant, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by:

- ② A current or former spouse or intimate partner of the Complainant,
- ② A person with whom the Complainant shares a child in common,
- ② A person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner,
- ② A person similarly situated to a spouse of the Complainant under Indiana State law, or
- ② By any other person against an adult or minor Complainant who is protected from that person's acts under Indiana state law.

f. **Stalking<sup>10</sup>**

Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear for their own safety or the safety of others or suffer substantial emotional distress.

“Course of conduct” means:

- A pattern of conduct composed of a series of unwelcome acts or impermissible contact over a period of time, however short, indicating a continuity of purpose,
- In which an individual directly, indirectly, or through third parties,
- By any action, method, device, or means,

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<sup>9</sup> “Domestic violence” as defined in 34 U.S.C. 12291(a)(8).

<sup>10</sup> “Stalking” as defined in 34 U.S.C. 12291(a)(30).

- Follows, monitors, observes, surveils, threatens, or communicates to or about a person, or
- Interferes with a person's property.

Stalking includes cyber-stalking, in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

"Reasonable person" means a person similarly situated and with similar demographics.

"Substantial emotional distress" means significant mental suffering or anguish.

**g. Retaliation**

Grace prohibits Retaliation against a person because of that person's participation or refusal to participate in an investigation, proceeding, or hearing of discrimination or harassment under this Policy. Retaliation includes, but is not limited to, adverse action, intimidation, threats, coercion, discrimination, and/or any other conduct that would discourage a reasonable person from engaging in activity protected under this Policy, such as seeking services, receiving protective measures and accommodations, and/or reporting Prohibited Conduct. The exercise of rights protected under the First Amendment does not constitute Retaliation.

**2. Non-Title IX Prohibited Conduct**

This Policy is intended to be construed broadly to include other manifestations of sex-based misconduct, whether or not explicitly enumerated, that occur in or have an effect on Grace's Education Programs and Activities. In addition to the conduct set forth above as Title IX Prohibited Conduct, the following conduct is also prohibited under this Policy:

**a. Non-Title IX Sexual Harassment**

Non-Title IX Sexual Harassment includes conduct that:

1. *Does not occur within* the United States or within Grace's Education Programs and Activities (e.g., Sexual Harassment that occurs on a study abroad trip outside of the United States), but otherwise meets the definition of Title IX Quid-Pro-Quo, Sexual Harassment, Sexual Assault, Dating or Domestic Violence, Stalking, or Title IX Hostile Environment Sexual Harassment.
2. *Does not meet the definition* of Title IX Sexual Harassment, but otherwise constitutes a hostile environment in which there is unwelcome conduct on the basis of a protected class that is so severe, pervasive, or objectively offensive that it denies, limits, or interferes with a person's employment or their ability to participate in or benefit from Grace's Education Program or Activity. In evaluating whether a Non-Title IX hostile environment exists, Grace will consider the totality of known circumstances, including, but not limited to:

- The frequency, nature, and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the Complainant's mental or emotional state;
- Whether the conduct arose in the context of the discriminatory conduct;
- Whether the conduct unreasonably interfered with the Complainant's educational or work performance or Grace's Education Program or Activity; and
- Whether the conduct is protected by academic freedom or freedom of speech.

**b. Sexual Exploitation**

Sexual Exploitation occurs when a Party takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Sexual Exploitation includes but is not limited to:

1. Causing or attempting to cause the Incapacitation of another person to gain a sexual advantage over that person.
2. Surreptitiously observing another individual's nudity or sexual activity, or allowing another to observe sexual activity without the knowledge and consent of all parties involved, or otherwise invading that person's sexual privacy.
3. Electronically recording, photographing, transmitting, showing, viewing, streaming, or distributing intimate or sexual utterances, sounds, or images of another person, whether authentic or created or enhanced through technology (including unwelcome "sexting," "revenge porn," "sextortion," "spoofing," or similar non-consensual or fraudulent conduct).
4. Distributing intimate or sexual information about another person.
5. Exposing one's genitals or breasts, or causing another to expose their own genitals or breasts, in non-consensual circumstances.
6. Knowingly transmitting a sexually transmitted infection or HIV to another person.
7. Causing the prostitution of another person.

**c. Failure to Comply**

Knowingly or intentionally failing to abide by the terms of a Supportive Measure, Informal Resolution Agreement, sanctions, or other element of this Policy, whether by refusal, neglect, or for any other reason, may result in referral to student conduct (students) or human resources (employees) for additional review and possible further or progressive corrective action, including suspension, expulsion, and/or termination from Grace.

## XI. OUTREACH AND INTAKE

Upon receiving notice of Prohibited Conduct that could violate this Policy, the Title IX Coordinator will send an outreach email, typically within two (2) days of the notice, to the Complainant, if known, or other individual reporting Prohibited Conduct to invite them to a meeting with the Title IX Coordinator, who will conduct an Initial Intake with the Complainant. The Complainant is not required to meet with the Title IX Coordinator or disclose any or all of the allegations of Prohibited Conduct. The Initial Intake typically occurs in person, but can also be conducted by telephone or virtual meeting.

Through this outreach and intake, Complainants are advised of the Title IX Coordinator's role, and provided information about their rights, reporting options (including to law enforcement), how to file a Formal Complaint, the availability of Supportive Measures (whether or not they file a Formal Complaint), and Confidential Resources. Complainants receive Grace's Title IX Policy and a help brochure (including preservation of evidence), and are advised that retaliation is prohibited.

## XII. SUPPORT-BASED RESPONSE

A Support-Based Response to a report of Prohibited Conduct occurs when the notice does not result in the filing of a Formal Complaint. Support-Based Responses include offering and providing Supportive Measures intended to restore a Complainant's equal access to Grace's Education Programs and Activities and to preserve a safe and non-discriminatory living, working, and learning environment for students and employees. Such measures may evolve if the Party's circumstances change. A Support-Based Response does not include any investigation, finding of responsibility, or sanction as to whether the Respondent engaged in Prohibited Conduct.

Complainants who do not file a Formal Complaint may also request that another office, such as residence life or human resources, have an educational conversation with the Respondent to discuss the Complainant's concerns and institutional expectations. The conversation is non-disciplinary and non-punitive. Respondents are not required to attend such educational conversations, nor are they required to provide any information if they do attend. The conversation will be documented by the office conducting the conversation.

## XIII. RIGHTS OF THE PARTIES

Complainants and Respondents, both students and employees, in this process have the right to:

1. Be informed of this policy and the applicable procedures, including any options available to them in the policy.
2. Timely written notice of alleged violations and material adjustments to the allegations.
3. Be treated with respect by Grace College employees.

4. A process free from bias, prejudgment of the facts, and conflict of interest, and an equitable process and supports for both parties.
5. Be informed of options to notify proper law enforcement authorities and the option to be assisted in notifying such authorities, if the party chooses.
6. Be notified of available resources, including counseling, mental health, academic, and other support services at Grace.
7. Participate in the investigation and resolution process, including the opportunity to identify potential witnesses, present relevant evidence, be informed of other directly related evidence gathered, and be provided an opportunity to respond to such through the process.
8. Have allegations investigated and adjudicated in a reasonable time, given the facts and circumstances of the specific case.
9. Have a Preponderance of the Evidence (more likely than not) standard applied when determining whether a violation of this policy occurred.
10. Appeal determinations in the process as specified in this policy.

#### XIV. FORMAL COMPLAINT

A Formal Complaint is a signed request by the Complainant filed with the Title IX Coordinator alleging a violation of this Policy by a Respondent and requesting that Grace initiate resolution of the Formal Complaint under this Policy and its Complaint Resolution Procedure.

In certain limited circumstances, the Title IX Coordinator may sign a Formal Complaint to investigate allegations of Prohibited Conduct even if the Complainant does not wish to proceed. When making this decision, the Title IX Coordinator will weigh the Complainant's preferences against Grace's responsibility to maintain a safe, nondiscriminatory environment for everyone, including the Complainant. Grace will take all reasonable steps to investigate and respond to the report consistent with the Complainant's wishes.

Complainants who do not elect to file a Formal Complaint can change that decision if they decide to pursue a Formal Complaint at a later date.

#### XV. DISMISSALS AND CONSOLIDATION

Once submitted in writing, the Formal Complaint *must* be dismissed under Title IX if the alleged conduct:

1. Even if true, would not constitute Title IX Sexual Harassment.
2. Did not occur in Grace's Education Programs or Activities.
3. Did not occur in the United States.

A Formal Complaint *may* be dismissed in the following situations:

1. The Complainant notifies the Title IX Coordinator in writing that the Complainant voluntarily withdraws some or all of the allegations in the Formal Complaint.
2. The Respondent is no longer enrolled or employed by Grace.
3. Specific circumstances prevent Grace from gathering evidence sufficient to reach a determination<sup>11</sup>.

**A mandatory dismissal under Title IX does not prevent Grace from investigating the matter under otherwise applicable processes in this Policy or in any manner it deems appropriate under other Grace policies.**

Upon any dismissal, the Title IX Coordinator will promptly send a written *Notice of Dismissal* and the rationale for doing so to the Complainant (if no *Notice of Allegations* has been issued) or simultaneously to the Parties (if a *Notice of Allegations* was issued). The Title IX Coordinator will notify the Parties, as applicable, that the dismissal may be appealed according to the appeal bases and procedures outlined in [Section XVII](#).

If the Respondent was a Grace student or employee at the time of the alleged incident but is no longer a student or employee, Grace may condition rehiring or readmission on the outcome of the Formal Complaint adjudication.

The Title IX Coordinator has the discretion to consolidate multiple reports into a single investigation where the Prohibited Conduct arises out of the same facts or circumstances. If the allegations under this Policy involve violations of non-Title IX Prohibited Conduct or a separate Grace policy, Grace reserves the right to consolidate those other allegations within one investigation or hearing under this Policy and its accompanying Complaint Resolution Procedures. In such cases, the Parties will receive simultaneous, timely notification of the consolidation.

## XVI. NOTICE OF ALLEGATIONS

Upon receipt of a Formal Complaint alleging conduct prohibited under this Policy, the Title IX Coordinator will send a written *Notice of Allegations* to the Complainant and the Respondent of the following information, and with sufficient time for the Parties to prepare a response:

1. Notice of Grace's Complaint Resolution Process, including the Informal Resolution Process.
2. Notice of the allegations, including sufficient details known at the time. Sufficient details include the:

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<sup>11</sup> For example, it may be impossible to gather evidence sufficient to reach a determination if the Complainant fails or refuses to be available for interviews or meetings, the Complainant or Respondent cannot be located, or the Complainant declines to provide necessary information concerning the misconduct at issue.

- Identities of the Parties involved in the incident, if known
- Conduct allegedly prohibited under this Policy
- Date and location of the alleged incident(s), if known

3. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made by a Preponderance of the Evidence after the grievance process.
4. That the Parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and the right to an advisor provided by Grace for a hearing at no cost to the Party.
5. That knowingly providing false statements or submitting false evidence is prohibited, that Grace may impose sanctions for such behavior, and that a determination regarding responsibility alone is not sufficient to conclude that any Party made a false statement in bad faith.
6. How to request an accommodation for a disability.
7. That Retaliation is prohibited by Grace.
8. That supportive measures are available to both Parties.
9. The importance of preserving evidence in any format.

If, at any point before the resolution of the Complaint, the Title IX Coordinator determines that there are additional allegations of Prohibited Conduct or conduct prohibited by related policies not included in the original notice that should be investigated, the Title IX Coordinator will provide the Parties with a *Supplemental Notice of Allegations*, specifying the additional allegations<sup>12</sup>.

## XVII. COMPLAINT RESOLUTION PROCEDURES

The following procedures apply to allegations of Title IX and Non-Title IX Prohibited Conduct when there is a signed Formal Complaint.

### 1. Advisors

Throughout the Informal or Formal Resolution Process, each Party has the right to be accompanied by an advisor of their choice who is not a Confidential Resource and who does not have a conflicting role, such as a witness or campus administrator who has an active role in the investigation. Advisors should be willing and available, and may be an attorney or someone unaffiliated with Grace. Advisors may accompany the Party to or assist in preparing for any meeting or proceeding related to the resolution of a report under this Policy. As soon as the Party selects an advisor, the Title IX Coordinator provides information about the advisor's role and rules of decorum.

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<sup>12</sup> Including Title VI and Title VII violations or violations of the student, employee, or faculty handbook.

All parties must have an advisor for the hearing, and no Party will be permitted to question another Party or witness directly. Advisors conduct the live question and answer portion of the Formal Hearing Process; the advisor's role is non-speaking except during the pre-hearing meeting and the hearing.

The Hearing Officer will conduct a pre-hearing meeting, and each Party and their advisor are expected to attend. The Hearing Officer will review the advisor's role, purpose, and rules of decorum. Advisors who disrupt a meeting or proceeding will be warned, after which, if the disruption continues, the advisor may be removed from the meeting or proceeding. In such an event, the Party will be given the opportunity to reschedule the meeting or proceeding and be accompanied by another advisor.

## 2. Informal Resolution

Informal Resolution is available only after a Formal Complaint has been filed and before the determination of responsibility if the Formal Resolution Process has been initiated. Both Parties must voluntarily consent to the Informal Resolution process in writing. Informal Resolution is not available in cases in which an employee is alleged to have engaged in Prohibited Conduct. Grace will not require the Parties to participate in the Informal Resolution Process. Any of the Parties may withdraw from the process at any time before its completion and initiate or resume the Formal Complaint Resolution Process.

Informal Resolution outcomes may include:

- Targeted or broad-based educational programming or training
- Counseling
- Mentoring or discipleship meetings with an approved campus staff member
- Housing accommodations
- Academic accommodations
- Restrictions on the Respondent's participation in one or more of Grace's programs or activities or attendance at specific events
- Workplace accommodations for employee Complainants
- Implementation or extension of a Mutual No Contact Directive
- Accepting responsibility for harm to the Complainant and willingness to accept consequences that may be similar to sanctions
- Agreement to confidentiality or non-disparagement
- Any other remedy or restorative action that can be tailored to the involved individuals to achieve the goals of this Policy

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not directly involved in the Informal Resolution Process.

### 3. Formal Resolution

#### a. Formal Investigation

Grace will investigate allegations of Prohibited Conduct and make a determination regarding responsibility unless a Formal Complaint is dismissed or the Parties resolve the complaint through the Informal Resolution Process. Investigators will be impartial and conduct prompt, thorough, and fair investigations.

The burden of proof and responsibility for the collection of evidence rests with Grace and not with the Parties.

The Title IX Coordinator will assign investigators who may be either internal staff or external professionals to investigate the allegations. The role of the investigators is to collect facts and Inculpatory and Exculpatory evidence, and prepare a report about the alleged Prohibited Conduct to provide to the Decision Maker in the form of the *Final Investigative Report and Evidence File*. Investigators do not make a determination of responsibility or outcome.

The means of investigating a Formal Complaint include, but are not limited to, interviews with the Complainant, Respondent, and any witness the investigators believe could potentially have relevant information; and review of records, evidence, and documentation. The Parties shall have an equal opportunity to suggest witnesses, including fact witnesses and, where deemed necessary or appropriate, expert witnesses, and other relevant evidence. Character witnesses are not deemed relevant and will not be allowed.

Information related to the prior sexual history of the Complainant will not be relevant unless such information is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the information includes specific incidents of the Complainant's prior sexual behavior with the Respondent and is offered to prove consent. Consent will not be assumed based solely on evidence of any prior sexual history between the Parties.

When the investigators have completed the collection of evidence, they will provide both Parties an equal opportunity to inspect and review the evidence directly related to the allegations in the Formal Complaint so that each Party can meaningfully respond to the evidence before the conclusion of the investigation. The Parties will have ten (10) days to submit a written response, in their own words, which the investigator(s) will consider before completion of the *Final Investigative Report*. The investigators will create a *Final Investigative Report* that fairly summarizes the relevant Inculpatory and Exculpatory evidence and will provide the *Final Investigative Report* and directly related evidence to each Party and their advisor at least ten (10) days before the hearing. The Parties will have ten (10) days to submit a written response.

## b. Hearing

Hearings are live, facilitated question-and-answer sessions. They are not legal proceedings, and therefore do not follow courtroom procedure or the formal rules of evidence.

The Parties and their advisors will be notified in writing of the hearing at least ten (10) days before the hearing date. The timeframe in which the hearing is conducted may be extended for good cause at the discretion of the Title IX Coordinator.

All hearings are overseen by a Decision Maker, assigned by the Title IX Coordinator, who may be either an internal employee or an external professional. The role of a Decision Maker is to provide all Parties with an equitable opportunity to be heard, make determinations regarding relevance, objectively analyze all Inculpatory and Exculpatory evidence, reach a fair determination as to responsibility, and to impose sanctions should there be a finding of responsibility. The Decision Maker will review the *Final Investigative Report and Evidence File*, any written statements by the Parties in response to the preliminary and final reports, all evidence and exhibits, and any additional information introduced at the live hearing.

Grace College reserves the right to assign a panel of Decision Makers, with one assigned as chair, depending on the nature or complexity of the case. The panel may consist of internal or external Decision Makers, or a combination of both.

The Decision Maker will meet with each Party and their advisor for a pre-hearing meeting, when they will review the order of the hearing, the rules of decorum, and the list of witnesses proposed by the Party. The Decision Maker reserves the right to exclude witnesses if it is determined that the witness is not expected to provide evidence relevant to what did or did not happen factually.

During the hearing, the Decision Maker and the Parties, through their advisors, will have an opportunity to ask relevant questions of the Parties and witnesses. The Decision Maker will determine whether proposed questions are relevant prior to them being answered. Both Parties will have an equal opportunity to provide a closing statement.

All Parties and witnesses are strongly encouraged to attend the hearing. Grace College employees are expected to attend the hearing. If a Complainant or Respondent wishes to limit their participation in proceedings under this Policy, Grace may continue the Formal Resolution Process without the participation of one or both Parties.

The hearing will be recorded, and Grace will maintain the only official copy of the hearing.

### c. Final Determination

Following the hearing, the Decision Maker will deliberate to determine whether the Respondent is responsible for the alleged Prohibited Conduct (by a majority vote if by panel) based on a Preponderance of the Evidence standard. If the Decision Maker makes a finding of responsibility, the Decision Maker will determine the appropriate sanctions and remedies under [Section XVIII](#).

The Decision Maker will issue a written *Final Determination*, typically no less than fourteen (14) days after the conclusion of the hearing, that includes:

1. Allegations potentially constituting Prohibited Conduct
2. Description of procedural steps taken
3. Findings of fact supporting the determination
4. Conclusions regarding the application of the Policy to the facts
5. A statement of, and rationale for, the result as to each allegation, including all disciplinary sanctions, if any
6. The procedures and permissible bases for the Complainant and Respondent to appeal

The Title IX Coordinator will simultaneously (or without significant time delay) send the Complainant, Respondent, and their advisors the Decision Maker's *Final Determination*.

If a Party or witness is absent from the live hearing or chooses not to answer questions asked of them at the hearing, the Decision Maker may still consider any previous statements of the witness when determining responsibility. The Decision Maker cannot draw an inference about the determination regarding responsibility based solely on a Party's absence from the live Hearing or refusal to answer cross-examination or other questions.

## 4. Appeals

Both Parties may appeal either the Title IX Coordinator's dismissal of a Formal Complaint or any allegation therein, or the Decision Maker's determination of responsibility following a hearing. The request for appeal must be submitted in writing to the Title IX Coordinator within five (5) days of the date the Parties were notified of the dismissal or determination. Failure to submit an appeal statement within the five (5) business days or any approved extension constitutes a waiver of the right to appeal

The only grounds for appeal are:

- a. There was a procedural irregularity that affected the outcome of the matter.
- b. New evidence that could affect the outcome of the matter has become available and was not reasonably available at the time the determination regarding responsibility was made.

- c. The Title IX Coordinator, investigator(s), or Decision Maker had a conflict of interest or bias for or against Complainants or Respondents generally or for or against the individual Complainant or Respondent that affected the outcome of the matter.

The Appellate Decision Maker will provide a written notice to the Parties and their advisors that an appeal was filed and on what grounds. Each non-appealing Party's response is limited to 2,000 words, should address both the specific ground(s) for appeal set forth in the appealing Party's statement and the specific facts asserted by the appealing Party, and must be written in the Party's own words.

The Appellate Decision Maker will establish a reasonable schedule for the parties to submit any written response to the appeal, typically no more than ten (10) days. The Appellate Decision Maker will issue a written decision, typically no more than ten (10) business days after receipt of any responses or the time for submission has expired. The written decision, the *Appeal Determination*, will apply the Preponderance of the Evidence standard of proof, include the merits of the appeal and rationale for the decision, and be provided simultaneously to both Parties.

The Appellate Decision Maker deliberates only on the grounds submitted in the request for appeal and can uphold the decision, send the case back for additional investigation and/or adjudication, or, in rare situations, reverse the decision. The decision by the Appellate Decision Maker is final and binding on all Parties. No further appeals are available.

## XVIII. SANCTIONS AND REMEDIES

Sanctions are consequences or disciplinary action assigned by a Decision Maker after a hearing and determination by a Preponderance of the Evidence of responsibility for conduct that violates this Policy. This Policy prohibits a broad range of conduct, all of which is serious. Because Grace is committed to fostering a safe environment free from discrimination and harassment, the Decision Maker has latitude in the imposition of sanctions and reserves the right to impose sanctions based on the facts and circumstances of each report, impact on the Complainant and Grace community, and accountability for the Respondent. Factors the Decision Maker may consider when determining sanctions include, but are not limited to:

- Nature, severity of, and circumstances surrounding the violation(s)
- Respondent's prior misconduct, including relevant disciplinary history both at Grace and elsewhere, and any criminal convictions if such information is available and known
- Previous allegations or allegations involving similar conduct
- Impact on the Complainant
- Impact on or implications of the conduct on the Grace campus community
- Respondent's acceptance of responsibility or expression of remorse

- Protection of the Grace campus community
- Ability for Grace to maintain a safe and respectful learning, living, and working environment
- Necessity of a specific action to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects on the Complainant or other Grace campus community members
- Mitigating, aggravating, compelling, or relevant factors to reach a just and appropriate resolution
- Any other information deemed relevant by the Decision Maker

Restorative sanctions that maintain the safety of the Grace campus community, but also help the Respondent develop insight into their responsibility and understanding of the impact of the conduct on the Complainant and the Grace campus community may be considered. The range of Sanctions for Respondents who are found to have violated this policy includes the following, which may be imposed singly or in combination:

- Verbal or written warning or reprimand
- Community or target restitution
- Counseling or professional assessment<sup>13</sup>
- Training or educational assignments<sup>14</sup>
- Removal of leadership or supervisory positions
- Restriction of privileges or access to campus housing, events, or activities<sup>15</sup>
- Mutual No Contact Directives
- Temporary or long-term ban from campus or specific campus locations
- Other actions or restrictions to support Grace's mission or its federal obligations
- *Additional Sanctions for Student Respondents:*
  - Academic rescheduling
  - Disciplinary action
    - Probation as defined by the *Student Handbook*
    - Suspension (or deferred suspension)
    - Dismissal with the opportunity to apply for readmission under specified conditions
    - Permanent dismissal without opportunity to apply for readmission
  - Transcript notation
  - Notification of other institutions

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<sup>13</sup> Including required alcohol and substance abuse evaluations or treatment.

<sup>14</sup> Including coaching mentoring, accountability, student growth contracts, papers or training targeting Prohibited Conduct

<sup>15</sup> Including extra-curriculars, honors society membership, athletics, study abroad, participation in commencement.

- Withholding or delaying the conferral of a degree
- Other sanctions as noted in the *Student Handbook*
- *Additional Sanctions for Employee Respondents:*
  - Performance improvement plan<sup>16</sup>
  - Enhanced supervision, observation, or review
  - Change to employment duties, responsibilities, reporting structure, or privileges
  - Deferred or denied promotion
  - Rescission of honorific title or honorary degree
  - Demotion, including demotion in rank
  - Loss of opportunity for merit increase
  - Termination or non-reappointment, including without the ability to reapply
  - Other sanctions as noted in the *Faculty Handbook* or *Employee Handbook*

Student-employees who are determined to have engaged in Prohibited Conduct during the scope of their employment may be subject to sanctions as both a student and employee.<sup>17</sup>

Sanctions are implemented upon the outcome of any appeal or the expiration of the window to appeal.

## XIX. TRAINING

Members of the Title IX team at Grace charged with responding to reports will be trained on the scope of Grace's Education Programs and Activities, the applicable roles in implementing the Policy, including how to conduct an investigation, the Complaint Resolution Processes, the appeals process, and how to serve impartially, including avoiding prejudgment of facts, bias, and conflict of interest, and how to maintain privacy. Training materials are posted on Grace's Title IX web page in accordance with federal regulations.

## XX. INFORMATION DISCLOSURE

### 1. By Parties

All Parties are asked to safeguard the privacy of sensitive information gathered during the Complaint Resolution Process. Grace urges all Parties to respect the dignity of those involved and of the process, but does not restrict either Party from discussing or sharing information with others who may support or assist them during the resolution process. Sharing information obtained

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<sup>16</sup> Including restrictions on advising, mentoring, and teaching.

through the Complaint Resolution Process could constitute Retaliation under this Policy if other elements of the definition are satisfied.

## 2. Crimes

If a report of Prohibited Conduct involves a serious or continuing threat to the campus community, Grace's Campus Safety Department will issue a timely warning to protect the health and safety of the campus community as required by the Clery Act. In this instance, the information will be reported in a manner that does not include personally identifying information about persons involved in an incident. In addition, Confidential Resources may submit anonymous statistical information for Grace's *Annual Security Report* unless they believe it would be harmful to their client, patient, or student.

## XXI. RECORDS

Grace will maintain the following records for seven (7) years after the date the reported incident is resolved. Certain records may be retained longer in Grace's sole discretion, including for active employees.

1. Records of reports of Prohibited Conduct under this Policy and any actions taken in response to the reports, including the issuance of Supportive Measures and educational efforts.
2. Records related to each Formal and Informal Resolution process.
3. Records related to each Informal Resolution process.
4. Records related to each request for an appeal.
5. Materials used to train Title IX team members and educate the Grace community.

Records associated with a Formal Complaint will be maintained by the Title IX Office. Information about a Party's eligibility to reapply for admission or employment will be maintained as part of a student's permanent education record or an employee's personnel record if there is an Informal or Formal Resolution.

## XXII. ACCOMMODATIONS DURING THE RESOLUTION PROCESS

Grace is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to Grace's Resolution Processes. Anyone needing such accommodations or support should contact the Title IX Coordinator, who will work with student disabilities services or human resources (employees) to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full participation in the process. Grace will also address reasonable requests for additional support for the Parties and witnesses, including language

services, assistive devices, interpreters, or support for sensory or other needs deemed reasonable for full participation.

## XXIII. CONFLICTS OF INTEREST AND IMPARTIALITY

The Title IX Coordinator, deputy coordinator, members of the Title IX team, and Confidential Resources are trained to fulfill their roles without bias for or against any Party in a specific case or for or against Complainants and/or Respondents generally, and to do so without prejudgment of the facts.

The Title IX Coordinator will provide a *Notice of Appointment* to the parties when investigators, decision makers, or appellate decision makers are assigned. Any Party can provide an objection if they believe that the assigned individual has an actual, perceived, or potential bias or conflict of interest with respect to a particular complaint. The basis for an objection must be in writing to the Title IX Coordinator within two (2) days of receiving the *Notice of Appointment*. The Title IX Coordinator has the sole discretion to determine whether to replace the identified Title IX staff. This decision is final. Parties can report bias of the Title IX Coordinator to the Grace College president at any time.

Throughout the Complaint Resolution Process, all responsible personnel will maintain a commitment to impartiality.

## XXIV. IMPORTANT TERMS

### 1. Actual Knowledge

When Grace College has knowledge of conduct that reasonably may constitute Prohibited Conduct under this Policy (Section X), it is to respond promptly and in a manner that is not deliberately indifferent. Actual Knowledge begins when a responsible employee with a duty to report becomes aware of the alleged Prohibited Conduct.

### 2. Coercion

Coercion is unreasonable pressure for Sexual Contact. Coercion differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain Sexual Contact, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion may be implicit or explicit and used to persuade or compel someone to engage in Sexual Contact through intimidation, implied threats, duress, the use

of psychological pressure, physical force, confinement, or threats of severely damaging consequences.

### 3. Complainant

A person who reports or is reported to have experienced the conduct prohibited under this Policy as defined by [Section X](#) while accessing one of Grace's Education Programs and Activities.

### 4. Consent

Sexual Contact must be consensual at all times. Consent is knowing and voluntary, and requires clear words or actions that are mutually understandable in their meaning and create clear permission regarding willingness to engage in (and the conditions of) each form of Sexual Contact.

Silence or lack of resistance does not demonstrate Consent. Consent may be withdrawn at any time. Consent to some Sexual Contact cannot be presumed to be Consent for other Sexual Contact. Consent cannot be compelled by force, threat, deception, or intimidation. Consent cannot be given by someone who is Incapacitated. Consent does not exist when the individual initiating the Sexual Contact knew or should have known of the other individual's Incapacitation. Consent cannot be given if the person is not legally old enough to give consent. Previous granting of Consent is not Consent to future Sexual Contact. Consent is the responsibility of the person who initiates the Sexual Contact.

### 5. Decision Maker

Any member of the Formal Complaint Resolution Process whose role is to make decisions about testimony, evidence, findings, and/or sanctions, including Hearing Decision Makers (and panel members, if a panel was assigned) and Appellate Decision Makers.

### 6. Education Programs and Activities

All the academic and extracurricular programs, locations, events, services, circumstances, and operations of Grace in which Grace exercises substantial control over both the Respondent and the context in which the alleged Prohibited Conduct occurred. Examples include:

- All Grace premises, including any property/vehicles owned or leased by Grace.
- All premises Grace has permission to occupy for purposes of conducting a Grace-sponsored program or event.
- Grace-sponsored, recognized, or approved activities, including, but not limited to:

- Off-campus Education Programs and Activities, such as Grace-sponsored field trips and athletic team travel.
- Events for officially-recognized Grace clubs that occur off campus.
- Social activities for employees sponsored by Grace or relating to the business of Grace.
- Business travel, work-related conferences, or actions occurring in connection with Grace-related business.
- Online sexual harassment that occurs within a Grace Education Program or Activity.

## 7. Exculpatory Evidence

Evidence that indicates that a Respondent did not engage in Prohibited Conduct.

## 8. Force

Use of physical violence or threat of physical violence that causes the fear of death or serious physical injury in order to gain sexual access.

## 9. Hazing

Hazing is defined by Grace as:<sup>18</sup>

1. Any intentional, knowing, or reckless act,
2. Committed or encouraged by a person, or
3. Against another person or persons,
4. Regardless of the willingness or consent of such other person or persons to participate, that
5. Is committed in the course of an initiation into, an affiliation with, or the maintenance of membership in, an organization,
6. Causes or creates a risk of physical or psychological injury above the reasonable risk encountered in the course of participation in Grace's education programs or activities or those of the organization, or
7. Acts that are prohibited under any applicable law, including but not limited to IC 35-42-2-2 and IC 35-42-2-2.5, under which Hazing is a criminal violation.

## 10. Formal Complaint

A document filed and signed by a Complainant or, in limited circumstances, by the Title IX Coordinator alleging Sexual Harassment by a Respondent and requesting that Grace investigate

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<sup>18</sup> See Grace's *Anti-Hazing Policy*. Hazing that is sexually-based will be adjudicated as Prohibited Conduct (Section X) under this Policy.

the allegation of Prohibited Conduct. At the time of filing a Formal Complaint, a Complainant must be in or attempting to participate in Grace's Education Program or Activity.

## **11. Formal Complaint Resolution Process**

The investigation of Prohibited Conduct resulting in a formal hearing and determination of responsibility, and if appropriate, accompanying sanctions.

## **12. Incapacitation**

A state in which an individual cannot Consent to engage in Sexual Contact because the person lacks the ability to understand the facts, nature, extent, or implications of the act due to drugs, alcohol, a mental disability, or being asleep or unconscious.

## **13. Inculpatory Evidence**

Evidence that indicates that a Respondent engaged in Prohibited Conduct.

## **14. Informal Complaint Resolution Process**

A voluntary, structured process facilitated by a trained, impartial individual between the Complainant and Respondent to resolve concerns that does not involve a full investigation and adjudication, and typically does not include disciplinary action against a Respondent. The Informal Resolution process is intended to be flexible while also protecting the safety and well-being of the Parties and providing for a full range of possible outcomes.

## **15. Party or Parties**

Either the Complainant or the Respondent, or both collectively.

## **16. Preponderance of the Evidence**

A type of evidentiary standard used in a burden of proof analysis. Under the preponderance standard as applied in this Policy, the burden of proof is met when the Decision Maker reviews the relevant evidence and concludes that there is a greater than 50% chance that the Respondent is responsible for the alleged Policy violation(s). This standard applies to both students and employees.

## **17. Respondent**

A person alleged to have engaged in Prohibited Conduct as defined in [Section X](#).