

Samford University Sexual Discrimination and Misconduct Policy

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Approved By: Board of Trustees

Effective: July 1, 2019

Responsible Office: Title IX Coordinator

I. Introduction

The mission of Samford University ("Samford" or the "university") is "to nurture persons in their development of intellect, creativity, faith and personhood. As a Christian university, the community fosters academic, career and ethical competency while encouraging social and civic responsibility and service to others." Consistent with, and in furtherance of the Christian objectives and purpose of Samford, this policy prohibits specific forms of behavior that violate Title IX of the Education Amendments of 1972 ("Title IX") and/or Title VII of the Civil Rights Act of 1964 ("Title VII"). Any such conduct will be dealt with promptly and fairly in accordance with this policy. In addition, this policy requires the university to fulfill certain obligations under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), as amended by the Violence Against Women Reauthorization Act of 2013 ("VAWA"), and other applicable laws.

Clear and effective policies are essential to the identification and elimination of sexual discrimination and misconduct, and equitable procedures are essential for the timely resolution of complaints. All Samford community members are encouraged to participate in creating and fostering a safe and respectful

campus environment by assuming responsibility for their personal conduct in conformity with this policy, reporting the conduct of others that may violate this policy, and taking reasonable actions to prevent acts that are prohibited in this policy.

Samford prohibits unlawful sex discrimination and sexual misconduct, including sexual harassment, sexual assault, sexual exploitation, domestic and dating violence, stalking, and retaliation. This policy uses the term "sexual misconduct" to refer to any or all of those prohibited behaviors. All such misconduct violates human dignity and is contrary to governing laws and the values and mission of the university.

Samford will respond to allegations of sexual misconduct according to the severity or pervasiveness of the offense and the threat it poses to an individual and the university community. Individuals found responsible for violations of this policy may face disciplinary sanctions up to and including university expulsion (for students) and termination of employment (for faculty, staff and other non-student employees). In determining whether this policy has been violated, the university applies the "preponderance of the evidence standard," which means that it is more likely than not that a policy violation occurred.

The university prohibits retaliation against any individual who makes a report, participates in a resolution process, or assists as a bystander to prevent sexual misconduct. Retaliation compromises the enforcement and effectiveness of this policy, and destroys the sense of community and trust that is central to a respectful environment. Community members that engage in retaliation will be subject to disciplinary action.

This policy provides Samford community members with the structure, tools, and guidance to assist those who have experienced or been affected by sexual misconduct, whether as a complainant, a respondent, or a third party.

The provisions of this policy do not constitute and should not be construed as a contract or a part of any contract, expressed or implied. Therefore, the only contracts are those which are reduced to writing and signed by both parties, including an authorized representative of Samford University. Samford University reserves the right to alter or amend this policy with or without notice.

II. Scope of the Policy; Complainant; Respondent

Title IX provides that no one, on the basis of sex, is to be excluded from participating in, or be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. Samford is subject to the provisions of Title IX in all of its programs and activities, whether academic or employment. In accordance with Title IX, Samford is committed to a review process that provides for the prompt, fair and equitable review of any claim that a person has been denied any of the protections afforded to him or her by Title IX.

Sexual misconduct by or against Samford community members of any gender is impermissible. In addition to the examples of sexual misconduct previously described, this policy also prohibits any form of sexual misconduct that causes a failure to provide equal opportunity in admissions, employment, or athletics. Any of these types of discrimination should be reported to the Title IX Coordinator and will be addressed as appropriate.

All members of the Samford community, including students, faculty, and staff, as well as consultants, contractors, volunteers, vendors, and others engaged in business with the university, are subject to this policy. Visitors to and guests of Samford are protected by this policy and subject to its prohibitions. They should report violations of this policy committed against them by members of the Samford community or in any university activity or program.

This policy may be applied to conduct that takes place from the time a person enrolls at Samford or accepts employment or volunteer duties (including academic term breaks and periods between terms and semesters) and continues until the student withdraws or graduates, the employee ceases employment, or the volunteer or contractor ceases to provide services to or for the university.

Acts of sexual misconduct committed by or against students, employees, and others are governed by this policy when:

1. the conduct occurs on the Samford campus or other property owned or controlled by Samford or by an officially recognized university organization;
2. the conduct occurs in the context of a Samford employment or education program or activity, including, but not limited to, university-sponsored study abroad, research, on-line programs, or internships; or
3. the conduct occurs outside the context of a Samford employment or education program or activity, but has continuing adverse effects on or creates a hostile environment for students, employees or third parties while on the university campus or other property owned or controlled by the university or in any university employment or education program or activity.

Samford reviews all Title IX complaints, irrespective of whether the alleged conduct occurred on or off university property. Through the investigation, as described in the policy, the university will determine, among other things, whether the conduct occurred in the context of a Samford educational program or has a continuing adverse effects on campus or in an off-campus program or activity.

Online conduct is also covered by this policy. Sexual misconduct may occur in a variety of electronic media, including e-mails, blogs, texts, web pages and social media. Disciplinary action may be taken when allegations of such conduct are brought to its attention.

If the date of reported sexual misconduct precedes the effective date of this policy, the definitions of sexual misconduct in existence at the time of the alleged incident(s) will be used. However, the procedures that are set forth in this policy will be used to investigate and resolve all reports made on or after the effective date of this policy, regardless of whether the incident(s) occurred before or after the effective date of this policy.

In this policy and accompanying procedures, "**Complainant**" means the student, employee, or third party who presents as the victim, object or reporter of any conduct prohibited under this policy, regardless of whether that person makes a report or seeks action under this policy. "**Respondent**" means the student, employee, or third party who has been accused of violating this policy.

III. Notice of Nondiscrimination and the Role of the Title IX Coordinator

A. Notice of Nondiscrimination

In compliance with Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and all other applicable non-discrimination laws, Samford does not discriminate on the basis of race, color, national or ethnic origin, sex, age, disability, or veteran's status in its educational programs and activities, admissions, and employment. Samford is a religious educational institution and is exempt from certain provisions of Title VII of the Civil Rights Act of 1964 and of Title IX of the Education Amendments of 1972.

Samford will promptly and equitably respond to reports of sexual discrimination, sexual harassment, sexual exploitation, sexual assault, domestic and dating violence, stalking, and retaliation to eliminate the misconduct, prevent its recurrence, and address its effects on any individual or the community. Inquiries concerning this policy may be directed to the Title IX Coordinator, either in person by telephone or by email. See **Section VIII.A** for the Title IX Coordinator contact information.

All proceedings concerning the implementation, practice and enforcement of this policy are to be performed in compliance with the requirements of Title IX, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), the Family Educational Rights and Privacy Act (FERPA), and all other applicable federal and state laws, regulations, and guidances.

In addition to contacting the resources specifically identified in this policy, any person concerned with Samford's response to a complaint may contact the U.S. Department of Education, Office for Civil Rights, Lyndon Baines Johnson U.S. Department of Education Building, 400 Maryland Avenue, SW, Washington, D.C. 20202-1100; (tel) 800-421-3481; (fax) 202-453-6012; TDD 800-877-8339; (email) OCR@ed.gov.

B. The Role of the Title IX Coordinator

The Title IX Coordinator is to be informed of all reports of sexual misconduct that are governed by this policy. The review, investigation, and resolution of those reports are overseen by the Title IX Coordinator to ensure compliance with Title IX and other applicable laws, and the effective implementation of this policy.

The Title IX Coordinator has a variety of duties and responsibilities including, without limitation, the following:

- overseeing the resolution of all reports of sexual misconduct involving students, employees and other persons;
- being knowledgeable and well trained in applicable policies, procedures and laws;
- advising complainants, respondents, and other persons about available courses of action (formal and informal) concerning incidents or reports of sexual misconduct;
- helping students and employees respond appropriately to incidents or reports of sexual misconduct;

- monitoring compliance with the applicable procedures, records, and deadlines referenced in this policy;
- implementing and overseeing training opportunities, prevention and education efforts, and reviews of climate and culture and patterns of sexual misconduct;
- conducting or overseeing investigations of sexual misconduct complaints against students; and
- overseeing the resolution of complaints involving gender equity in athletics.

The Title IX Coordinator is supported by two Deputy Title IX Coordinators: the Deputy Title IX Coordinator for Employment and the Deputy Title IX Coordinator for Athletics. Other individuals or offices that may be involved in addressing complaints may include the Director of Public Safety and Emergency Management, the Director of Disability Services, the Senior Associate Director of Athletics, the Vice President for Student Affairs and Enrollment Management, and the Senior Associate Provost. Samford endeavors to limit the number of individuals who address complaints governed by this policy to those persons who require factual information to implement this policy.

IV. Campus and Community Resources

Samford is committed to assisting community members make informed choices about how to respond to an incident of sexual misconduct, including providing information about how a disclosure of an incident to a university employee will be handled.

The university offers a wide range of resources to provide support and guidance to students and employees in response to any incident in violation of this policy, regardless of whether the complainant reports the conduct to law enforcement or chooses to make a report to the university. Samford community members can choose to seek assistance from a Confidential Resource, to make a report to the university by telling a Reporting Employee or reporting online at <https://www.samford.edu/departments/values-advocacy/report-relationship-violence>, and/or to make a report to law enforcement. A Complainant should consider seeking immediate medical attention, counseling, and other forms of support. **See Section IV.B.4.**

A. The Difference Between Privacy and Confidentiality

Samford protects the privacy of persons involved in a report of sexual misconduct in a manner that is consistent with a careful assessment of an allegation, and appropriate measures to eliminate misconduct, prevent its recurrence, and address its effects. As used in this policy, the meanings of the terms **privacy** and **confidentiality** are essential to a proper understanding of the policy and its implementation.

“**Privacy**” and “**private**” are terms that are applicable to information related to an incident of sexual misconduct that is reported pursuant to this policy. Access to private information received by the university is available to a limited number of Samford employees who have a legitimate need to know the private information in order to assist in the assessment, investigation, and resolution of a report. This restricted access is authorized by the Family Educational Rights and Privacy Act (FERPA) and other governing federal and state laws.

“**Confidentiality**” and “**confidential**” are words used to identify information that is shared by a person with a designated Samford representative who is legally obligated to maintain the information in confidence unless disclosure is authorized by (i) the individual who communicated the information or (ii)

by court order or governing law. Campus officials who may receive information on a confidential basis include the medical providers, professional counselors, and ordained clergy specifically designated in this policy. Confidential off-campus resources include rape crisis counselors. ALA. CODE §15-23-42 Each of these persons is prohibited by law from violating confidentiality unless (i) there is an imminent threat of harm to self or others, (ii) the reported conduct may involve abuse of a minor, or (iii) disclosure is otherwise required or authorized by applicable law. Contact information for these confidential resources is included in **Section IV.B** of this policy.

Release of Records: The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the university's FERPA policy. The privacy of an individual's medical and related records generally is protected by the Health Insurance Portability and Accountability Act ("HIPAA"), except health records protected by FERPA. Access to an employee's personnel records may be restricted in accordance with applicable laws, regulations, and policies.

Whenever a report of sexual misconduct indicates a serious and immediate threat to the campus community, Samford will issue a timely notification to protect the health or safety of the community as required by the Clery Act. The Clery Act requires, among other things, that a post-secondary school that receives federal funds must report statistical information concerning sexual misconduct that occurs on properties owned or controlled by the school. This data is reported annually by the Samford University Department of Public Safety and Emergency Management to the U.S. Department of Education ("DOE"). The university prepares and publishes an Annual Security Report that includes statistical information concerning reported offenses that occurred either on campus, at off-campus properties controlled by Samford, or on certain public property adjacent to the university campus. Neither the Annual Security Report nor the statistical data provided to the DOE includes the name or other personally-identifiable information of any person involved in a reported incident. Samford may also share non-personally-identifying information in aggregate form in various reports, including data about incident outcomes and sanctions.

B. Employee Reporting Responsibilities

An employee's responsibility to report incidents of sexual misconduct is governed by the employee's role at Samford. Every employee of the university, whether faculty, administration, staff or otherwise, is designated as either a **Confidential Employee** or a **Reporting Employee**:

1. Confidential Employees are those employees who are permitted to engage in confidential communications under Alabama law. On the Samford campus, this includes medical care providers (and those who provide administrative services related to the provision of medical care), licensed professional counselors, and ordained clergy who have been specifically designated (i.e. by name) by the university as Confidential Employees. Communications among Confidential Employees shall be treated as confidential. A Confidential Employee will not disclose personally identifiable information about sexual misconduct to the Title IX Coordinator without the individual's permission (subject to the exceptions set forth above in the explanation of Confidentiality). Confidential Employees may make general reports for statistical purposes and pattern tracking but do not divulge personally identifiable information without an individual's consent. Confidential Employees are identified below:

Samford University Counseling Center

Counselors: Mr. Richard Yoakum (ryoakum@samford.edu; (205) 726-2065)

Ms. Lyndsay Cogdill-Clark (lncogdil@samford.edu; (205) 726-4077)

Ms. Tracy LaForty (tnbahake@samford.edu; (205) 726-4811)

Room 203, Dwight Beeson Hall

University Health Services

Mrs. Leslie Canfield, NP (lcanfiel@samford.edu; (205) 726-2835)

Mrs. Jill Cunningham, DNP (jlcunni1@samford.edu; (205) 726-2733)

Room 123, F. Page Siebert Hall

University Office of Spiritual Life

Rev. Bobby Gatlin (bgatlin@samford.edu; (205) 726-4538)

Rev. Brian Pitts (bcpitts@samford.edu; (205) 726-2927)

Room 203, Burns Hall

2. Responsible Employees are all Samford employees who are not Confidential Employees. Pursuant to Title IX, Responsible Employees are those who have the duty to report sexual misconduct. A Responsible Employee must immediately report to the Title IX Coordinator or appropriate Deputy Title IX Coordinator all relevant details known (obtained directly or indirectly) about an incident of sexual misconduct that involves a Samford student or employee as either a complainant or a respondent, or that occurred on property owned or controlled by Samford, or in connection with a Samford employment or education program, including at events hosted by university groups or university-recognized organizations. The relevant details that must be reported may include dates, times, locations, and names of parties and witnesses. Responsible Employees include resident hall assistants, spiritual life assistants, and all other student-employees when disclosures are made to them in their capacities as employees of the university.

Responsible Employees are not required to report information disclosed (1) at public awareness events (e.g. public forums in which students may disclose incidents of sexual misconduct); or (2) during an individual's participation as a subject in an Institutional Review Board-approved human subjects research protocol.

In instances where a Responsible Employee has a specific concern that sharing information with the Title IX Coordinator may significantly impact the safety or well-being of the complainant or another individual, the Responsible Employee must promptly disclose the information to a Deputy Title IX Coordinator who will work with the Responsible Employee to evaluate the need to share personally identifiable information with the Title IX Coordinator based on the potential risk of harm to the complainant or broader campus safety concerns.

If a complainant requests (a) that personally identifiable information not be shared with the respondent, (b) that no investigation be pursued, and/or (c) that no disciplinary action be taken, the university will balance this request against the university's obligation to campus safety. Further details about how Samford evaluates a complainant's request is provided in Sections X and XI.

A Responsible Employee may also report sexual misconduct by completing an online reporting form provided at <https://www.samford.edu/departments/values-advocacy/report-relationship-violence>. This

report should be made immediately so that the university can begin its assessment of the incident. Completing the online reporting form also fulfills the reporting obligation for Campus Security Authorities under the Clery Act. Outside of regular business hours, if an employee does not have immediate access to the Internet, he or she should call the Samford University Department of Public Safety and Emergency Management at (205) 726-2020, and the dispatcher will promptly contact either the Title IX Coordinator or a Deputy Title IX Coordinator. Failure of a Responsible Employee to adhere to this policy may result in disciplinary action, up to and including termination of employment, depending on the circumstances of the policy violation.

3. Confidential Community Resources. There are various resources available to the Jefferson County, Alabama community where students and employees can obtain confidential counseling and support. A current list of these resources can be obtained from the Title IX Coordinator and include the following:

Birmingham Crisis Center: (205) 323-7782

National Sexual Assault Telephone Hotline: (800) 656-HOPE (4673)

4. Emergency and Community Resources. Individuals who are the victims of sexual misconduct may seek assistance by contacting calling 9-1-1, the Samford University Department of Public Safety and Emergency Management or other law enforcement agencies, and/or visiting a medical facility immediately after an incident. Timely reporting is important to attend to the safety and well-being of the victim, aids the preservation of evidence, and permits an immediate investigative response, irrespective of whether the individual plans to pursue civil or criminal charges.

Samford will provide assistance such as arranging for transportation to a nearby hospital, coordinating with local law enforcement (including assisting with filing a police report and obtaining a protective order), and informing a complainant about the university's resources and complaint processes. Twenty-four (24) hour support services include, without limitation, the following:

- **911**
- **City of Homewood Police Department (205) 332-6200**
- **Samford University Department of Public Safety (205) 726-2020**
- **Brookwood Baptist Medical Center (205) 877-1000**

V. Conduct Prohibited by this Policy

Samford prohibits all of the kinds of sexual misconduct that are described in this policy ("Prohibited Conduct"). Violations of the policy may be subject to a variety of sanctions, including suspension, dismissal, or termination of employment or the suspension or expulsion of students. Sexual misconduct affects individuals of all genders, races and cultures. The following are the sexual misconduct behaviors that are prohibited by this policy:

A. Sexual discrimination is unlawful, unequal treatment based on a person's sex that is sufficiently serious to interfere with or limit his or her opportunity to participate in or benefit from a Samford program or activity, or that otherwise adversely affects a term or condition of an individual's employment, education or living environment.

B. Sexual harassment can include (i) unwelcomed conduct of a sexual nature that creates a hostile living, learning, or working environment or (ii) the toleration of such conduct as the basis for an academic or employment decision affecting a student or employee. Conduct is unwelcomed if a person does not request or invite it and the conduct is considered to be undesirable or offensive. Sexual harassment may create a hostile work, living or education environment if: (1) submission to unwelcomed conduct is an expressed or implied condition of employment, the evaluation of academic work, or participation in or enjoyment of a Samford program or activity; (2) refusal to submit to unwelcomed conduct results in an identifiable academic or employment detriment; or (3) the unwelcomed conduct interferes with an employee's work or a student's academic performance or creates an intimidating or hostile academic or work environment under both an objective standard (a reasonable person's view) and a subjective standard (the complainant's view).

Behaviors that may constitute sexual harassment differ in type and severity. Both verbal harassment and unwelcomed physical contact can be forms of sexual harassment. A single, isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is for recurring incidents, particularly in those instances when the harassment is physical. When investigating whether a hostile environment exists, Samford will consider, among other things:

- the type, frequency and duration of the conduct;
- the nature and severity of the conduct;
- the relationship between the respondent and the complainant;
- whether the conduct is physically threatening;
- the degree to which a person's education or employment is affected; and
- if the conduct arose in the context of other discriminatory conduct.

Sexual harassment may be; (1) blatant, intentional and involve an overt action, such as a threat or reprisal, or (2) subtle and indirect, with an unstated coercive effect. Sexual harassment does not require an intent to harm, nor must it be directed at a specific person or involve repeated incidents. Anyone can commit sexual harassment, irrespective of gender, age, position or authority. Sexual harassment can also arise in a variety of contexts, particularly in situations when there are differences in age, social status, educational standing, or relative employment positions. It may be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship. Acts of sexual harassment may be directed against one person, an organization, or a group of persons. Sexual harassment can occur in almost any setting including classrooms, work spaces, and personal residences (including university-owned or controlled residential facilities), and on electronic media (e.g. Internet, telephone, social media sites and texts).

The following are specific examples of conduct that may constitute sexual harassment:

- **Physical conduct** (unwelcomed touching; sexual or physical assault; impeding, restraining or blocking movements; unwanted sexual advances)
- **Verbal conduct** (derogatory comments, epithets, slurs, or humor; verbal abuse of a sexual nature; graphic verbal statements about a person's body; sexually-degrading words used to describe an individual; suggestive or obscene letters, notes, or invitations; sexually-explicit statements, questions, jokes, or anecdotes)

- **Visual conduct** (leering; sexual gestures; displays of sexually suggestive or explicit objects or pictures in a public space or forum; displays of suggestive, erotic, or degrading, sexually-oriented images that are not pedagogically appropriate)
- **Written conduct** (tangible and electronic communications that contain the comments, words, or images described above)
- **Quid pro quo conduct** (offering employment or academic benefits in exchange for sexual favors; making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades or letters of recommendation; requests for private meetings with no academic or work purpose; reprisals after a negative response to sexual conduct or advances).

C. Non-Consensual Sexual Penetration is sexual penetration with another individual without consent, including vaginal or anal penetration, however slight, with a body part or an object, or oral penetration involving mouth-to-genital contact.

D. Non-Consensual Sexual Contact is sexual contact with another individual without consent, including any intentional touching of the intimate parts of another, causing another to touch one's intimate parts, or disrobing or exposing another person without permission.

E. Sexual Exploitation is taking a non-consensual or abusive sexual advantage of another person for the advantage or benefit of (i) the perpetrator or (ii) any person other than the individual being exploited. The behavior must not constitute one of the other acts of sexual misconduct prohibited by this policy. Examples of sexual exploitation include: voyeurism; exposing one's genitals in non-consensual circumstances; inducing other people to expose their genitals; engaging in conduct that is beyond the boundaries of consent, such as allowing others to hide in a closet to watch consensual sex; invasion of another person's sexual privacy; knowingly transmitting a sexually-transmitted disease to another; taking non-consensual pictures, video, or audio recording of sexual activity; possessing, using, or distributing alcohol or other intoxicants for the purpose of engaging in or facilitating sexual misconduct; and prostituting another person.

F. Relationship Violence.

Domestic Violence is violence committed by (i) a current or former spouse or intimate partner of the complainant; (ii) a person with whom the complainant shares a child in common; (iii) a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner; (iv) any other person against a complainant who is protected from that person's acts under the domestic or family violence laws of Alabama (see Ala. Code §13A-6-139.1 and the other statutes cited therein), including parents, step-parents, children, step-children, brothers, sisters, half-brothers, half-sisters, grandparents, grandchildren, and in-laws. Domestic violence may be physical abuse or the threat of physical (including sexual) abuse, either as an isolated act or as part of an ongoing pattern of behavior.

Dating violence is violence committed against the complainant by a person with whom the complainant is or has been in a social relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship. Dating violence may be physical (including sexual) abuse or the threat of physical abuse, either as an isolated act or as part of an ongoing pattern of behavior. Sexual harassment, sexual assault, stalking, and retaliation may each be

forms of domestic or dating violence when those acts are committed by a person who is or has been involved in a sexual, dating, or other social relationship of a romantic or intimate nature with the complainant.

G. Stalking is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to fear. Stalking can include frightening communications, direct or indirect threats, and harassing a victim through the Internet or communication mediums. Stalking can cause severe and long-lasting emotional and psychological harm to victims, and often escalates over time. It can lead to domestic violence, sexual assault, and even homicide.

H. Complicity is any act taken with the purpose of aiding, facilitating, promoting or encouraging the commission of an act of Prohibited Conduct by another person.

I. Retaliation is intimidating, threatening, coercive, or otherwise discriminatory conduct against a person or a group of people for exercising rights under this policy. Actions are considered retaliatory if they (i) are in response to a good faith disclosure of real or perceived misconduct, participation in an investigation of sexual misconduct, the good faith filing or participation in a court or administrative proceeding involving charges of sex discrimination or sexual misconduct, or engaging in bystander intervention of sexual misconduct, and (ii) would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy or participating in the complaint process provided by this policy. Retaliation can occur even when there is a finding of "Not Responsible" on the allegations of sexual misconduct that are prohibited by this policy. Persons engaging in retaliation will be subject to disciplinary action. Retaliatory acts may be implicit or explicit, or committed directly or indirectly. Samford will endeavor to stop retaliation immediately, provide remedies to victims of retaliation, and sanction the person(s) committing retaliation. A person accused of retaliation will receive notice and an opportunity to be heard, as appropriate under the circumstances.

VI. Consent, Coercion and Incapacitation

A. Consent

A person who engages in sexual activity of any type must first obtain the consent of the other party. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Consent to one form of sexual activity does not, by itself, constitute consent to engage in another form of sexual activity, nor does consent to engage in sexual activity with one individual constitute consent for sexual activity with anyone else. Individuals with a prior or current intimate relationship do not automatically give either initial or continued consent to sexual activity. Even in the context of an intimate relationship, there must be mutually-understandable communication that clearly indicates a willingness to engage in each instance of sexual activity.

An outward demonstration by an individual indicating that he or she freely chooses to engage in sexual activity is necessary for consent. It may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. Failure to physically resist or verbally refuse sexual activity is not necessarily the same as consent. A verbal statement of "no," "stop," or words of similar meaning are clear demonstrations of the lack of consent. Either party may withdraw consent at any time by an outward

demonstration through words or actions that clearly indicate a desire to cease sexual activity. As soon as it is expressed that consent is withdrawn, sexual activity must cease.

It is important to note that consent is not effective if it results from the use or threat of physical force, intimidation, coercion, or other conduct that eliminates or compromises an individual's ability to freely choose whether to have sexual contact. Likewise, an individual incapacitated by alcohol or drug consumption (voluntarily or involuntarily) or who is asleep, unconscious, unaware, or otherwise physically helpless is considered unable to give consent to sexual activity.

B. Coercion

Unreasonable and persistent pressure to compel a person against his or her will to initiate or continue sexual activity constitutes coercion. Coercion can consist of a range of behaviors including intimidation, manipulation, threats, and blackmail. Coercive activity may be emotional, intellectual, psychological, or moral. A person's words or conduct are sufficient to constitute coercion if they impair another person's freedom of will and ability to choose whether to engage in sexual activity. In evaluating an allegation of coercion, Samford will consider: (1) the frequency of the pressure; (2) the intensity of the pressure; (3) the isolation of the person being pressured; and (4) the duration of the pressure. Coercing a person to engage in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity.

C. Alcohol, Drugs and Incapacitation

An incapacitated person cannot consent to sexual activity. Incapacitation is the inability of a person, whether temporarily or permanently, to give consent because he or she is mentally and/or physically unconscious, helpless, asleep, or otherwise unaware that sexual activity is occurring or lacks the ability to express that it cease. A person who is incapacitated may be unable to give valid consent if he or she is not able to understand the: who, what, where, when, why, and/or how of a sexual interaction.

Sexual activity with someone that an individual knows or reasonably should know is intoxicated or otherwise incapable of giving consent is a violation of this policy. All persons must be mindful that the impact of alcohol, drugs and other substances varies from person to person. Common indications that a person may be incapacitated or approaching incapacitation include vomiting, unsteady gait, slurred speech, an odor of alcohol, incontinence, combativeness, and emotional volatility. Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual misconduct and does not diminish one's responsibility to obtain consent.

VII. Prohibited Relationships by Persons in Authority

The employee (faculty and staff) to student relationship is one of trust. A Samford employee has the professional responsibilities to serve as a mentor, educator, and evaluator for students. Employee-student romantic and/or sexual attention, interaction, or relationships, even mutually consenting ones, interfere with a student's unfettered pursuit of learning and the integrity of the academic and workplace environment. Consensual relationships are defined in the university Consensual Relationship Policy as a romantic and/or sexual relationship to which both parties have given their consent. As between Samford employees and undergraduate students, consensual relationships are prohibited. Samford employees are

prohibited from engaging in consensual relationships with graduate students with whom such employee has an academic or supervisory relationship. It is a violation of the Consensual Relationship Policy for an employee to pursue or attempt to initiate a consensual relationship with a student if such a consensual relationship would be prohibited by the Consensual Relationship Policy.

If an ongoing consensual relationship began when both parties were undergraduate or graduate students and one of the parties thereafter becomes a Samford employee, such a consensual relationship should be disclosed by the employee at the time of employment, but is not prohibited unless the employee is in a position to directly impact the academic or professional status or development of the student, either currently or afterwards. Such an employee may not be defended or indemnified by Samford if difficulties in the relationship arise, including, student claims of sexual misconduct against Samford or the employee.

Consensual relationships are addressed in the Consensual Relationship Policy designated in the Faculty Policy Handbook as Policy C3.5 and in the Staff Policy Handbook as Policy 6.20. All Samford employees must read and be familiar with that policy. A violation of the Consensual Relationship Policy may subject an employee to disciplinary action, up to and including termination of employment. Questions by faculty about the Consensual Relationship Policy should be directed to the Senior Associate Provost. Other employees should make their inquiry to the Director of Human Resources.

VIII. How to Report Policy Violations

A. What is a Report?

For purposes of this policy, a report is the submission of information concerning the actual or suspected sexual misconduct. The purpose of a report is to make Samford aware that sexual misconduct may have occurred. The report is the procedural step that initiates the investigation of the alleged sexual misconduct. A determination of responsibility for sexual misconduct will not be made solely on the basis of an initial report.

Samford encourages anyone who experiences or becomes aware of an incident of Prohibited Conduct to immediately report the incident. The reporting person should immediately report to the university, and may choose to also report to local law enforcement through the following reporting options.

To Law Enforcement:

- 911 (for emergencies)
- Samford University Department of Public Safety and Emergency Management (205) 726-2020
- Homewood Police Department (205) 332-6200
- Jefferson County Sheriff's Office (205) 325-5700 (for incidents in unincorporated areas of Jefferson County, Alabama)

To the University:

- By contacting the Title IX Coordinator or a Deputy Title IX Coordinator by telephone, email, or in person during regular office hours:

Garry L. Atkins, Title IX Coordinator
Samford Hall 307
Phone: (205) 726-2764
Email: glatkins@samford.edu

Joel Windham, Deputy Title IX Coordinator (Employment)
Samford Hall 301
Phone: (205) 726-2837
Email: jwindham@samford.edu

Michelle Durban, Deputy Title IX Coordinator (Athletics)
Pete Hanna Center 3014
Phone: (205) 726-4562
Mobile: (205) 532-3460
Email: mldurban@samford.edu

- Online at <https://www.samford.edu/departments/values-advocacy/report-relationship-violence>, Samford's website for online reporting (which allows for anonymous reporting).

A complainant may (i) make a report pursuant to the process described in this policy, (ii) make a report to law enforcement with a view to criminal prosecution, (iii) follow the processes described in (i) and (ii), or (iv) pursue neither (i) nor (ii). If a complainant reports sexual misconduct to law enforcement, the decision of a district attorney or other criminal prosecutor whether to proceed with criminal prosecution or the outcome of a civil lawsuit or criminal prosecution will not impair the rights of a complainant to make a timely charge under this policy. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

The university will assist any individual in contacting the Samford University Department of Public Safety and Emergency Management or other law enforcement agencies. In the event of a health or safety emergency, Samford may report an incident of Prohibited Conduct directly to law enforcement. A report solely to non-university law enforcement authorities, such as Homewood Police or the Jefferson County Sheriff, will not necessarily be reported to Samford and will not trigger Samford's responsibilities to investigate and remedy any sexual misconduct.

When a report is made, the complainant does not have to immediately decide upon or request a particular course of action, nor is the complainant required to immediately provide a detailed narrative of the incident. If a report is made to Samford, the university will assist an individual in making these important decisions, and to the extent legally possible, will respect a person's autonomy in deciding if and when to make formal charges. Throughout the process, Samford will balance the complainant's interests with the school's obligation to provide a safe and non-discriminatory environment for all members of its community.

Samford will assess each report it receives in accordance with this policy and resolve it in a fair and impartial manner. Each person associated with a reported incident will be treated professionally. Upon receiving a report, the university will make a prompt assessment of any risk of harm to the complainant or other members of the campus community. If any such risks are identified, interim measures may be implemented to provide for the safety of the complainant, the respondent and others.

The definitions of sexual misconduct offenses, the applicable burden of proof, and the adjudication process described in this policy may differ from those prescribed by Alabama Criminal Code, **ALA. CODE Title 13A, chapter 6**. Alabama law requires that Samford disclose to law enforcement a report of sexual misconduct if (1) it involves sexual abuse or sexual exploitation and (2) the victim of the sexual violence is not at least 18 years old. **ALA. CODE § 26-14-1 through 26-14-13**.

B. Bystanders

All community members are encouraged to take reasonable and prudent actions to prevent acts of sexual misconduct. Bystander actions may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement, or seeking assistance from a person in authority. Community members who choose to assist under these circumstances will be supported by Samford and protected from retaliation. The university provides mandatory bystander training for all entering students.

C. Reporting Considerations

1. Timeliness of Report and Location of the Incident

There are no time limits for reporting violations of this policy. However, complainants and third-party witnesses should report incidents of sexual misconduct as soon as possible to maximize the ability of Samford and others to make a timely and effective response. If the respondent is no longer a student or employee, Samford may not be able to take disciplinary action against the respondent, but it will still seek to comply with its Title IX obligations by providing support for a complainant and taking steps to end the harassment, prevent its recurrence, and remedy its effects.

Sexual misconduct does not have to occur on campus to be reported to Samford. This policy covers any Prohibited Conduct that occurs (i) in connection with any Samford program or event, (ii) on any property owned or controlled by Samford and possibly on public property adjacent to the university campus, and/or (iii) within the context of any Samford employment or educational program. The university may review any off-campus conduct to determine if the incident has the potential to affect another's participation in a Samford program or activity.

2. Amnesty for University Violation

It is the intention of Samford to remove any barriers to reporting acts of sexual misconduct. It is therefore appropriate that anyone who has been the subject of sexual misconduct to report the conduct and that witnesses share what they know. To encourage reporting, people who report or who are subject to sexual misconduct may not be subject to disciplinary action for a related violation of a Samford policy involving alcohol or drugs, including their personal consumption of alcohol or drugs at or near the time of the incident, provided that such violations did not and do not place the health or safety of any other person at risk.

3. False Reporting

Information reported about alleged sexual misconduct should be true and accurate, since a charge of sexual misconduct may have severe consequences. A person who makes a report that is later determined to have been intentionally false or made maliciously without regard for the truth, or who intentionally gives false information during an investigation or disciplinary proceeding, may be subject to disciplinary

action under the Samford Code of Values (for students) or the appropriate faculty or staff disciplinary policy (for employees).

Discipline for students who make a false report may include, but are not limited to: anger intervention assessment and counseling; mental health counseling; restriction from some or all Samford property, programs or activities; community service; work assignments; written assignments; research assignments; fines; written warnings; suspension of privileges; no contact orders; parental notification; probation; residence hall expulsion; residence hall restriction; residence hall suspension; restitution; suspension from the university; expulsion from the university; and withholding a degree.

Employees who make a false report may be disciplined by, among other things: anger intervention assessment and counseling; mental health counseling; restriction from some or all Samford property, programs or activities; community service; written warnings; no contact orders; suspension of employment without pay; and termination of employment.

State criminal statutes and civil defamation laws may also be implicated by false reports. This does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation and/or review decision. An allegation of false reporting cannot be investigated or heard until the underlying allegations of sexual misconduct are resolved.

4. Protection of Minors and Mandatory Reporting of Suspected Child Abuse

Under Alabama law, Samford employees who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, are required to report the matter immediately to the Alabama Department of Human Resources – Child Protective Services: (334) 242-9500. If an employee makes such a report, he or she must also immediately share the information with the Samford University Department of Public Safety and Emergency Management so that the university can ensure timely compliance with this law and enhance the protection of children.

Samford will promptly report all suspected child abuse and neglect, including sexual assault, to law enforcement and/or to the Alabama Department of Public Health – Child Protective Services. For the purposes of this reporting obligation, a child is any individual under the age of 18, and the suspected abuse may involve physical, sexual, or other forms of abuse, neglect or exploitation, regardless of the identity of the suspected perpetrator. The duty to report is triggered by reasonable suspicion or belief. There is no requirement that an employee have actual evidence of abuse, nor is it the responsibility of any employee, student, or volunteer to investigate suspected child abuse. This is the role of Child Protective Services and other law enforcement authorities, who are trained to make such inquiries. A report should be made as follows:

- If a child is in immediate danger, call the police **(9-1-1)**
- If there is no immediate danger, call the Samford University Department of Public Safety and Emergency Management: **(205) 726-2020**
- If an employee is unable to reach the Department of Public Safety and Emergency Management, he or she should report as soon as possible the suspected abuse to the Title IX Coordinator or the Director of Human Resources

IX. Assessment of Complaints, Interim Measures, and Requests of Complainant Not to Proceed

In accordance with Title IX, Samford is committed to a review process that provides for the prompt, fair and equitable review of any claim that a person has been denied any of the protections afforded to him or her by Title IX.

A. Initial Assessment of a Complaint

Upon receiving a report of discrimination on the basis of sex, an initial Title IX assessment will be conducted. The university will consider the nature of the report, the safety of the complainant, the safety of the campus community, any preference for resolution expressed by the complainant, and whether interim remedies or measures are appropriate.

The assessment begins with consideration of the safety of the individual and of the campus community. During this period, Samford will ensure that the complainant is provided a written explanation of available resources and options. If the complainant, at the conclusion of the initial assessment, expresses a desire to proceed with an investigation or a formal complaint, Samford will begin the investigation or formal complaint process. If the complainant requests to withdraw his or her complaint or not to proceed with an investigation or formal complaint, the Title IX Coordinator will determine the appropriate manner of resolution for the particular report. Based on the nature of the report, Samford may nevertheless proceed with an investigation and remedies to ensure the safety and integrity of the campus community.

B. Interim Measures

1. Overview of Interim Measures

Upon completion of the initial assessment of a complaint, Samford may impose reasonable and appropriate interim measures intended to eliminate a reported hostile environment, prevent its recurrence, and remedy its effects. Such interim measures may be implemented by the university irrespective of whether the complainant requests formal disciplinary action, and regardless of whether the complainant has reported or intends to report the incident to law enforcement. Interim measures are designed to ensure the preservation of the complainant's educational, work or volunteer experience and the safety and overall well-being of the campus environment.

In some instances, a complainant or respondent may request separation or other protection, or Samford may, in its discretion, impose interim measures for the safety of all parties, the broader Samford community, and/or the integrity of the investigative and resolution processes. The imposition of an interim measure is neither a determination of responsibility nor a form of discipline. The Title IX Coordinator, in consultation with other members of the university community as necessary, will impose interim measures.

Should a person not comply with the terms of an interim measure, such noncompliance should be immediately reported to the Title IX Coordinator or a Deputy Title IX Coordinator. Upon receiving such a report, Samford will take prompt action to enforce the interim measure. Samford can impose disciplinary sanctions for noncompliance with an interim measure.

2. Purpose and Examples of Interim Measures

Interim measures are intended to preserve the educational environment of the student or students or the work environment of the employee or employees involved in a reported incident. The measures may be temporary or permanent. Interim measures may be modified from time to time by the Title IX Coordinator as changing circumstances may warrant. Examples of interim measures, which may be applied to the complainant and/or the respondent, include the following:

- Providing regular access to University Counseling Services, access to off-campus counselors and assistance in scheduling an initial appointment, either on and off-campus
- A no-contact directive that prohibits a student from contacting another student or employee, or an employee from contacting a student or other employee
- Working with students to explore options for course completion
- Rescheduling assignments and exams
- Making changes in class schedules, such as changing course sections or withdrawal
- Changing work schedules or job assignments
- Relocating students living in university housing and providing on-campus moving assistance
- Restricting access to certain Samford facilities or activities
- Scheduling meetings with the Department of Public Safety and Emergency Management, the Title IX Coordinator, a Deputy Title IX Coordinator or other person
- Academic support services

C. Complainant Requests to Not Proceed

In some instances, a complainant may decide that he or she does not wish to make a charge of sexual misconduct against another person or decides to withdraw a charge after it has been made. Samford will seek to cooperate with the request of a complainant not to proceed to the extent the request is reasonable, feasible and fair to all persons. If a complainant decides during the initial assessment phase to proceed with an investigation or formal complaint, Samford will take appropriate action to initiate that process. Where a complainant makes a report but requests that a name or other identifiable information not be shared with the respondent, or that no formal action be taken by the university, this request will be weighed by Samford in light of its obligation to provide a safe and non-discriminatory environment for all community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before action is taken against a respondent.

If a complainant does not wish to proceed with an investigation or formal complaint, the Title IX Coordinator will determine, based on the available information, whether an investigation or formal complaint should nonetheless proceed.

When assessing a complainant's request not to proceed, the Title IX Coordinator will consider a variety of factors, including, without limitation:

- The severity and impact of the alleged conduct, including whether a weapon was used
- Whether the complainant is under the age of 18
- Whether the respondent has been the subject of prior reports of sexual misconduct
- Whether the respondent threatened further violence against the complainant or others

- Whether Samford has the means to obtain relevant evidence of the alleged sexual misconduct (security cameras, video recordings, photographs or other evidence)
- Whether the respondent has been the subject of prior remedial measures and the effectiveness of those measures
- Whether retaliation is suspected as a reason for the requested withdrawal

If one or more of these or similar factors exist, the Title IX Coordinator may decide to proceed with an investigation of the incident, and if circumstances warrant, commence a disciplinary action against the respondent. Should the university decide to grant the complainant's request to not proceed, after considering the appropriate factors, it will take reasonable steps to address the complaint in a manner that is consistent with the complainant's request.

If Samford is not able to act in accordance with the request of the complainant, the Title IX Coordinator will notify the complainant of the course of action that the school will pursue. In such instance, Samford will take steps to limit the effects of the alleged misconduct and prevent its recurrence that, if reasonably feasible, do not involve revealing the identity of the complainant.

In some instances, a complainant may at first request that Samford not proceed with an investigation or disciplinary action, but later request that an investigation be conducted. The Title IX Coordinator, after granting a request not to proceed, may thereafter decide to proceed with an investigation or disciplinary action if new or additional information becomes available.

X. Investigation and Review of Complaints Against Students

This section of the policy describes the steps that are taken in a review of a Title IX complaint against a person who is enrolled as a Samford student at the time of the report. If the respondent is both a student and a Samford employee: (a) the student resolution process will govern if the respondent is a full-time student and not a full-time employee; (b) the employee resolution procedures will govern if the respondent is a full-time employee and not a full-time student; or (c) if there is a question concerning the predominant status of the respondent, the Title IX Coordinator will determine which of the procedures will govern based upon the facts and circumstances. By way of example, the Title IX Coordinator may base the decision on which role predominates in the context of the conduct.

The review process for complaints against students is designed to provide an impartial and fair-minded assessment of information submitted in a Title IX complaint. The times and deadlines in these steps may be modified as determined by the Chair of the Title IX Review Panel (the "Review Panel") or the Title IX Coordinator as either may deem appropriate in the circumstances.

Although Samford will attempt to promptly review and successfully resolve all reports of sexual misconduct, the period of time required for the investigation and resolution of each complaint will vary depending upon a variety of factors such as the complexity of the allegations, the number of witnesses, the availability and cooperation of the parties and witnesses, the impact of a concurrent criminal investigation or civil lawsuit, school holidays, and Acts of God (e.g. campus closing due to severe weather conditions). The university will diligently complete the review process in a manner that recognizes the

needs of thoroughness, fundamental fairness, and promptness. All parties involved are entitled to periodic status updates throughout the investigation and review process.

A. The Investigation

An official complaint against a student alleging a violation of this Policy is initiated by either contacting the Title IX Coordinator or being referred to the Title IX Coordinator by another resource. A complaint is made by providing the Title IX Coordinator with information concerning Prohibited Conduct that has allegedly been committed by a student.

The Title IX Coordinator will assign (or serve as) an investigator to gather information related to allegations of sexual misconduct. If there are multiple reports against a single respondent or group of respondents, the Title IX Coordinator may consolidate those reports into a single investigation if the evidence related to each incident may be relevant and probative in reaching a determination on the other incident(s).

The investigator will meet with the complainant to review his or her allegations concerning the incident. The investigator will then meet with the respondent to review the allegations and obtain his or her description of the incident. After the initial meetings, the investigator may schedule subsequent meetings with the complainant and the respondent as the investigator deems necessary or appropriate under the circumstances. The Title IX Coordinator or the investigator will provide written notice of the investigation to both the complainant and the respondent.

When appropriate and available, the investigator may interview third-party witnesses who can provide information about the alleged sexual misconduct, the complainant and the respondent. Witnesses may include people who witnessed the incident, observed the behaviors of the complainant or the respondent leading up to the incident, or received information about the incident, including post-incident communications with the complainant or respondent. Additional information requested by the investigator may include notes, emails, text messages, social media posts, pictures, phone logs, face-to-face conversation, and videos. Depending upon the circumstances, the investigation may require more meetings, interviews and inquiries than those described above.

Interviews of the complainant, the respondent and the witnesses will generally be video recorded by the investigator.

Upon the conclusion of the investigation, the investigator will prepare and deliver to the Title IX Coordinator a written report of the investigation (the "Investigation Report") that will include all relevant documents and other tangible items obtained in the course of the investigation. The Title IX Coordinator will then deliver the Investigation Report to the complainant and the respondent at substantially the same time.

B. The Charge and Answer to the Charge

After preparation of the Investigation Report, the Title IX Coordinator will determine whether to formally charge the respondent. A charge will be made if it is plausible and more than a mere possibility that the allegations of the complainant could constitute a violation of this policy. No presumption of responsibility arises from the issuance of a charge. The Title IX Coordinator may deliver the charge either in person, by

mail to the local or permanent address of the student as indicated in the official university records, or by email to the student's Samford-issued email account.

The respondent will have two (2) business days to provide the Title IX Coordinator a written response to the charge. If a student-respondent admits responsibility for the alleged policy violation(s), the charge will be governed by the procedure set forth in Item E below. If a student-respondent does not admit responsibility, the charge will be governed by the procedure set forth in Item D below.

The Title IX Coordinator will notify the complainant if the respondent admits or denies responsibility. If the respondent denies responsibility, the Title IX Coordinator will designate four

(4) qualified members of the Review Panel to review the charge with the Chair of the Review Panel. If the Chair of the Review Panel is unable to serve, a fifth member of the Review Panel will be designated by the Title IX Coordinator to serve in lieu of the Chair, and one of the five members will be designated as Acting Chair for purposes of the review. The Title IX Coordinator will also prepare and deliver to each member of the Review Panel a report containing a summary of the Investigation Report, the charge against the respondent, and the denial of responsibility by the respondent (together, the "Coordinator's Report"). Both the complainant and respondent will be provided an opportunity to review the information that the Title IX Coordinator has provided or will provide to the Review Panel.

C. Advisors

Both the complainant and the respondent are entitled to an Advisor of his or her choice. The role of the Advisor is to provide advice concerning the investigation, review procedures, and the appeal process. An Advisor can be a friend, family member, mentor, attorney, faculty or university staff (other than Samford personnel having official roles relating to the Title IX process). Upon request, the Title IX Coordinator can provide a party with the names of faculty or staff members who are familiar with this policy and what a party can reasonably expect during the process. Any such faculty or staff member will serve as an Advisor without any expense to the party. A party may be accompanied by his or her Advisor in all stages of the Title IX process. Any fees and expenses payable to or associated with an Advisor (e.g. attorney fees) are the sole responsibility of the party being assisted by the Advisor.

A party may share information with his or her Advisor, but is under no obligation to do so. Unless an Advisor is a licensed attorney with whom the party shares an attorney-client relationship, there may be no privilege that will protect the confidentiality of communications between a student and an Advisor. Samford will not provide any information to an Advisor.

An Advisor may not speak or otherwise interfere with or disrupt during any meeting, or other review event that is convened in the investigation or review process. An Advisor may only offer advice to the student being advised. A party may request that an interview, meeting or other part of the review process be recessed so that he or she may speak privately with his or her Advisor or that it be scheduled so that the Advisor may attend.

D. Review of a Charge by the Review Panel

The Review Panel will review a charge or charges against a student in a setting in which both the complainant and the respondent may offer information that each person believes to be important to his or her description of the alleged sexual misconduct. The review session will be video recorded.

Throughout the review, the complainant and the respondent must each speak for themselves. They may not speak through their respective Advisors. While in the room where the review is conducted, an Advisor may not ask questions or speak to anyone other than privately to the person to whom the Advisor is advising. For purposes of clarity, during the course of the review before the Review Panel, an Advisor may not pose questions directly to the Review Panel, answer questions posed by the Review Panel to any party or witness, or otherwise speak to anyone present in the review venue other than the student for whom the Advisor has been selected. At any time during the review, a complainant or respondent may request permission from the Review Panel Chair to privately speak with his or her Advisor.

If the complainant or the respondent wishes to pose a question to the other party, to any witness or to a member of the Review Panel other than the Chair, the question must be submitted in writing to the Review Panel Chair. Note cards and pens will be provided at the review venue. The Chair, in his or her discretion, may present the question to a witness for a response or elect to not present the question. Similarly, the Chair may choose to reply or not reply to a question posed to the Review Panel. If the complainant desires to participate in the review from a separate on-campus location, a member of the Review Panel will accompany the complainant in the separate location and will review and present questions from that location.

All information obtained during the investigation of the incident, including the Investigation Report and the Coordinator's Report, will be provided to the Chair of the Review Panel. The Chair may request that the investigator collect additional information before commencing the review by the Review Panel or at any time after the Review Panel convenes. The Chair may not request or receive additional information from any party, an investigator, the Title IX Coordinator or any other person after the review concludes and the Review Panel adjourns. Any additional information provided to the Chair during the review will be given promptly to the complainant, the respondent and the Title IX Coordinator.

The Review Panel will receive information offered by the complainant and the respondent concerning the alleged sexual misconduct by the respondent in violation of this policy. The Title IX Coordinator will offer the complainant the opportunity to be physically located during the review in an on-campus location different from the location of the respondent. If such a separate location is requested by and provided to the complainant, the review procedures in the separate location shall be the same as those governing the review in the principal location of the Review Panel. The Chair shall have discretion to make other appropriate accommodations to either party who expresses a desire to avoid contact with the other party or otherwise to mitigate the stress of a review session.

Once the complainant and the respondent are afforded an opportunity to offer information to the Review Panel, the members of the Review Panel will adjourn the review and deliberate. The Review Panel will have ten (10) business days after the adjournment to render a decision in writing. The Review Panel may conclude that the respondent is responsible for alleged sexual misconduct only if such finding is supported by a preponderance of the evidence received by the Review Panel. If the decision of the Review Panel includes a finding of responsibility on the part of the respondent, the decision will include

such sanctions as the Review Panel deems appropriate, up to and including suspension or expulsion. A decision of the Review Panel requires the vote of a majority of the participating panel members.

Upon the conclusion of the Review Panel deliberations and the preparation of its written decision, the Chair will deliver the decision to the Title IX Coordinator, who will then deliver the decision of the Review Panel (including any sanctions) simultaneously to the complainant and the respondent unless extenuating circumstances prohibit such simultaneous notification. The complainant or the respondent may appeal the decision of the Review Panel within five (5) business days of receiving notification of the decision. See Item G below.

E. Review of an Admitted Charge by the Review Panel Chair, a Review Panel Member and the Title IX Coordinator

If the respondent admits responsibility for a violation of this policy, the Title IX Coordinator, the Chair of the Review Panel, and another member of the Review Panel (together, the "Sanctions Council") will review the charge with the respondent. Depending on the nature of the incident and the resulting violation of this policy, the Sanctions Council may choose to discuss the incident with the complainant and with other persons. The complainant will be notified that the respondent has admitted responsibility and the complainant will be offered an opportunity to offer his or her opinion concerning the appropriate sanctions, but the decision concerning any sanctions to be imposed will be in the sole judgment of the Sanctions Council.

Within ten (10) business days after the respondent admits responsibility, the Sanctions Council will issue a decision on the sanctions to be imposed upon the respondent. The sanctions are not appealable, unless the sanction is expulsion from Samford. The Title IX Coordinator will communicate the decision on sanctions to the respondent and to the complainant simultaneously.

F. The Complainant Elects to Withdraw the Complaint and Terminate the Review Process

For the process provided by this policy to proceed effectively, the complainant should participate in the investigation and the ensuing proceedings. However, the complainant may request that the review of the incident be terminated at any time prior to the convening of the review session by the Review Panel or the admission of responsibility by the respondent.

The complainant's request to end a review may, in the discretion of the Title IX Coordinator, result in the withdrawal of the complaint by the complainant, cessation of the review process by the university, and the dismissal of the charges against the respondent. The Title IX Coordinator may rescind interim measures, continue the measures, or impose additional measures for such period of time as the Title IX Coordinator deems appropriate.

Once a complainant decides to terminate the review process, the complainant is generally barred from renewing his or her complaint absent new and compelling information indicating a violation of this policy by the respondent. The respondent may likewise be prohibited from filing a complaint against the

complainant unless the Title IX Coordinator determines, in his or her discretion, there is significant information indicating that the complainant filed a false report.

G. Sanctions for Policy Violations

If a respondent is determined to be responsible for a violation of this policy, there is a range of sanctions that may be imposed. Those sanctions include, but are not limited to: anger intervention assessment and counseling; participation in and completion of an abuse intervention program, that may include mental health counseling; restriction from some or all Samford property, programs or activities; community service; work assignments; written assignments; research assignments; fines; written warnings; suspension of privileges; no contact orders; parental notification; probation; residence hall expulsion; residence hall restriction; residence hall suspension; restitution; substance abuse intervention, education and treatment; training on sexual misconduct and appropriate interpersonal relationships; suspension from the university; expulsion from the university; and withholding a degree.

H. Appeals

Either party may appeal a finding of the Review Panel of a violation of this policy and/or a sanction within five (5) business days of receipt of notification of such report. An appeal of a decision of the Review Panel is limited to one of the following three reasons:

1. A substantial deviation from the Samford policies and procedures that affected the outcome of the review.
2. New and compelling information that was not available at the time of the Review Panel's review of the charge that is now available or has been recently discovered.
3. The decision of the Review Panel is not supported by the information presented during the review.

An appeal is initiated by the respondent or the complainant by completing and delivering a request-to-appeal form (the "Appeal Request") to the Title IX Coordinator on or before the due date. An Appeal Request form may be obtained from the office of the Title IX Coordinator.

An appeal is not available as a matter of right. A party requesting an appeal must complete all information required in the Appeal Request form, including a written explanation of the grounds for the appeal. Once the Title IX Coordinator receives the completed Appeal Request, it will be delivered to the Chair of the Review Panel. Within five (5) business days after receiving the Appeal Request, the Chair will prepare a written response (the "Chair Response") and deliver it to the Title IX Coordinator. The Title IX Coordinator will then deliver a copy of the Chair Response to the party requesting the appeal.

Copies of the case file compiled by the Review Panel, the Appeal Request, and the Chair Response will be delivered by the Title IX Coordinator to three (3) members of the Appeal Committee who are selected by the Title IX Coordinator. The three (3) designated members of the Appeal Committee will independently (i.e. without conferring with each other) review the information delivered to them by the Title IX Coordinator and vote to either:

- Affirm the decision of the Review Panel, including any sanctions that are imposed;

- Return the case to the Review Panel that conducted the prior review to either (i) redress a procedural error, (ii) reconsider certain factual information presented in the appeal, or (iii) consider new evidence that was not available at the time of the original review by the Review Panel; or
- Order a new review to be conducted before a newly constituted Review Panel, including a different Chair.

The decision of the Appeal Committee requires the vote of at least two of the three members of the Appeal Committee who review the case. If at least two members of the Appeal Committee do not agree on the response to the appeal, the Title IX Coordinator will empanel a new Appeal Committee consisting of three (3) persons that did not participate in the original Appeal Committee. If the second Appeal Committee does not reach a majority decision of the appropriate response to the appeal, a third Appeal Committee will be appointed. If the third Appeal Committee does not render a majority decision on the appeal, the appeal will be deemed to have been denied. The decision of the Appeal Committee is not appealable or subject to further proceedings unless the sanction is expulsion of the student from the university.

I. Reconsideration of Decisions for Expulsion

Upon the conclusion of the appeal process (including the expiration of the time in which an appeal may be requested), a student who is expelled from Samford has five (5) days from the date of being notified of the expulsion to deliver a written request for reconsideration of the sanction to the Vice President for Student Affairs and Enrollment Management who will rule on the sanction. The decision of the Vice President for Student Affairs and Enrollment Management will be final and not subject to further appeals or other proceedings.

J. Organizational Violations

If two or more members of an organization, team, club, society or other group of students (each, a "Group") are alleged to have participated in sexual misconduct prohibited by this policy, both the Group and its members who engaged in the alleged conduct may be investigated and charged with violations of this policy. The decision whether to investigate and charge a Group and/or the individual members will be made by the Title IX Coordinator.

The members of a Group, including its officers, may be individually responsible for violations of this policy when the conduct occurs in the course of a Group activity. Group activity may occur at events that are formally planned or sponsored by a Group, or at informal occasions when two or more members of a Group participate together in conduct that violates this policy, or they acquiesce, consent to or encourage a violation of this policy.

When a charge is made against a Group, a determination of responsibility by the Group and participating individuals can be made and both the Group and individuals may be disciplined. Sanctions against individual Group members are generally assigned in proportion to the involvement of each person, including the degree of authority exercised by each student. For example, increased culpability may be assigned an officer of the Group. Sanctions imposed against a Group and/or individuals for violations of this policy do not preclude, prohibit or impair other disciplinary actions (e.g. revocation of charter or withdrawal/suspension of university recognition).

K. Communication of Case Results, Effect of Respondent Withdrawal, and Candidates for Graduation

Samford may release the final results of a Title IX violation to one or more of the following: (i) the complainant and the respondent; (2) a non-party victim of a crime of violence or non-forcible sex offense; (3) Samford personnel who have a legitimate educational interest in the results of the review; (4) the parents of a student who is under 21 years of age and is claimed as a tax dependent by the student's parents; and (5) educational institutions that request information concerning an application to transfer to such institution.

A respondent student who withdraws from Samford during the review of an alleged violation of this policy will be banned from all university property and may not re-enter university property until the investigation and review is concluded. Samford may deny readmission to the withdrawn respondent if Samford determines the withdrawal impeded Samford's ability to enforce its policy or governing law. Samford may also place a hold on the education records of the respondent until the review concludes, except that the respondent may request and receive a copy of his or her Samford academic transcript pursuant to university policies that govern transcript requests. The withdrawal of a complainant shall not impair a review of a complaint so long as the complainant participates in the process.

A respondent who is a candidate for graduation may, in the discretion of the Title IX Coordinator, participate in commencement ceremonies subject to written conditions, but will not be eligible to receive his or her degree until the Title IX review process is complete. If a respondent who has completed all academic requirements for a degree is determined to be responsible for a violation of this policy, Samford may postpone the conferring of the degree for a period of time that, in the judgment of the Review Panel or the Title IX Coordinator, is reasonably commensurate with the sanctions that would have been imposed if the respondent were still enrolled at Samford and not a candidate for graduation.

L. Informal Resolution

The informal resolution process is a voluntary, structured interaction between involved parties to resolve complaints without a full formal review as prescribed by this policy. The informal resolution process may include the range of interim measures such as those described elsewhere in this policy, as well as training and educational programming for relevant individuals and groups and/or any other remedy that will achieve the goals of this Policy. An informal resolution may also include a remedies-based process such as mediation, which allows both parties to come to a mutual agreement regarding the resolution of a complaint. The informal resolution process is intended to provide the parties with a full range of outcomes, including those that may not be available in the formal review process.

Informal resolution is not an appropriate process for all kinds of Prohibited Conduct. For example, it may not be appropriate in cases involving alleged sexual assault or interpersonal violence, such as dating violence or domestic violence. The Title IX Coordinator, or the Title IX Coordinator's designee, will determine which complaints are eligible for the informal resolution process.

The informal resolution process may be terminated at any time by either the Title IX Coordinator or any of the parties involved, at which point the complaint will be investigated in accordance with the formal investigation process.

Either the complainant or the respondent may request informal resolution of a qualifying complaint at any time before, during, or after the start of the investigation. A request for informal resolution must be made in writing to the Title IX Coordinator. The informal resolution process will be instituted by the Title IX Coordinator only if both parties agree. At any point during the informal resolution process, the complainant or the Title IX Coordinator may elect to file a formal complaint (if one has not already been made) and begin or resume the formal investigation and review process.

The informal resolution process may recommend the following types of outcomes, where appropriate: facilitating an agreement between the parties, separating the parties, referring the parties to counseling programs, conducting targeted educational and training programs, and mediation.

The parties to any informal resolution process will not be required to deal directly with one another without the university's involvement. Instead, the Title IX Coordinator or his or her designee may arrange for a remedies-based process or other form of mediation between the involved parties and coordinate other remedies-based measures. The informal resolution process does not conclude with a finding. A respondent is not charged with a violation of this Policy and is not found to be either "responsible" or "not responsible" of a policy violation.

If the parties fail to reach a mutually agreeable outcome for the alleged conduct pursuant to the informal resolution process, the complaint will be resolved pursuant to the formal investigation and review process. Agreements reached by the parties in the informal resolution process shall be in writing, shall be final, and cannot be appealed absent the discovery of new and material information, in which case a new investigation may be initiated. Samford anticipates that the informal resolution of most eligible allegations of Prohibited Conduct will be completed within thirty (30) days of the agreement of the parties to engage in that process. The responsibility for payment of any expenses incurred by the parties in the informal resolution process, such as the fees of a professional mediator or other third party, shall be addressed in writing between the parties and the person or entity to whom such expenses are payable. Samford will have no responsibility for the payment of any such expenses.

XI. Investigation and Review of Complaints Against Faculty, Staff and Other Non-Student Employees

The relationships that faculty and staff share with Samford differ in nature from those between students with the university. Accordingly, the procedures that govern allegations of violations of this policy by faculty, staff and other non-student employees will necessarily differ in some respects from those applicable to allegations against a student. All procedures are guided by the same principles of fundamental fairness and respect for all parties, which require notice, an opportunity to be heard, and an opportunity to respond to a report.

The following procedures will apply when the respondent is faculty, staff, or another non-student employee at the time of the report. If the respondent is both a student and an employee: (a) the student resolution process will govern if the respondent is a full-time student and not a full-time employee; (b) the employee resolution procedures will govern if the respondent is a full-time employee and not a full-time student; or (c) if there is a question concerning the predominant status of the respondent, the Title

IX Coordinator will determine which of the procedures will govern based upon the facts and circumstances. By way of example, the Title IX Coordinator may base the decision on which role predominates in the context of the conduct.

Samford will attempt to promptly review and fairly resolve all reports of sexual misconduct by an employee. The period of time required for the investigation and resolution of each complaint will vary depending upon a variety of factors such as the complexity of the allegations, the number of witnesses, the availability and cooperation of the parties and witnesses, the impact of a concurrent criminal investigation or civil lawsuit, school holidays, and Acts of God. The university will diligently complete the review process in a manner that recognizes the needs of thoroughness, fundamental fairness, and promptness. All parties involved are entitled to periodic status updates throughout the investigation and review process.

A. The Investigation

An official complaint against a member of the faculty, staff, or other non-student employee alleging a violation of this Policy is initiated by either contacting the Title IX Coordinator or being referred to the Title IX Coordinator by another resource. A complaint is made by providing the Title IX Coordinator with information concerning alleged Prohibited Conduct committed by a member of the faculty, staff, or other non-student employee .

The Title IX Coordinator will assign (or serve as) an investigator to gather information related to allegations of sexual misconduct. If there are multiple reports against a single respondent or group of respondents, the Title IX Coordinator may consolidate those reports into a single investigation if the evidence related to each incident may be relevant and probative in reaching a determination on the other incident(s).

The investigator will meet with the complainant to review his or her allegations concerning the incident. The investigator will then meet with the respondent to review the allegations and obtain his or her description of the incident. After the initial meetings, the investigator may schedule subsequent meetings with the complainant and the respondent as the investigator deems necessary or appropriate under the circumstances. The Title IX Coordinator or the investigator will provide written notice of the investigation to both the complainant and the respondent.

When appropriate and available, the investigator may interview third-party witnesses who can provide information about the alleged sexual misconduct, the complainant and the respondent. Witnesses may include people who witnessed the incident, observed the behaviors of the complainant or the respondent leading up to the incident, or received information about the incident, including post-incident communications with the complainant or respondent. Additional information requested by the investigator may include notes, emails, text messages, social media posts, pictures, phone logs, face-to-face conversation, and videos. Depending upon the circumstances, the investigation may require more meetings, interviews and inquiries than those described above.

Interviews of the complainant, the respondent and the witnesses will generally be video recorded by the investigator.

Upon the conclusion of the investigation, the investigator will prepare and deliver to the Title IX

Coordinator a written report of the investigation (the "Investigation Report") that will include all relevant documents and other tangible items obtained in the course of the investigation. The Title IX Coordinator will then deliver the Investigation Report to the complainant and the respondent at substantially the same time.

In cases where a formal complaint has been initiated alleging sexual assault, domestic or dating violence, or stalking, the Title IX Coordinator will advise the complainant and the respondent of the right to be supported by an Advisor. If a party elects to use an Advisor, the party will advise the Title IX Coordinator of the identity and contact information for the Advisor.

B. The Charge and Answer to the Charge

After consideration of the information included in the Investigation Report, the Title IX Coordinator will determine whether to formally charge the respondent. A charge will be made if it is plausible and more than a mere possibility that the allegations of the complainant could constitute a violation of this Policy. No presumption of responsibility arises from the issuance of a charge. The Title IX Coordinator may deliver the charge to the employee-respondent either in person, by mail to the local or permanent address of the employee as indicated in the official university records, or by email to the employee's Samford-issued email account.

Upon delivery of the charge, the employee-respondent will have two (2) business days to provide the Title IX Coordinator a written response to the charge. If the employee-respondent admits responsibility for the alleged Policy violation(s), the charge will be governed by the procedure set forth in **Item E** below. If the employee-respondent does not admit responsibility, the charge will be governed by the procedure set forth in **Item D** below.

The Title IX Coordinator will notify the complainant if the respondent admits or denies responsibility. If the respondent denies responsibility, the Title IX Coordinator will designate four

(4) qualified members of the Review Panel to review the charge with the Chair of the Review Panel. If the Chair of the Review Panel is unable to serve, a fifth member of the Review Panel will be designated by the Title IX Coordinator to serve in lieu of the Chair, and one of the five members will be designated as Acting Chair for purposes of the review. The Title IX Coordinator will also prepare and deliver to each member of the Review Panel a report containing a summary of the Investigation Report, the charge against the respondent, and the denial of responsibility by the respondent (together, the "Investigative Report"). Both the complainant and respondent will be provided an opportunity to review the information that the Title IX Coordinator has provided or will provide to the Review Panel.

C. Advisors

Both the complainant and the respondent are entitled to an Advisor of his or her choice. The role of the Advisor is to provide advice concerning the investigation, review procedures, and the appeal process. An Advisor can be a friend, family member, mentor, attorney, faculty or university staff (other than Samford personnel having official roles relating to the Samford Title IX process). Upon request, the Title IX Coordinator can provide a party with the names of faculty or staff members who are familiar with this policy and what a party can reasonably expect during the process. Any such person will serve as an

Advisor without any expense to the party. A party may be accompanied by his or her Advisor in all stages of the Title IX process. A party may be accompanied by his or her Advisor in all stages of the Title IX process. All fees and expenses associated with an Advisor (e.g. attorney fees) are the sole responsibility of the party being assisted by the Advisor.

A party may share information with his or her Advisor, but is under no obligation to do so. Unless an Advisor is a licensed attorney with whom the party shares an attorney-client relationship, there may be no privilege that will protect the confidentiality of communications between a student and an Advisor. Samford will not provide any information to an Advisor.

An Advisor may not speak or offer evidence or otherwise interfere with or disrupt during any meeting or review session convened in the investigation or review process. An Advisor may only offer advice to the employee being advised. A party may request that an interview, meeting or review session be recessed so that he or she may speak privately with his or her Advisor or that it be scheduled so that the Advisor may attend.

D. Review of a Charge by the Review Panel

The Review Panel will conduct a review of a charge or charges against an employee in a setting in which both the complainant and the respondent may offer information that each person believes to be important to his or her description of the alleged sexual misconduct. The review session will be video recorded.

Throughout the review, the complainant and the respondent must each speak for themselves. They may not speak by or through their respective Advisors. While in the room where the review is conducted, an Advisor may not ask questions or speak to anyone other than privately to the person to whom the Advisor is advising. For purposes of clarity, during the course of the review before the Review Panel, an Advisor may not pose questions directly to the Review Panel, answer questions posed by the Review Panel to any party or witness, offer evidence, or otherwise speak to anyone present in the review venue other than the employee for whom the Advisor has been selected. At any time during the review, a complainant or respondent may request permission from the Review Panel Chair to privately speak with his or her Advisor.

If the complainant or the respondent wishes to pose a question to the other party, to any witness or to the Review Panel, the question must be submitted in writing to the Review Panel Chair. Note cards and pens will be provided at the review venue. The Chair, in his or her discretion, may present the question to a witness for a response or elect to not present the question. Similarly, the Chair may choose to reply or not reply to a question posed to the Review Panel. If the complainant desires to participate in the review from a separate on-campus location, a member of the Review Panel will accompany the complainant in the separate location and will review and present questions from that location.

Information obtained during the investigation of the incident, including the Investigation Report, will be provided to the Chair of the Review Panel. The Chair may request that the investigator collect additional information before commencing the review by the Review Panel. Any additional information provided to the Chair will be provided promptly by the Title IX Coordinator or the Chair to the complainant and the respondent.

The Review Panel will receive information offered by the complainant and the respondent concerning the alleged sexual misconduct by the respondent in violation of this policy. The Title IX Coordinator will offer the complainant and respondent the opportunity to be physically located during the review in an on-campus location different from the location of the other party or parties. If such a separate location is requested and provided to the complainant, the review procedures in the separate location shall be the same as those governing the review in the principal location of the Review Panel. The Chair shall have discretion to make other appropriate accommodations to either party who expresses a desire to avoid contact with the other party or otherwise to mitigate the stress of a review.

Once the complainant and the respondent are afforded an opportunity to offer information to the Review Panel, the members of the Review Panel will deliberate. Upon the conclusion of the Review Panel deliberations, the Review Panel will prepare its written decision. The Review Panel will have ten (10) business days after the adjournment of the review to render a decision in writing. The Review Panel may conclude that the respondent is responsible for alleged sexual misconduct only if such finding is supported by a preponderance of the evidence received by the Review Panel. A decision of the Review Panel requires the vote of a majority of the participating panel members.

The decision of the Review Panel is limited to whether the employee-respondent is responsible for the violation of this Policy as described in the charge. The Review Panel will not consider or recommend any sanction.

The Chair will deliver the written decision of the Review Panel to the Title IX Coordinator, who will then deliver the decision to (i) the Provost, if the respondent is a member of the Samford faculty or (ii) the Vice President for Business and Financial Affairs, if the respondent is a non-faculty employee of Samford. The Provost or the Vice President for Business and Financial Affairs (or their respective designees), as the case may be, will issue a written decision of the appropriate sanctions within five (5) business days of receipt of the decision of the Review Panel.

This Policy, and the procedures described herein, supersede and take the place of all policies and procedures provided in the Faculty Handbook for the termination of employment of a faculty member, whether tenured, serving under contract, or at will. The decision of the Review Panel, and any corresponding sanctions will then be delivered contemporaneously to the complainant and the respondent unless extenuating circumstances prohibit such contemporaneous notification. The complainant or the respondent may appeal the decision of the Review Panel and the resulting sanctions within five (5) business day of receiving notification of the outcome. See Item G below.

E. Review of an Admitted Charge by the Provost or the Vice President for Business and Financial Affairs

If the respondent admits responsibility for a violation of this Policy, then the Investigation Report, the Investigative Report, the charge, and the respondent's admission of responsibility will be delivered to (i) the Provost, if the respondent is a member of the Samford faculty or (ii) to the Vice President for Business and Financial Affairs if the respondent is a non-faculty employee of Samford. The Provost or the Vice President for Business and Financial Affairs (or their respective designees), as the case may be, will determine any sanctions that are appropriate under the circumstances. The admission of responsibility by the respondent, and any corresponding sanctions will then be delivered contemporaneously to the

complainant and the respondent unless extenuating circumstances prohibit such contemporaneous notification.

F. The Complainant Elects to Withdraw the Complaint

At any time prior to the convening of a review by the Review Panel or an admission of responsibility by the respondent, the complainant may request to withdraw his or her formal complaint. Before approving a withdrawal of the complaint, the Title IX Coordinator will meet with the complainant and the complainant's Advisor, if desired, to discuss the request.

The Title IX Coordinator retains the discretion to reject a request for withdrawal and to proceed with the formal investigation and review process, with or without further participation of the complainant, if the Title IX Coordinator believes it prudent and appropriate to do so in the best interest of the Samford community, based on all relevant information then known. The Title IX Coordinator will consider factors including: the severity and impact of the alleged conduct, including whether a weapon was used; whether the complainant is a minor; whether the respondent has a pattern of similar conduct; whether the respondent threatened further violence or other violence against the victim or others; whether Samford possesses other means to obtain relevant evidence of the alleged sexual misconduct (security cameras, video recordings, photographs or other evidence); and the extent of prior remedial methods taken with the respondent. Regardless of the decision of the Title IX Coordinator, a complainant is not required to participate in an investigation or review.

Once a complainant decides to terminate the investigation and review process after a charge has been made against the respondent, the complainant is customarily barred from renewing his or her complaint absent new and compelling information indicating a violation of this Policy by the respondent. The respondent may likewise be prohibited from filing a complaint against the complainant unless the Title IX Coordinator determines, in his or her discretion, there is significant information indicating that the complainant filed a false report.

G. Sanctions for Policy Violations.

If a respondent is determined to be responsible for a violation of this policy, there is a range of sanctions that may be imposed. Those sanctions include, but are not limited to: anger intervention assessment and counseling; participation in and completion of an abuse intervention program, that may include mental health counseling; restriction from some or all Samford property, programs or activities; community service; written warnings; no contact orders; restitution; substance abuse intervention, education and treatment; training on sexual misconduct and appropriate interpersonal relationships; suspension of employment without pay; and termination of employment.

H. Appeals

Either party may appeal the finding of the Review Panel of a violation of this policy and/or a sanction within five (5) business days of receipt of notification of such report. An appeal of a decision of the Review Panel and any resulting sanction is limited to one of the following three reasons:

1. A substantial deviation from the Samford policies and procedures that affected the outcome of the review.

2. New and compelling information that was not available at the time of the Review Panel review is now available or has been recently discovered.
3. The decision of the Review Panel is not supported by the information presented at the review.

An appeal is initiated by the respondent or the complainant by completing and delivering a request-to-appeal form (the "Appeal Request") to the Title IX Coordinator on or before the due date. An

Appeal Request form may be obtained from the office of the Title IX Coordinator.

An appeal is not automatically granted. A party requesting an appeal must complete all information required in the Appeal Request form, including a written explanation of the grounds for the appeal. Once the Title IX Coordinator receives the completed Appeal Request, it will be delivered to the Chair of the Review Panel. Within two (2) business days after receiving the Appeal Request, the

Chair will prepare a written response (the "Chair Response") and deliver it to the Title IX Coordinator. The Title IX Coordinator will then deliver a copy of the Chair Response to the party requesting the appeal.

Copies of the case file compiled by the Review Panel, the Appeal Request, and the Chair Response will be delivered by the Title IX Coordinator to three (3) members of the Appeal Committee who are selected by the Title IX Coordinator. The three (3) designated members of the Appeal Committee will independently (i.e. without conferring with each other) review the information delivered to them by the Title IX Coordinator and vote to either:

- Affirm the decision of the Review Panel (but not any resulting sanctions that are imposed);
- Return the case to the Review Panel that conducted the prior review to either (i) redress a procedural error, (ii) reconsider certain factual information presented in the appeal, or (iii) consider new evidence that was not available at the time of the original review by the Review Panel or
- Order a new review to be conducted before a newly constituted Review Panel, including a different Chair.

The decision of the Appeal Committee requires the vote of at least two of the three members who review the case. If at least two members of the Appeal Committee do not agree on the response to the appeal, the Title IX Coordinator will empanel a new Appeal Committee consisting of three (3) persons that did not participate in the original Appeal Committee. If the second Appeal Committee does not reach a majority decision of the appropriate response to the appeal, a third Appeal Committee will be appointed. If the third Appeal Committee fails to reach a majority decision, the appeal will be deemed to be denied. The decision of the Appeal Committee is not appealable or subject to further proceedings. Any sanction imposed upon an employee shall be stayed pending the conclusion of the appeal process. If the Appeal Committee either returns the case to the original Review Panel or orders a new review before a new Review Panel, any sanctions (or the absence thereof) will be reconsidered by the Provost or the Vice President for Business and Financial Affairs, as the case may be, upon the conclusion of the Review Panel review that is required by the Appeal Committee.

I. Informal Resolution

The informal resolution process is a voluntary, structured interaction between involved parties to resolve complaints without a full formal review as prescribed by this policy. The informal resolution process may include the range of interim measures such as those described elsewhere in this policy, as well as training and educational programming for relevant individuals and groups and/or any other remedy that will achieve the goals of this Policy. An informal resolution may also include a remedies-based process such as mediation, which allows both parties to come to a mutual agreement regarding the resolution of a complaint. The informal resolution process is intended to provide the parties with a full range of outcomes, including those that may not be available in the formal review process.

Informal resolution is not an appropriate process for all kinds of Prohibited Conduct. For example, it may not be appropriate in cases involving alleged sexual assault or interpersonal violence, such as dating violence or domestic violence. Moreover, since the respondent is a Samford employee, sanctions may be required irrespective of any informal resolution agreed upon by the parties. Informal resolution among the parties does not preempt any disciplinary action that the university may choose to initiate against an employee. The Title IX Coordinator, or the Title IX

Coordinator's designee, will determine which complaints are eligible for the informal resolution process.

The informal resolution process may be terminated at any time by either the Title IX Coordinator or any of the parties involved, at which point the complaint will be investigated in accordance with the formal investigation process.

Either the complainant or the respondent may request informal resolution of a qualifying complaint at any time before, during, or after the start of the investigation. A request for informal resolution must be made in writing to the Title IX Coordinator. The informal resolution process will be instituted by the Title IX Coordinator only if both parties agree in writing. At any point during the informal resolution process, the complainant, the respondent or the Title IX Coordinator may elect to file a formal complaint (if one has not already been made) and either begin or resume the formal investigation and review process.

The informal resolution process may recommend the following types of outcomes, where appropriate: facilitating an agreement between the parties, separating the parties, referring the parties to counseling programs, conducting targeted educational and training programs, and mediation.

The parties to any informal resolution process will not be required to deal directly with one another without the university's involvement. Instead, the Title IX Coordinator or his or her designee may arrange for a remedies-based process or other form of mediation between the involved parties and coordinate other remedies-based measures. The informal resolution process does not conclude with a finding. A respondent is not charged with a violation of this Policy and is not found to be either "responsible" or "not responsible" of a Policy violation.

If the parties fail to reach a mutually agreeable outcome for the alleged conduct pursuant to the informal resolution process, the complaint will be resolved pursuant to the formal investigation and review process. Agreements reached by the parties in the informal resolution process shall be in writing, shall be final, and cannot be appealed absent the discovery of new and material information, in which case a new investigation may be initiated. Samford anticipates that allegations of Prohibited Conduct that are eligible

for informal resolution will be completed within thirty (30) days of the agreement of the parties to engage in that process. The responsibility for payment of any expenses incurred by the parties in the informal resolution process, such as the fees of a professional mediator, shall be addressed in a writing between the parties and the person or entity to whom such expenses are payable. Samford will have no responsibility for the payment of any such expenses.

XII. Investigation and Review of Complaints Against Persons Who Are Not Students, Faculty, Staff or Other Employees

Sexual misconduct may be committed by persons who may have some association with Samford, such as a vendor, applicant, camp participant, delivery person, alumnus or visitor. All complaints against persons who are not students, faculty staff or other employees will be investigated by the

Title IX Coordinator or the Title IX Coordinator's designee. Remedies shall be determined by the Title IX Coordinator, in consultation with the academic dean or head of the department responsible for or most closely associated with the person against whom the complaint is made. If the Title IX Coordinator and the dean or head of the department do not agree, the remedy will be determined by the Title IX Coordinator and either the Provost or the Vice President for Business and Financial Affairs.

XIII. Information Considered by the Review Panel

Reviews conducted by the Review Panel are not governed by formal rules of evidence or judicial procedures. The Chair of the Review Panel may allow any information that the Chair determines to be relevant or probative of the allegations constituting the charge against the respondents or the defenses asserted by the respondent.

In general, the prior sexual history of either party is not relevant and will not be admitted as evidence included in an investigation report or during a review. However, if there was at the time of the alleged incident or continues to be an ongoing relationship between the complainant and the respondent, and the respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications among the parties. The mere existence of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. The prior sexual history of the complainant or respondent with other individuals is generally not relevant and will not be permitted unless it is used to rebut claims that the respondent is the source of evidence, the cause of bruises, marks or other injuries on or to the complainant or for pattern evidence.

Where there is evidence of a pattern of sexual misconduct, either prior to or after the conduct in question, regardless of whether there has been an investigation or finding of responsibility, this information may be deemed relevant to a Review Panel's determination of responsibility. The determination of relevance will be based on an assessment of whether (i) the previous incident was substantially similar to the present allegation; and (ii) indicates a pattern of behavior and substantial conformity with that pattern by a respondent. Where there is a prior finding of responsibility for a similar act of sexual misconduct, there is a presumption of relevance. The Chair of the Review Panel will make

the determination whether the Review Panel will consider the pattern evidence and in doing so will carefully review the relevancy and reliability of the alleged similar conduct.

Except as otherwise required by law, Samford will not release any individual's medical or counseling records for purposes of the investigation, adjudication, or resolution of any allegation or complaint made under this policy absent such individual's written consent. An individual may disclose his or her medical and/or counseling records voluntarily, but Samford will not request consent for the release of any medical or counseling records, nor will Samford require any individual involved in the processes described in this policy to release any such medical or counseling records.

XIV. Privacy and Record Keeping

The facts about individual cases and their dispositions are to remain private to the extent possible. In order to protect the integrity of the investigation, anyone involved in the investigation should not discuss what they shared with the Investigator(s) to any witness or potential witness during the pendency of the proceedings. Additionally, in order to protect the privacy of all involved, no one involved in a complaint process, besides the complainant and respondent, should discuss any information regarding the case except with those who have a legitimate need to know. Any member of the campus community who violates the privacy provisions of these procedures, and/or the privacy directives of the administrators handling complaints, may be subject to discipline.

The Title IX Coordinator will maintain the official written records of formal and informal complaints and resolutions under these procedures in accordance with applicable University record retention schedules.

XV. Policy Review; Amendments

Samford, through a working group that will include the Title IX Coordinator, the Office of General Counsel, the Deputy Title IX Coordinators, the Provost and Vice President for Academic Affairs, the Vice President for Business and Financial Affairs, and the Vice President of Student Affairs and Enrollment Management, will review and propose updates to this Policy, as appropriate, no less than annually. Samford will evaluate, among other things, any changes in legal requirements and existing university resources. Substantive amendments to this Policy must be approved by the university Board of Trustees. Non-substantive amendments to the Policy may be made by the working group only when the change will affect the substance of the Policy, as determined by the University General Counsel or other legal counsel advising Samford. Examples of non-substantive amendments would be changes of the names of specific individuals, addresses, email addresses, designations of emergency and community resources, or technical corrections of typographical errors. Non-substantive amendments shall be initiated and first approved by the University General Counsel and do not require the approval of the Board of Trustees.

Revision History:

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