



## **RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE GEORGIA INSTITUTE OF TECHNOLOGY EQUAL OPPORTUNITY, NONDISCRIMINATION, AND ANTI-HARASSMENT POLICY**

### **1. Report and Complaint Intake**

Anyone who believes they have been subjected to discrimination, harassment, or retaliation (“Prohibited Conduct”) in violation of the Georgia Institute of Technology’s (“the Institute”) Equal Opportunity, Nondiscrimination and Anti-Harassment Policy (“the NDAH Policy”), may report the behavior to, or file a Complaint with, the Institute’s Office of Equal Opportunity and Compliance (“EOC”). Complaints will be investigated pursuant to the procedures outlined in this document.

Based on the report or Complaint, EOC will assess the need to issue a broader warning and/or notification to the community in compliance with the Clery Act.

### **2. Initial Evaluation of Reports and Complaints**

EOC will conduct an initial evaluation, typically within five (5) business days of receipt of a report or Complaint. The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a NDAH Policy violation
- Determining whether the Institute has jurisdiction over the reported conduct
- Offering and coordinating interim measures/support services for the Parties
- Notifying the Complainant of the available resolution options
- Determining whether the Complainant wishes to file a Complaint
- Notifying the Respondent of the available resolution option if a Complaint is filed

If EOC is not the proper office to handle the report, the report may be referred to the appropriate office for review.

**A. Filing a Complaint.** If the Complainant – the person who experienced the alleged misconduct – indicates they wish to initiate the Resolution Process, EOC will work with the Complainant to determine which resolution option they want to pursue. EOC will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on its analysis of the situation. Upon receiving a Complaint that alleges violations

of the NDAH Policy and meets the initial evaluation criteria, EOC will initiate an investigation. If the Complainant does not want any action taken, EOC will consider that request, and in most circumstances no Resolution Process will be initiated, though the Complainant can elect to initiate one later, if desired. The Institute's ability to respond may be more limited due to the passage of time, as that often decreases the availability of witnesses, other evidence, or the Institute has lost jurisdiction over the Respondent due to leaving the Institute (e.g., graduation).

- B. EOC Authority to Initiate the Resolution Process.** EOC has ultimate discretion whether to pursue a Resolution Process and may consult with appropriate Institute officials, to aid their determination whether to initiate a Complaint. EOC may consider elements such as patterns of behavior, predation, threats, violence, use of weapons, or the involvement of minors or employees in determining whether to initiate the Resolution Process. When EOC initiates a Complaint, EOC does not become the Complainant, the individual who experienced the alleged misconduct remains the Complainant. EOC initiated Complaints will only be filed to meet a compelling interest of the Institute.
- C. Counter-Complaints.** The Institute is obligated to ensure that the Resolution Process is not abused for retaliatory purposes. Although EOC permits the filing of counter-Complaints, EOC will use the initial evaluation, as described above, to assess whether the allegations in the counter-Complaint are made in good faith. Counter-Complaints determined to have been reported in good faith will be processed using the Resolution Process outlined below. When counter-Complaints are not made in good faith, they will not be permitted, will be considered potentially retaliatory, and may constitute an NDAH Policy violation. At EOC's discretion, investigation of counter-Complaints may take place during or after resolution of the underlying initial allegations.
- D. Collateral Misconduct.** Collateral misconduct includes potential violations of other Institute policies that occur in conjunction with alleged violations of the NDAH Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the NDAH Policy, to be resolved jointly under these Procedures. In such circumstances, EOC may consult with Institute officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what alleged violations should be filed, but the exercise of collateral violations under these Procedures is within EOC's discretion. All other allegations of misconduct unrelated to incidents covered by the NDAH Policy will typically be addressed separately through appropriate Institute policies.
- E. Complaint Dismissal.** If at any point following the filing of a Complaint, and after making reasonable efforts to determine the scope of the allegations, EOC determines that reasonable cause does not support the conclusion that the Respondent violated the NDAH Policy, the Resolution Process will end, and the Parties will be notified.

EOC will also consider dismissing a Complaint upon receipt of a Complainant's written request to withdraw a Complaint, in alignment with Section B (EOC Authority to Initiate the Resolution Process) above.

### **3. Interim Measures/Support Services**

If it is determined that interim measures/support services are required to mitigate potential Prohibited Conduct, EOC will implement appropriate and available interim measures/support services after consultation with appropriate Institute officials.

**A. Students:** When interim measures/support services are implemented, the Institute will minimize the burden on both the Complainant and the Respondent, where feasible. Student interim measures/support services may include, but are not limited to:

- Change of housing assignment
- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Issuance of a no contact directive
- Restrictions or bars to entering certain institution property
- Academic support, extensions of deadlines, or other course/program related adjustments
- Class schedule modifications, withdrawals, or leaves of absence
- Interim suspension<sup>1</sup>
- Other measures designed to promote the safety and well-being of the Parties and the Institute community

**B. Employees:** EOC will work with appropriate Institute officials to determine appropriate interim measures/support services for employees. Employee interim measures/support services may include, but are not limited to:

- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Issuance of a no contact directive

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<sup>1</sup> As outlined in [USG Policy 4.6 Discipline of Students](#), an interim suspension will only occur where necessary to maintain safety and will be limited to situations where the Respondent poses a serious and immediate danger or threat to persons or property. In making such an assessment, the Institute will consider the existence of a significant risk to the health or safety of the Complainant (where applicable) or the campus community; the nature, duration, and severity of the risk; the probability of potential injury; and whether less restrictive means can be used to significantly mitigate the risk. Before an interim suspension is issued, the Institute will make all reasonable efforts to give the Respondent the opportunity to be heard on whether the Respondent's presence on campus poses a danger. If an interim suspension is issued, the terms of the suspension take effect immediately. The Respondent shall receive notice of the interim suspension and the opportunity to respond to the interim suspension. Upon receiving a challenge the Institute will typically determine within three (3) business days whether the interim suspension should continue.

- Altering work arrangements
- Administrative leave<sup>2</sup>
- Other measures designed to promote the safety and well-being of the Parties and the Institute community

#### **4. Access to Advisors**

The Parties may each have an Advisor of their choice (who may or may not be an attorney) present with them for all meetings and interviews within the Resolution Process. The Advisor may accompany the Party to all meetings. Advisors may not provide testimony or speak on behalf of their advisee. The Parties are expected to respond to questions on their own behalf throughout the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. All communication during the Resolution Process will be between the Institute and the Party and not the Advisor. With the Party's permission, the Advisor may be copied on all communications.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict of interest. As such, Parties will not be permitted to use an Advisor who is all a witness in the Resolution Process.

A Party may elect to change Advisors during the Resolution Process and is not obligated to use the same Advisor throughout. Parties are expected to provide EOC with timely notification if they change Advisors. If a Party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

For more information about Advisors in the Resolution Process, see [Appendix B](#).

#### **5. Resolution Process Overview**

The Formal Resolution Process is the Institute's primary resolution approach unless all Parties and the Institute agree to an Informal Resolution Process. EOC considers the Parties' preferences, but the process used to resolve allegations of the NDAH Policy is ultimately determined at EOC's discretion.

Resolution proceedings are private. All individuals present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accordance with the NDAH Policy.

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<sup>2</sup> When the Respondent is an employee or a student employee accused of misconduct in the course of their employment, existing provisions for interim action will be used to place an employee Respondent on administrative leave during the pendency of the Resolution Process.

## 6. Informal Resolution Process

To initiate the Informal Resolution Process, a Complainant or Respondent may make such a request to EOC at any time prior to a Final Determination, or EOC may offer the option to the Parties. EOC will obtain voluntary, written confirmation from all Parties indicating they wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution. One of three approaches will be used to informally resolve Complaints:

- 1) **Supportive Resolution.** When EOC can resolve the matter informally by providing interim measures/support services (only) designed to remedy the situation.
- 2) **Accepted Responsibility.** When the Respondent accepts responsibility for violating the NDAH Policy and accepts the recommended sanction(s), and the Complainant(s) and the Institute are agreeable to the resolution terms.
- 3) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described in [Appendix C](#).

It is not necessary to pursue the Informal Resolution Process in order to pursue the Formal Resolution Process. Any Party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Formal Resolution Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Resolution Process should Informal Resolution not be successful.

Informal Resolution agreements are only binding on the Parties. They cannot include requirements or restrictions for individuals or groups who are not a Party to the Informal Resolution.

If an investigation is already underway, EOC has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Prior to implementing an Informal Resolution, EOC will provide the Parties with written notice of the reported misconduct (except in the case of Supportive Resolution) and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the Institute.

Please refer to [Appendix C](#) for more information related to Informal Resolution Process approaches.

## **7. Formal Resolution Process**

The Formal Resolution Process can be pursued at any time during the Resolution Process for any behavior for which the Respondent has not accepted responsibility that would constitute Prohibited Conduct covered by the NDAH Policy if proven. Formal Resolution starts with a thorough, reliable, and impartial investigation.

If Formal Resolution is initiated, EOC will appoint a properly trained Investigator(s) to conduct the investigation.<sup>3</sup>

**A. Notice of Allegations.** EOC will provide the Parties with a written Notice of Allegations (“NOA”), which may include the following information: (1) the names of the Complainant(s) and the Respondent(s), if known; (2) the date and location of the alleged incident, if known, and the nature of the reported conduct; (3) the applicable Policy(ies) and reported policy violation(s); (4) a description of the applicable procedures; (5) a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the resolution process; (6) information about the Parties’ respective rights and responsibilities; (7) a statement informing the Parties that the Institute’s policy prohibits knowingly submitting false information during the resolution process; (8) the prohibition against retaliation; (9) the importance of preserving any potentially relevant evidence in any format; (10) a statement that if the Institute decides to investigate additional allegations not included in the original notice, notice of the additional allegations will be provided to the Parties whose identities are known; (11) the name and contact information of the assigned Investigator(s); and (12) how to challenge participation by the Investigator(s) on the basis of a conflict of interest or bias.

Upon receipt of the NOA, the Respondent will have at least three (3) business days to respond in writing. In that response, the Respondent will have the right to admit or to deny the allegations, and to set forth a defense with facts, witnesses, and supporting materials. A non-response will be considered a general denial of the alleged misconduct. The Complainant will also be provided with three (3) business days to respond to or to supplement the notice.

The NOA may be delivered by one or more of the following methods: in person or emailed to the Parties’ Institute-issued or other approved email account. Once emailed and/or received in-person, notice is presumptively delivered.

**B. Complaint Consolidation.** EOC may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondent(s), when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

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<sup>3</sup> The Investigator(s) may be internal or external to the Institute community.

- C. Formal Resolution Timeline.** EOC will make a good faith effort to complete the Formal Resolution Process within sixty to ninety (60-90) business days, including any appeals, which EOC can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Formal Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors. The investigation timeline may also be extended where the Institute uses an external Investigator to investigate the Complaint.

EOC may undertake a short delay in its investigation if circumstances require. Such circumstances include, but are not limited to, a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. EOC will promptly resume its Formal Resolution Process as soon as feasible. During such a delay, EOC will implement and maintain interim measures/support services for the Parties as deemed appropriate.

EOC action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

EOC will make a good faith effort to complete the Formal Resolution Process as promptly as circumstances permit and will regularly communicate with the Parties to update them on the progress and timing of the process.

- D. Ensuring Impartiality.** No individual materially involved in the administration of the Formal Resolution Process, including EOC staff, Investigator(s), and Decision-maker(s), may have or demonstrate a conflict of interest or bias for a Party generally, or for a specific Complainant or Respondent.

EOC will vet the assigned Investigator(s), Decision-maker(s), and Appeal Decision-maker(s) for impartiality by considering any actual or apparent conflicts of interest or disqualifying biases. The Parties may raise a concern regarding bias or conflict of interest at any time during the Formal Resolution Process, and EOC will determine whether the concern is reasonable and supportable. If so, another trained individual will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is a staff member in EOC, concerns should be raised with the Vice President of the Office of Equal Opportunity, Compliance, and Conflict Management.

The Formal Resolution Process involves an objective evaluation of all Relevant Evidence obtained, including evidence that supports that the Respondent violated the NDAH Policy

and evidence that supports that the Respondent did not violate the NDAH Policy. Credibility determinations will not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written Investigation Report that accurately summarizes this evidence.

- E. Investigation.** All investigations are thorough, reliable, impartial, prompt, and fair. During an investigation, the Investigator(s) will seek to meet separately with the Complainant, Respondent, and relevant witnesses. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the alleged conduct or related matters. Witnesses may not participate solely to speak about an individual's character. The Investigator(s) will also gather other relevant information or evidence, including documents, photographs, communications between the Parties, and other records as appropriate.

The Investigator(s), not the Parties, is responsible for gathering relevant evidence to the extent reasonably possible. Both the Complainant and Respondent are encouraged, however, to submit any information they believe may be relevant, and both the Complainant and Respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications, photographs, and other evidence. Parties are encouraged to provide all relevant information as promptly as possible to facilitate prompt resolution. All available information and supporting documents and evidence must be identified and/or submitted prior to issuance of the Final Investigation Report. In the event that a Party declines to provide material information, the Institute's ability to conduct a prompt, thorough, and equitable investigation may be impacted.

The Investigator(s) may also consider information publicly available from social media or other online sources that comes to the attention of the Investigator(s). The Investigator(s) does not actively monitor social media or online sources, however, and as with all potentially relevant information, the Complainant, Respondent, or witnesses should bring relevant online information to the attention of the Investigator(s).

Similarly, the Parties should bring any new or evolving evidence, such as harassing or retaliatory conduct, to the attention of the Investigator(s). The Investigator(s) may consider such information in the investigation and will also share any information about retaliation or other alleged misconduct with EOC for appropriate action.

When appropriate, the Investigator(s) may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the Investigator(s) may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.



The Investigator(s) will keep a record of the Parties' proffered witnesses not interviewed, along with a brief, written explanation of why the witnesses were not interviewed.

- F. Witness Role and Participation in the Investigation.** Witnesses who are Institute employees are required to cooperate with and participate in EOC's investigation and Formal Resolution Process. Student witnesses and witnesses from outside the Institute community are encouraged to cooperate with EOC's investigations and to share what they know about a Complaint.

Party and/or witness interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx), or, in limited circumstances, by telephone. EOC will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

- G. Interview Recording.** It is standard practice for Investigators to create a record of all interviews pertaining to the Formal Resolution Process, by recording, transcript, or written summary. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. All interviews are recorded, and all involved individuals will be made aware of the audio and/or video recording. Those subsequent meetings or interviews are also recorded and/or transcribed.

After each interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications.

- H. Review of Draft Investigation Report.** At the conclusion of the fact-gathering portion of the investigation, the Investigator(s) will prepare a Draft Investigation Report that provides the Complainant and the Respondent equal and timely access to a report that outlines and summarizes the evidence that has been obtained as part of the investigation that is directly related to the allegations raised. Additionally, EOC upon request, shall make available for review any documents that were gathered by the Institute as part of the investigative process. This shall include evidence that was collected that the Investigator(s) may not deem to be relevant.

The Draft Investigation Report and accompanying documents will be made available to each Party and the Party's Advisor, if any, in an electronic format. Each Party will have ten (10) business days to submit a written response, which the Investigator(s) will consider prior to completion of the Final Investigation Report. Any additional information that was not previously provided by the Parties during the investigation should be provided with the

written response. A Party may also request the opportunity to meet with the Investigator(s) to provide additional verbal information; the Investigator(s) will determine whether such a meeting is necessary to ensure that all relevant evidence has been provided.

If either Party provides a written response or provides additional verbal information, the portions of evidence relevant to the allegations will be shared with the other Party and incorporated as appropriate in the Final Investigation Report. Any relevant information gathered through additional investigative steps will be shared with both Parties, and, as the Institute deems appropriate, the Parties may have the opportunity for further response if sufficient new information has been gathered. If additional review is granted, each Party will have five (5) business days to review any additional Relevant Evidence and any further comment by the Parties will be limited to responding to the new information only. As necessary, the Investigator(s) will designate reasonably prompt timeframes to ensure a timely completion of the process while also providing an adequate opportunity for all Parties to respond thoroughly to the information gathered during the investigation.

- I. **Final Investigation Report.** The Final Investigation Report will incorporate any new, Relevant Evidence obtained through the Parties' review of the Draft Investigation Report and any follow-up meetings. The Final Investigation Report will include an assessment and synthesis of the Relevant Evidence without making any recommendations or reaching any conclusions. The Final Investigation Report will be provided to each Party and the Party's Advisor, if any, in an electronic format.
- J. **Respondent Admits Responsibility.** If a Respondent elects to admit to the charged violations and waive further process at any point in the Formal Resolution Process, the Decision-maker is authorized to accept that admission, adopt it as their Finding/Final Determination, and administer sanctions. This would waive the Respondent's right to appeal. If the Respondent rejects the Finding/Final Determination/sanctions, or does not admit to all charged violations, the Final Resolution Process continues to its conclusion on the disputed charges. The Complainant retains their right to appeal a Final Determination when a Respondent admits responsibility.

## **8. Determination and Appeal**

Complaints involving student Respondents will be determined pursuant to the procedures detailed in Section F.5.b of the [Georgia Tech Student Code of Conduct](#) and appealed pursuant to the procedures detailed in Section H of the [Georgia Tech Student Code of Conduct](#).

Complaints involving Employee Respondents will be determined and appealed pursuant to the procedures described below.

Within five (5) business days of receiving the Investigator's Final Investigation Report, EOC appoints a properly trained, single impartial Decision-maker to review the Complaint and determine whether the Respondent violated the NDAH Policy. The Decision-maker may be

internal or external to the Institute community. If the record is incomplete, the Decision-maker may direct the Investigator(s) to re-open the investigation, or may direct or conduct any additional inquiry necessary, including meeting informally with the Parties or any witnesses if needed.

**A. Evidentiary Considerations.** The Parties must provide all evidence to the Investigator(s) prior to completion of the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant, the Decision-maker may proceed with making Findings and a Final Determination absent the new evidence.

The new Relevant Evidence will be admitted to the record if:

- All Parties and the Decision-maker assent to the new evidence being considered without remanding the matter back to the Investigator(s),
- The evidence is not duplicative of evidence already in the record, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Provide the Parties with at least five (5) business days to review and comment on the new, Relevant Evidence
- Remand the matter back to the Investigator(s) for further investigation or analysis

If the evidence is deemed not relevant, the Decision-maker may proceed with making Findings and a Final Determination without allowing the new evidence.

Any evidence that is relevant and credible may be considered, including a Respondent's prior disciplinary history as well as evidence indicating a pattern of misconduct, subject to the limitation in (B) below. The process should exclude non-Relevant Evidence or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

**B. Evidentiary Exclusions.** Unless the Decision-maker determines it is appropriate, the investigation and the Finding do not consider: (1) incidents not directly related to the possible violation(s), unless they evidence a pattern; (2) irrelevant character evidence.

Although the Respondent's previous conduct violations (if any) are not generally admissible as information supporting the current allegation(s), the Investigator(s) may supply the

Decision-maker with information about previous good faith allegations and/or findings when that information suggests potential pattern and/or predatory conduct.

A Party or witness's records that are made or maintained by a physician, psychologist, or psychiatrist are inadmissible unless the Party or witness provides voluntary, written consent for the records to be considered.

- C. Notice of Outcome.** EOC will typically provide the Parties with a written outcome notification within fifteen (15) business days of receiving the Final Investigation Report. The outcome notification will specify the Finding for each alleged NDAH Policy violation, any sanction(s) that may result, which the Institute is permitted to share pursuant to federal or state law, and a detailed rationale, written by the Decision-maker, supporting the Findings to the extent the Institute is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no Party appeals.

EOC will provide the Parties with the outcome notification without significant time delay between notifications. The outcome notice may be delivered by one or more of the following methods: in person or emailed to the Parties' Institute-issued or other approved email account. Once emailed and/or received in-person, notice is presumptively delivered.

- D. Appeals.** EOC will designate a trained internal or external single, impartial Appeal Decision-maker to hear the appeal. No Appeal Decision-maker will have been previously involved in the Resolution Process for the matter.

**i) Appeal Grounds.** Appeals are limited to the following grounds:

- 1) A procedural irregularity affected the outcome of the matter
- 2) New evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter
- 3) EOC staff, the Investigator(s), or the Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter
- 4) The Decision-maker's Final Determination is substantially contrary to the weight of the evidence in the record (applicable to suspension, expulsion, or termination-level offenses only)
- 5) The sanctions fall outside the range of sanctions designated for this offense, considering the Respondent's cumulative conduct/disciplinary record (applicable to suspension, expulsion, or termination-level offenses only)

**ii) Appeal Request.** Any Party may submit a written appeal request to EOC within five (5) business days of the delivery of the notice of outcome.

The appeal request will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the appeal grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the appeal request does not provide information that meets the grounds in these Procedures, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the appeal request meets the grounds in the Procedures, then the Appeal Decision-maker will notify all Parties and their Advisors, EOC, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, EOC, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the appeal request with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing Party (if any) may also choose to appeal at this time. If so, that appeal request will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in the Procedures and will either be approved or denied. If approved, it will be forwarded to the Party who initially requested an appeal, EOC, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified in writing.

No Party may submit any new appeal request after this time-period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

**iii) Appeal Determination Process.** In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the Finding/Final Determination only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions apply the preponderance of the evidence standard of evidence.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the Finding and/or sanction(s).

The Appeal Decision-maker may consult with EOC and/or legal counsel on questions of procedure or rationale, for clarification, if needed. EOC will maintain documentation of all such consultation.

- iv) Appeal Outcome.** An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or EOC (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new hearing with new trained individuals serving in the Investigator and Decision-maker roles.

A notice of appeal outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. The appeal outcome letter will specify the Finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which the Institute is permitted to share according to federal or state law, and the rationale supporting the essential Findings to the extent the Institute is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person or emailed to the Parties' Institute-issued email or other approved account. Once emailed and/or received in person, the appeal outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination of the Institute; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new Finding or sanction, that Finding or sanction can be appealed one final time on the grounds listed above and in accordance with the Procedures.

If a remand results in a new Finding or sanction that is different from the original Finding or sanction, that new Finding or sanction can be appealed, once, on any of the available appeal grounds.

- v) Sanction Status During the Appeal.** Any sanctions imposed as a result of the Final Determination are stayed (*i.e.*, not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

## 9. Sanctions

Student Respondent sanctions are imposed pursuant to Section G of the [Georgia Tech Student Code of Conduct](#).

Employee Respondent sanctions are imposed pursuant to the procedures detailed below and in accordance with the [Georgia Tech Progressive Discipline Policy](#) and the [Faculty Conduct, Discipline and Removal of Faculty Members Policy](#).

The Decision-maker may invite and consider impact and/or mitigation statements from the Parties when determining appropriate sanction(s). Factors the Decision-maker may consider when determining sanctions and responsive action include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the Prohibited Conduct
- The need for sanctions/responsive actions to prevent the future recurrence of Prohibited Conduct
- The need to remedy the effects of Prohibited Conduct on the Complainant and the community
- The impact on the Parties
- The Respondent's acknowledgement of responsibility or contrition
- Previous institutional response to similar conduct
- The strength of the evidence
- The wellbeing of the Institute community
- Any other information deemed relevant by the Decision-maker

The sanctions will be implemented as soon as is feasible once a Determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

The sanctions described in these Procedures are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

Responsive actions for an Employee who has engaged in Prohibited Conduct include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*

- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Delay of (or referral for delay of) Tenure Track Progress*
- *Assignment to a New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions: In addition to, or in place of, the above sanctions/responsive actions, the Institute may assign any other responsive actions as deemed appropriate*

#### **10. Withdrawal or Resignation Before Complaint Resolution.**

Should a Respondent decide not to participate in the Formal Resolution Process, the process proceeds absent their participation to a reasonable resolution.

**A. Students.** If a Student Respondent withdraws from the Institute, the Formal Resolution Process typically ends with a dismissal, as the Institute has lost primary disciplinary jurisdiction over the withdrawn Student. However, the Institute may continue the Formal Resolution Process when, at the discretion of EOC, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Prohibited Conduct.

Regardless of whether the Complaint is dismissed or pursued to completion of the Formal Resolution Process, the Institute will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Prohibited Conduct.

When a Student withdraws or takes a leave of absence while the process is pending, the Student may not return to the Institute in any capacity until the allegations are resolved and any sanctions imposed are satisfied. If the Student indicates they will not return, EOC has discretion to dismiss the allegations and bar the Student from returning. The appropriate Institute officials may be notified accordingly.

If the Student Respondent takes a leave of absence for a specified period of time (*e.g.*, one semester or term), the Formal Resolution Process may continue remotely. If found in violation, that Student is not permitted to return to the Institute unless and until all sanctions, if any, have been satisfied.



**B. Employees.** If an Employee Respondent leaves their employment (resigns) with the Institute with unresolved allegations pending, the Complaint is typically dismissed, as the Institute has lost primary disciplinary jurisdiction over the former Employee. However, the Institute may continue the Formal Resolution Process when, at the discretion of EOC, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Prohibited Conduct.

Regardless of whether the Complaint is dismissed or pursued to completion of the Formal Resolution Process, the Institute will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Prohibited Conduct.

When an Employee resigns and the allegations are dismissed a note will be placed in the Employee's file that they resigned with allegations pending. The records retained by EOC will reflect that status.

### **11. Long-Term Remedies/Actions**

Following the conclusion of the Formal Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, EOC may implement additional long-term remedies or actions with respect to the Parties and/or the Institute community that are intended to stop the Prohibited Conduct, remedy the effects, and prevent its recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Community education
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for Employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.>>

At EOC's discretion, the Parties may be provided certain long-term support or measures even if no Policy violation is found.

When no Policy violation is found, EOC will address any remedies the Institute owes the Respondent to ensure no effective denial of educational access.

The Institute will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the Institute's ability to provide these services.

## **12. Failure to Comply with Sanctions and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker, including the Appeal Decision-maker or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the Institute.

Supervisors are expected to enforce completion of sanctions/responsive actions for their Employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to EOC's satisfaction.

## **13. Recordkeeping**

In implementing the NDAH Policy and Procedures, EOC will maintain records of all allegations, investigations, and Resolutions, indefinitely, or as required by federal or state law or institutional policy.

## **14. Statement of the Rights of the Parties (See [Appendix D](#))**

## **15. Disability Accommodations**

The Institute is committed to providing reasonable accommodations and support to qualified Students, Employees, or others with disabilities to ensure equal access to the Institute's Resolution Process.

Anyone needing such accommodations or support should contact EOC, who will work with appropriate Institute offices as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

## **16. Other Support**

EOC will address other reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout a resolution process
- Other support as deemed reasonable and necessary to facilitate participation in a resolution process

## **17. Revision of Procedures**

These Procedures succeed all previous procedures addressing conduct prohibited by the NDAH Policy. EOC regularly reviews and updates the NDAH Procedures. The Institute reserves the right to make changes to this document as necessary, and those changes are effective once they are posted online.

If laws or regulations change or court decisions alter procedural requirements in a way that impacts this document, this document will be construed to comply with the most recent laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background federal and state laws that frame such policies and codes, generally.

A change required by a court or government order could occur during an active investigation or resolution process. If that happens, the Institute reserves the right to adjust these Procedures accordingly and notify the Parties of any necessary mid-process changes. This could include entirely replacing the NDAH Policy or associated procedures, which could necessitate restarting an investigation or resolution process. The Institute will make every effort to minimize the impact on the Parties as much as possible if changes are unavoidable.

The NDAH Procedures are effective May 20, 2025.

## APPENDIX A: Definitions

The following definitions apply to the NDAH Procedures

- **Advisor.** Any person chosen by a Party who may accompany the Party to all meetings related to a Resolution Process, advise the Party on that process, and conduct questioning for the Party at the hearing, if any.
- **Appeal Decision-maker.** The person who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s) accordingly.
- **Complaint.** A document submitted or signed by a Complainant or signed by EOC alleging a Respondent engaged in Prohibited Conduct under the NDAH Policy and requesting that the Institute investigate the allegation(s).
- **Complainant.** An individual who has allegedly been subjected to conduct that could constitute Prohibited Conduct under the NDAH Policy.
- **Day.** A business day when the Institute is in normal operation. All references to days in the procedure refer to business days unless specifically noted as calendar days.
- **Decision-maker.** The person or panel who reviews evidence, determines relevance, and makes the Final Determination of whether the alleged conduct has violated the NDAH Policy and/or assigns sanctions.
- **Directly Related Evidence.** Evidence connected to the allegations, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and which cannot be relied upon by the Decision-maker. Compare to [Relevant Evidence](#) below.
- **Employee.** A person, including [Faculty](#), employed by the Institute, either full- or part-time, including Student-Employees when acting within the scope of their employment.
- **Equal Opportunity, Compliance, and Conflict Management (“EOC”).** The office with primary responsibility for overseeing and enforcing the NDAH Policy.
- **Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate the NDAH Policy.
- **Finding.** A conclusion by the standard of evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).

- **Informal Resolution.** A Resolution the Parties agree to and EOC approves, which occurs prior to a Final Determination.
- **Investigation Report.** The Investigator's written summary of all Relevant Evidence gathered during the investigation. Versions include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) the Institute authorizes to gather facts about an alleged violation of the Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report of Relevant Evidence and a file of Directly Related Evidence.
- **Parties.** The collective term for the Complainant(s) and Respondent(s) involved in a Complaint.
- **Prohibited Conduct.** Discrimination, Harassment, and Retaliation, as defined in the NDAH Policy.
- **Relevant Evidence.** Evidence that tends to prove or disprove any element of an offense or any issue materials to resolving a Complaint.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute Prohibited Conduct.
- **Resolution.** The result of an Informal Resolution or Formal Resolution Process.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated the NDAH Policy.

## Appendix B: Advisors in the Resolution Process

### Who Can Serve as an Advisor?

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a Party chooses) present with them for all meetings, interviews, and hearings within the resolution process. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>4</sup>

The Institute cannot guarantee equal Advisory rights, meaning that if one Party selects an Advisor who is an attorney, but the other Party does not, or cannot afford an attorney, the Institute is not obligated to provide an attorney to advise that Party.

A Party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide EOC with timely notification if they change Advisors. If a Party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

The Institute may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to EOC. The decision to grant this request is at EOC's sole discretion and will be granted equitably to all Parties.

### Advisor's Role in the Resolution Process

Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee.

The Parties are expected to respond to questions on their own behalf throughout the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

### Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to receive copies of the Draft and Final Investigation Reports. Parties will be asked to sign releases for the Institute to share materials with an Advisor.

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<sup>4</sup> "Available" means the Party cannot insist on an Advisor who doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being an EOC administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

Advisors are expected to maintain the confidentiality of the records the Institute shares with them. Accordingly, Advisors will be asked to sign an Advisor Responsibilities and Acknowledgement Form. The Institute may decline to share materials with any Advisor who has not completed the required form. Institute may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the Institute's confidentiality expectations.

### **Advisor Expectations**

The Institute generally expects an Advisor to adjust their schedule to allow them to attend Institute meetings/interviews when planned, but the Institute may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The Institute may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview by telephone, video conferencing, or other similar technologies as may be convenient and available.

All Advisors are subject to the same Institute policies and procedures, whether they are attorneys or not, and whether they are selected by a Party or appointed by the Recipient. Advisors are expected to advise without disrupting proceedings.

### **Advisor Policy Violations**

Any Advisor who oversteps their role as defined by the NDAH Policy, who shares information or evidence in a manner inconsistent with the NDAH Policy, or who refuses to comply with the Institute's established rules of decorum will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including the Institute requiring the Party to use a different Advisor or providing a different Institute-appointed Advisor. Subsequently, EOC will determine how to address the Advisor's non-compliance and future role.

## APPENDIX C: Informal Resolution Approaches

### **(1) Supportive Resolution**

Most commonly offered once a Complaint is filed (whereas interim measures/support services, as described in the NDAH Policy are offered in response to a report). EOC will meet with the Complainant to determine reasonable supports that are designed to restore or preserve the Complainant's access to the Institute's education program and activity. Such supports can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOA, EOC may also provide reasonable supports for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and EOC does not believe there is a need to sign a Complaint. At the discretion of EOC, this resolution option can result in a resolution for the Complainant that does not require assent from any other Party, as long as it does not unduly burden any other Party or function punitively with respect to them.

### **(2) Accepted Responsibility**

The Respondent may accept responsibility for any or all of the alleged NDAH Policy violations at any point during the Formal Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and EOC will determine whether Informal Resolution is an option.

If Informal Resolution is available, EOC will determine whether all Parties and the Institute are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, EOC implements the accepted finding that the Respondent is in violation of the NDAH Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Formal Resolution Process will either begin or resume to address the contested issues.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the Prohibited Conduct, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

### **(3) Alternative Resolution**

The institution offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by EOC or other appropriate Institute officials; and other forms



of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

EOC may consider the following factors to assess whether alternative resolution is appropriate, or which form of alternative resolution may be most successful for the Parties:

- The Parties' amenability to alternative resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether interim action is needed
- Skill of the alternative resolution facilitator with this type of Complaint
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties
- Adequate resources to invest in alternative resolution (e.g., time, staff)

EOC has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. EOC will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

EOC maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Formal Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). Where the failure to abide by the Informal Resolution agreement terms results in a failure to remedy a Policy violation, EOC must consider whether to dissolve the agreement and reinstate the Formal Resolution Process to remedy the impact as required by law. The results of reports resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, the Institute will initiate or continue an investigation and subsequent Formal Resolution Process to determine whether the Policy has been violated.

The principles to be considered in supporting various approaches to Informal Resolution are:

- IR can be applied in any alleged Prohibited Conduct but may not be appropriate or advisable in all matters involving serious violence
- Situations involving dangerous patterns or significant ongoing threat to the community should not be resolved by IR, unless a Respondent is accepting Responsibility
- EOC has the authority to determine whether to permit an IR-based Resolution, in line with any applicable federal or state requirements
- Any Party can withdraw from the IR process at any time before an agreement is reached
- An IR Facilitator can also end an IR process early at their discretion
- IR can be attempted before and in lieu of formal resolution as a diversionary resolution (although a Formal Complaint must be filed if the allegations fall within 34 C.F.R. § 106.30)
- Alternative Resolution approaches can inform formal resolution, as in a formal resolution model infused with restorative practices
- IR-based processes could follow a Final Determination at the Parties' request.
- Alternative Resolution approaches to IR must be facilitated by the Recipient or a third Party. There may be value in creating clearly agreed-upon ground rules, which the Parties must agree to abide by in advance, otherwise the Informal Resolution process may be deemed to have failed.
- Technology-facilitated IR is possible, should the Parties be unable or unwilling to meet in person
- If IR fails, a formal resolution process can take place thereafter. Evidence elicited within the "safe space" of the IR facilitation could be later admissible in the formal resolution process unless all Parties and EOC determine it should not be. This will be clearly explained as a term of the decision to engage in the IR process.
- With situations involving violence or sensitive details, the preferred alternative approach typically involves a minimal number of essential Parties. It is not a restorative circle approach with many constituents, to ensure privacy.
- Some approaches require acceptance of accountability (this could be more than an acknowledgement of harm). A full admission by the Respondent is not a prerequisite. This willingness needs to be carefully vetted by EOC before determining that an incident is amenable/appropriate for resolution by IR.
- IR is intended to provide space for information exchange and connection, if desired, by the Parties. This may include supporting a dialogue to allow each Party to express their experience of events or a process resulting in an agreement between the Parties (e.g., Complainant, Respondent, Recipient), which is summarized in writing and enforced by the Recipient. This can be a primary goal of the process.

- IR can result in the Parties' voluntary imposition of safety measures, remedies, and/or agreed-upon resolutions that are enforceable by the Recipient. These can be part of the agreement.
- As a secondary goal, IR can result in the voluntary acceptance of "sanctions," meaning that a Respondent could agree to withdraw, self-suspend (by taking a leave of absence), or undertake other restrictions/transfers/online course options that would help to ensure the Complainant's safety/educational or employment access in lieu of formal sanctions that would create a disciplinary record for the Respondent. These should be enforceable by the Recipient as part of the agreement, as may terms of mutual release, non-disparagement, and/or non-disclosure.
- Although a non-disclosure agreement (NDA) could result from IR, it must be mutually agreed upon by the Parties and not coerced, as verified by EOC
- Institutions must develop clear rules for managing/facilitating the alternative resolution approaches to ensure they are civil, age-appropriate, culturally competent, reflective of an effort to neutralize power imbalances, and maximize the potential for the IR process to result in the Parties' understanding, restoration, remedy, etc.

## APPENDIX D: Rights of the Parties

### **Under the NDAH Policy and Procedures, Parties should be aware of the following:**

- EOC conducts an administrative, not criminal or civil, process to determine whether alleged Prohibited Conduct in violation of the NDAH Policy occurred.
- EOC does *not* advocate for or represent any Party in this process. EOC cannot provide legal advice or recommendations to any Party in this process.
- EOC does *not* prosecute the Respondent(s) in this process. EOC gathers information to determine whether there is a preponderance of the evidence that Prohibited Conduct has occurred and violated the NDAH Policy.

### **Under the NDAH Policy and Procedures, the Parties have the right to:**

- An equitable investigation and resolution of all credible allegations of Prohibited Conduct, when reported in good faith to Institute officials
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions
- Timely written notice of any material adjustments to the allegations (*e.g.*, additional incidents or allegations, additional reports or Complaints) by updating the Notice of Allegation(s) (NOA) as needed to clarify potentially implicated NDAH Policy violations
- Be informed in advance of any Institute public release of information regarding the allegation(s) or underlying incident(s), whenever possible
- Have all personally identifiable information protected from the Institute's release to the public without consent, except to the extent permitted by law
- Be treated with respect by Institute officials
- Have Institute Policy and Procedures followed without material deviation
- Voluntarily agree to resolve allegations under the Policy through Informal Resolution without Institute pressure, if Informal Resolution is approved by EOC
- Not be discouraged by Institute officials from reporting Prohibited Conduct to both on-campus and off-campus authorities
- Be informed of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) for the Institute to assist in notifying such authorities, if the Party chooses. This also includes the right not to be pressured to report
- Have Institute law enforcement and/or other Institute officials respond promptly to alleged NDAH Policy violations
- Be informed of available interim measures and support services, such as counseling, advocacy, health care, student financial aid, and/or other services, both on campus and in the community

- An Institute-implemented no-contact order or a no-trespass order against a non-affiliated third Party when a person has engaged in or threatens to engage in threatening, harassing, or other improper conduct
- Be informed of available assistance in changing academic, living, and/or employment situations after an alleged incident of Prohibited Conduct if such changes are reasonably available. No report or Complaint, or investigation, either institutional or criminal, needs to occur before this option is available.
- Have the Institute maintain interim measures/support services for as long as deemed necessary by EOC, ensuring they remain confidential, provided confidentiality does not impair the Institute's ability to provide the interim measures/support services or comply with the law
- Identify and have the Investigator(s), Advisors, and/or Decision-maker question relevant available witnesses, including expert witnesses
- Provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant by the Investigator(s)/Decision-maker, may be asked of any Party or witness
- Review the Relevant Evidence obtained and respond to that evidence
- A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record
- Receive a copy of all Relevant Evidence obtained during the investigation, subject to privacy limitations imposed by federal and state law, and a ten (10)-business-day period to review and comment on the evidence
- Receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed, and to have at least ten (10) business days to review and comment on the report prior to adjudication
- Be informed of the names of all witnesses whose information will be used to make a Finding, in advance of that Finding, when relevant
- Regular status updates on the investigation and/or resolution process
- Have reports of alleged Policy violations addressed by internal or external individuals who have received relevant annual training as required
- Preservation of confidentiality/privacy, to the extent possible and permitted by law
- Meetings, interviews, and/or hearings that are closed to the public
- Petition that any Institute representative in the process be recused on the basis of disqualifying bias and/or a conflict of interest
- Be able to select an Advisor of their choice to accompany and assist the Party in all meetings and/or interviews associated with the resolution process
- Apply the appropriate standard of evidence, preponderance of the evidence, to make a Finding and Final Determination after an objective evaluation of all Relevant Evidence
- Be present, including presence via remote technology, during all testimony given and evidence presented during any hearing
- Have an impact and/or mitigation statement considered by the Decision-maker following a Final Determination of responsibility for any allegation, but prior to sanctioning

- Be promptly informed of the resolution process Finding(s) and sanction(s) (if any) and be given a detailed rationale for the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay)
- Be informed in writing of when an Institute decision is considered final and any changes to the Final Determination or sanction(s) that occur post outcome letter delivery
- Be informed of the opportunity to appeal the Finding(s) and sanction(s) and the procedures for doing so in accordance with the Institute's appeal grounds
- A fundamentally fair resolution as defined in the Procedures