

## **Catalog Appendices** *(updated 2021)*

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## **Appendix A: The Sexual and Gender-based Harassment Policy**

### **A1. Sexual and Gender-Based Harassment Policies**

Virscend University is committed to fostering an open and supportive community that promotes learning, teaching, research, and discovery. This commitment includes maintaining a safe and healthy educational and work environment in which no member of the community is excluded from participation in, denied the benefits of, or subjected to discrimination in any University program or activity on the basis of sex, sexual orientation, or gender identity. Because sexual and gender-based harassment – including, but not limited to, sexual violence – interfere with an individual’s ability to participate fully in or benefit fully from University programs or activities, they constitute unacceptable forms of discrimination. While this Policy focuses on sexual and gender-based harassment, it is important to recognize the ways in which all forms of discrimination reduce our potential as a community of learners and teachers.

Sexual and gender-based harassment can take many different forms and encompass a range of behaviors including (but not limited to) unwelcome sexual conduct, such as sexual advances, coerced sexual activity, and dating violence, and persistent disparagement based on sex, sexual orientation, or gender identity. What links all forms of sexual and gender-based harassment is the fundamental undermining of a person’s ability to enjoy the programs or resources provided by our University. To tolerate restrictions of any individual’s access to the University’s programs or resources because of sex, sexual orientation or gender identity is to diminish the vitality of our entire community and is contrary to the values of inclusiveness and open inquiry that undergird true learning.

Sometimes a person may make incorrect assumptions about another person’s sex, sexual orientation, or gender identity. Harassment based on incorrect assumptions about sex, sexual orientation, or gender identity is prohibited under this Policy. For example, the University does not allow harassment based on the belief that someone is gay whether or not that person is actually gay.

Because some sexual harassment can take the form of speech, it is important to reiterate the Free Speech Guidelines (“Guidelines”) adopted by the Harvard Faculty of Arts and Sciences on February 13 and May 15, 1990. These Guidelines pertain not only to “speakers, protestors, and audience,” but also to our interactions with one another inside and outside of the classroom. They are designed to safeguard freedom of speech and inquiry for all members of our community, including those whose participation could otherwise be marginalized by ostracism or harassment. As the Guidelines note, “free speech is uniquely important to the University because we are a community committed to reason and rational discourse.” It is therefore imperative that freedom of expression, including unpopular and even obnoxious speech, be protected. At the same time, however, the guidelines note, “There are obligations of civility and respect for others that underlie rational discourse. Racial, sexual, and intense personal harassment not only show grave disrespect for the dignity of others, but also prevent rational discourse. Behavior evidently intended to dishonor [a person because of] such characteristics as race, gender, ethnic group,

religious belief, or sexual orientation is contrary to the pursuit of inquiry and education. Such grave disrespect for the dignity of others can be punished under existing procedures because it violates a balance of rights on which the University is based. It is expected that when there is a need to weigh the right of freedom of expression against other rights, the balance will be struck after a careful review of all relevant facts and will be consistent with established First Amendment standards.” Within a university, to be discriminated against can itself be a curtailment of freedom of expression.

An individual’s freedom of expression relies on both freedom from censorship and freedom from discrimination – including harassing speech – based on sex, sexual orientation, or gender identity. The University is committed to maintaining this balance: it is difficult to achieve, but it is a goal we all embrace. This Policy is intended to safeguard members of our community from invidious discrimination, not to regulate the content of protected speech.

## **A2. Sexual and Gender-Based Harassment Policy**

Virscend University is committed to maintaining a safe and healthy educational and work environment in which no member of the University community is, on the basis of sex, sexual orientation, or gender identity, excluded from participation in, denied the benefits of, or subjected to discrimination in any University program or activity. Gender-based and sexual harassment, including sexual violence, are forms of sex discrimination in that they deny or limit an individual’s ability to participate in or benefit from University programs or activities.

This Policy is designed to ensure a safe and non-discriminatory educational and work environment and to meet legal requirements, including: Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the University’s programs or activities; relevant sections of the Violence Against Women Reauthorization Act; Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; and Massachusetts laws that prohibit discrimination on the basis of sex, sexual orientation, and gender identity. It does not preclude application or enforcement of other University or School policies.

It is the policy of the University to provide educational, preventative and training programs regarding sexual or gender-based harassment; to encourage reporting of incidents; to prevent incidents of sexual and gender-based harassment from denying or limiting an individual’s ability to participate in or benefit from the University’s programs; to make available timely services for those who have been affected by discrimination; and to provide prompt and equitable methods of investigation and resolution to stop discrimination, remedy any harm, and prevent its recurrence. Violations of this Policy may result in the imposition of sanctions up to, and including, termination, dismissal, or expulsion, as determined by the appropriate officials at the School or unit.

Retaliation against an individual for raising an allegation of sexual or gender-based harassment, for cooperating in an investigation of such a complaint, or for opposing discriminatory practices

is prohibited. Submitting a complaint that is not in good faith or providing false or misleading information in any investigation of complaints is also prohibited.

Nothing in this Policy shall be construed to abridge academic freedom and inquiry, principles of free speech, or the University's educational mission.

### **Definitions**

**Sexual Harassment** -- Sexual harassment is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic, or physical conduct of a sexual nature, when: (1) submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (quid pro quo); or (2) such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from the University's education or work programs or activities (hostile environment).

- Quid pro quo sexual harassment can occur whether a person resists and suffers the threatened harm, or the person submits and avoids the threatened harm. Both situations could constitute discrimination on the basis of sex.
- A hostile environment can be created by persistent or pervasive conduct or by a single severe episode. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment. Sexual violence, including rape, sexual assault, and domestic and dating violence, is a form of sexual harassment. In addition, the following conduct may violate this Policy:
  - Observing, photographing, videotaping, or making other visual or auditory records of sexual activity or nudity, where there is a reasonable expectation of privacy, without the knowledge and consent of all parties
  - Sharing visual or auditory records of sexual activity or nudity without the knowledge and consent of all recorded parties and recipient(s)
  - Sexual advances, whether or not they involve physical touching
  - Commenting about or inappropriately touching an individual's body
  - Requests for sexual favors in exchange for actual or promised job benefits, such as favorable reviews, salary increases, promotions, increased benefits, or continued employment
  - Lewd or sexually suggestive comments, jokes, innuendoes, or gestures
  - Stalking
  - Other verbal, nonverbal, graphic, or physical conduct may create a hostile environment if the conduct is sufficiently persistent, pervasive, or severe so as to deny a person equal access to the University's programs or activities. Whether the conduct creates a hostile environment may depend on a variety of factors, including: the degree to which the conduct affected one or more person's education or employment; the type, frequency, and duration of the conduct; the

relationship between the parties; the number of people involved; and the context in which the conduct occurred.

- **Unwelcome Conduct**
  - Conduct is unwelcome if a person (1) did not request or invite it and (2) regarded the unrequested or uninvited conduct as undesirable or offensive. That a person welcomes some sexual contact does not necessarily mean that person welcomes other sexual contact. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion.
  - Whether conduct is unwelcome is determined based on the totality of the circumstances, including various objective and subjective factors. The following types of information may be helpful in making that determination: statements by any witnesses to the alleged incident; information about the relative credibility of the parties and witnesses; the detail and consistency of each person's account; the absence of corroborating information where it should logically exist; information that the Respondent has been found to have harassed others; information that the Complainant has been found to have made false allegations against others; information about the Complainant's reaction or behavior after the alleged incident; and information about any actions the parties took immediately following the incident, including reporting the matter to others.
  - In addition, when a person is so impaired or incapacitated as to be incapable of requesting or inviting the conduct, conduct of a sexual nature is deemed unwelcome, provided that the Respondent knew or reasonably should have known of the person's impairment or incapacity. The person may be impaired or incapacitated as a result of drugs or alcohol or for some other reason, such as sleep or unconsciousness. A Respondent's impairment at the time of the incident as a result of drugs or alcohol does not, however, diminish the Respondent's responsibility for sexual or gender-based harassment under this Policy.
- **Gender-Based Harassment**
  - Gender-based harassment is verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation or gender identity, but not involving conduct of a sexual nature, when such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from the University's education or work programs or activities. For example, persistent disparagement of a person based on a perceived lack of stereotypical masculinity or femininity or exclusion from an activity based on sexual orientation or gender identity also may violate this Policy.

### **Jurisdiction**

This Policy applies to sexual or gender-based harassment that is committed by students, faculty, staff, Virscend appointees, or third parties, whenever the misconduct occurs:

- On University property
- Off University property, if:



- the conduct was in connection with a University or University-recognized program or activity
- the conduct may have the effect of creating a hostile environment for a member of the University community.

### **Monitoring and Confidentiality**

Individuals considering making a disclosure to University resources should make sure they have informed expectations concerning privacy and confidentiality. The University is committed to providing all possible assistance in understanding these issues and helping individuals to make an informed decision.

It is important to understand that, while the University will treat information it has received with appropriate sensitivity, University personnel may nonetheless need to share certain information with those at the University responsible for stopping or preventing sexual or gender-based harassment. For example, University officers, other than those who are prohibited from reporting because of a legal confidentiality obligation or prohibition against reporting, must promptly notify the School about possible sexual or gender-based harassment, regardless of whether a complaint is filed. Such reporting is necessary for various reasons, including to ensure that persons possibly subjected to such conduct receive appropriate services and information; that the University can track incidents and identify patterns; and that, where appropriate, the University can take steps to protect the Virscend community. This reporting by University officers will not necessarily result in a complaint; rather, the School or Director of Student Success and Distance Learning, in consultation with the Director of Student Success and Distance Learning, will assess the information and determine what action, if any, will be taken. Information will be disclosed in this manner only to those at the University who, in the judgment of the Director of Student Success and Distance Learning or School have a need to know.

Should individuals desire to discuss an incident or other information only with persons who are subject to a legal confidentiality obligation or prohibition against reporting, they should ask University officers for information about such resources. University officers are available to discuss these other resources and to assist individuals in making an informed decision.

### **Violations of other Rules**

The University encourages the reporting of all concerns regarding sexual or gender-based harassment. Sometimes individuals are hesitant to report instances of sexual or gender-based harassment because they fear they may be charged with other policy violations, such as underage alcohol consumption. Because the University has a paramount interest in protecting the well-being of its community and remedying sexual or gender-based harassment, other policy violations will be considered, if necessary, separately from allegations under this Policy.

### **A3. Other Sexual and Gender-based Misconduct**

The University Policy defines sexual and gender-based harassment within the context of preventing discrimination within our community. It is the expectation of Virscend University that all students, whether or not they are on campus or are currently enrolled in a degree

program, will behave in a mature and responsible manner. Consistent with this principle, sexual and gender-based misconduct are not tolerated even when, because they do not have the effect of creating a hostile environment for a member of the University community, they fall outside the jurisdiction of the University Policy. Because sexual and gender-based misconduct are in direct opposition to our community values, cases involving such conduct may be referred by the relevant Administrative Council.

Sexual and gender-based misconduct go beyond the University Policy to encompass behaviors that are in direct opposition to our educational and community values. That is, these behaviors constitute a failure to meet expectations of its students as citizens and citizen leaders within a larger community beyond the borders of our campus and therefore may be subject to discipline. These provisions indicate our commitment to expecting behavior consistent with our values in our interactions with members of our broader community, as well as in our nonacademic activities on campus.

The above provisions are necessary because there are instances when we must demonstrate – to the broader world as well as to our own community – that sexual and gender-based misconduct are not consistent with the values we expect all members of Virscend to uphold.

#### **A4. Conduct in Relationships between Individuals of Different University Status**

In the academic context, sexual harassment often involves the inappropriate personal attention by an instructor or other officer who is in a position to exercise professional power over another individual. This could include an instructor who determines a student's grade or who can otherwise affect the student's academic performance or professional future; or a tenured professor whose evaluation of a junior colleague can affect the latter's professional life. Sexual harassment can also occur between persons of the same University status. An example would be persistent personal attention from one colleague to another in the face of repeated rejection of such attention. Both types of harassment are unacceptable. They seriously undermine the atmosphere of trust essential to the academic enterprise.

Amorous relationships that might be appropriate in other circumstances have inherent dangers when they occur between an instructor or other officer of the University and a person for whom he or she has a professional responsibility (i.e., as instructor, advisor, evaluator, supervisor). Implicit in the idea of professionalism is the recognition by those in positions of authority that in their relationships with students or staff there is an element of power. It is incumbent upon those with authority not to abuse, nor to seem to abuse, the power with which they are entrusted.

The consequences of asymmetries can be felt in many different contexts and types of relationships. What constitutes "power" varies according to context and individual. For example, although the university may not recognize a student in an extracurricular organization to have power over a student who would like to join that organization, one or both of the students in question may perceive their relationship to be affected by a power dynamic. As members of a community characterized by multiple formal and informal hierarchies, it is incumbent upon each of us to be aware of and sensitive to the ways in which we exercise power and influence and to be judicious in our relationships with others.

### **Prohibited Sexual Relations with Students**

No Faculty member shall request or accept sexual favors from, or initiate or engage in a romantic or sexual relationship with, any undergraduate student.

Furthermore, no Faculty member, instructor, teaching assistant, teaching fellow, researcher, tutor, graduate student, or undergraduate course assistant, shall request or accept sexual favors from, or initiate or engage in a romantic or sexual relationship with, any student who is enrolled in a course taught by that individual or otherwise subject to that individual's academic supervision before the supervision has concluded and, if applicable, a final grade on the student's supervised academic performance has been submitted to the University. Academic supervision includes teaching, advising a thesis or dissertation, supervising research, supervising teaching, or grading.

### **Relationships Between Individuals of Different University Status**

Amorous relationships between individuals of different University status that occur outside the instructional context can also lead to difficulties. In a personal relationship between an instructor or other officer and an individual for whom the instructor or other officer has no current professional responsibility, the instructor or other officer should be sensitive to the possibility that he or she may unexpectedly be placed in a position of responsibility for that individual's instruction or evaluation. This could involve being called upon to write a letter of recommendation or to serve on an admissions or selection committee involving the individual. In addition, one should be aware that others may speculate that a specific power relationship exists even when there is none, giving rise to assumptions of inequitable academic or professional advantage for the student involved. Although graduate students, teaching fellows, tutors, researchers, and undergraduate course assistants may be less accustomed than Faculty members to thinking of themselves as being in a position of greater authority by virtue of their professional responsibilities, they should recognize that they might be viewed as more powerful than they perceive themselves to be.

Even when both parties have consented at the outset to the development of a romantic or sexual relationship between individuals of different University status, it is the person in the position of greater authority who, by virtue of his or her special responsibility and the core educational mission of the University, will be held accountable for unprofessional behavior.



## **A5. Information Sharing and Confidentiality**

All University Staff, other than those who are prohibited from making such notifications because of a legal confidentiality obligation, must promptly notify the relevant Director of Student Success and Distance Learning about possible sexual or gender-based harassment. This means that if Staff learn about a possible incident of sexual or gender-based harassment, they need to contact the Director of Student Success and Distance Learning, who will know what steps, if any, to take next.

It is imperative that this expectation not interfere with the advising, teaching, and mentoring relationships that are foundational to our community. Some Staff may believe that any expectation that they share allegations of sexual or gender-based harassment with a Director of Student Success and Distance Learning may force them to violate the trust of those who come to them for support and guidance. The University believes the notification of Director of Student Success and Distance Learning significantly serves our efforts to maintain a safe and healthy environment for our community. It makes available to vulnerable individuals people with training and experience in this area; it moves the University towards greater consistency in handling cases; and it enables us to see instances of repeated behavior that would not likely be known to any individual member of the community. While certain individuals are expected to notify the Director of Student Success and Distance Learning when an instance of sexual or gender-based harassment is brought to their attention, there are certain resources who are privileged under the law and who, therefore, are generally prohibited from disclosing information they receive even in a legal proceeding. Mental health clinicians, OSAPR staff providing services as rape crisis counselors, lawyers providing legal advice to clients, and clergy hold such a privilege. They do not have to make such a notification, and, absent special circumstances, they are prohibited from disclosing even in a legal proceeding.

Staff who cannot offer confidentiality should direct those who come to them seeking confidential conversation to confidential resources. Even when Staff do not have a confidentiality privilege, they are required to protect and respect students' and colleagues' privacy to the greatest extent possible and to share information only on a need-to-know basis.

## **Introduction to the Procedures for Implementing Sexual and Gender-Based Harassment Policy, Including for Discipline**

Virscend students, faculty, staff, other Virscend appointees, or third parties (collectively, “Initiating Parties”) wishing to report a violation of this Policy should begin by contacting the Director of Student Success and Distance Learning, any member of the Grievance Committee, or any member of the Administrative Council. In the event that the first Staff contacted by an Initiating Party is not the appropriate employee, it is that Staff’s responsibility to forward the matter to the Director of Student Success and Distance Learning, any member of the Grievance Committee, or any member of the Administrative Council.

Director of Student Success and Distance Learnings will be sensitive to cultural factors that may affect the way members of our community may experience interactions with representatives of the University – whether those cultural factors involve sexual orientation, gender identity, race, ethnicity, nationality, socio-economic status, or citizenship.

As set forth below and in the University Procedures, interim measures designed to support and protect the Initiating Party or the University community may be considered or implemented at any time, including during a request for information or advice, informal resolution, or a formal complaint proceeding. Consistent with policy, interim measures might include, among others: restrictions on contact; course-schedule or work-schedule alteration; changes in housing; leaves of absence; or increased monitoring of certain areas of the campus. Interim measures are subject to review and revision throughout the processes described below.

Based on data supplied by the appropriate Deputy Director of Student Success and Distance Learnings, an annual report will be prepared for the Administrative Council on the number and type of complaints. Every fifth year a summary will be prepared for the Faculty on the disposition of complaints filed over the preceding five years.

**\*\*Please note: Informal mediation is not an option for Sexual Assault complaints, even if voluntarily chosen\*\***

*This policy was adapted and modified from Harvard University.*

## **Appendix B - Procedures for Handling Complaints against Virscend Students Pursuant to the Sexual and Gender-based Harassment Policy**

### **B1. Procedures for Handling Complaints Involving Students Pursuant to the Sexual and Gender-Based Harassment Policy**

Virscend students, faculty, staff, other Virscend appointees, or third parties who believe they are directly affected by the conduct of a Virscend student (collectively “Initiating Parties”) may: request information or advice, including whether certain conduct may violate the Policy; seek informal resolution; or file a formal complaint. These three options are described below. Initiating Parties are encouraged to bring their concerns to the Deputy Director of Student Success and Distance Learning, any member of the Grievance Committee, or Administrative Council, but may, if they choose, contact another School or University officer, who will refer the matter as appropriate.

As set forth below, interim measures designed to support and protect the Initiating Party or the University community may be considered or implemented at any time, including during a request for information or advice, informal resolution, or a formal complaint proceeding. Consistent with School or unit policy, interim measures might include, among others: restrictions on contact; work-schedule alteration; changes in work locations; leaves of absence; or increased monitoring of certain areas of the campus. These interim measures are subject to review and revision throughout the processes described below.

#### **Requests for Information or Advice**

Anyone seeking information or advice can expect to learn about resources available at the University and elsewhere that provide counseling and support. They also will be advised about the steps involved in pursuing an informal resolution or filing a formal complaint. The Deputy Director of Student Success and Distance Learning has information about any companion policies or procedures that may apply at the local School or unit. The Deputy Director of Student Success and Distance Learning, any member of the Grievance Committee, or Administrative Council may discuss with Initiating Parties whether any interim measures are appropriate at this stage.

#### **Requests for Informal Resolution**

Initiating Parties may make a request, either orally or in writing, for informal resolution to the Deputy Director of Student Success and Distance Learning, any member of the Grievance Committee, or Administrative Council. The request should identify the alleged harasser (if known) and describe the allegations with specificity. The Deputy Director of Student Success and Distance Learning, any member of the Grievance Committee, or Administrative Council will assess the severity of the alleged harassment and the potential risk of a hostile environment for others in the community to determine whether informal resolution may be appropriate.

Upon determining that informal resolution is appropriate, the Deputy Director of Student Success and Distance Learning, any member of the Grievance Committee, or any member of the

Administrative Council will consult further with the person initiating the request, inform the person who is the subject of the allegations, and gather additional relevant information as necessary from the parties and others, as indicated. The Deputy Director of Student Success and Distance Learning, any member of the Grievance Committee, or Administrative Council also may put in place any appropriate interim measures to protect the educational and work environment. The Deputy Director of Student Success and Distance Learning, any member of the Grievance Committee, or Administrative Council will attempt to aid the parties in finding a mutually acceptable resolution. A matter will be deemed satisfactorily resolved when both parties expressly agree to an outcome that is also acceptable to the School or Deputy Director of Student Success and Distance Learning.

When the allegations, if true, might constitute criminal conduct, the party against whom they are brought is hereby advised to seek legal counsel before making any written or oral statements. Those facing allegations may wish to obtain legal advice about how this process could affect any criminal case in which they are or may become involved.

At any point prior to such resolution, the Initiating Party may withdraw the request for informal resolution and initiate a formal complaint under these Procedures.

Ordinarily, the informal resolution process will be concluded within two to three weeks of the date of the request.

## **B2. Procedures for Formal Complaints**

### **Initiating a Complaint**

An Initiating Party may file a formal complaint alleging a violation of the Policy. A complaint of sexual or gender-based harassment against a staff member should be filed directly with the Grievance Committee. The Grievance Committee will inform the Deputy Director of Student Success and Distance Learning(s) for the Complainant and the Respondent that a complaint has been received, and, if indicated, Deputy Director of Student Success and Distance Learning will put in place any appropriate interim measures.

A formal complaint must be in writing and signed and dated by a Complainant or a third party filing on behalf of a potential Complainant (Reporter). It should state the name of the alleged harasser (if known) and describe with reasonable specificity the incident(s) of alleged harassment, including the date and place of such incident(s). The complaint must be in the Complainant or Reporter's own words, and may not be authored by others, including family members, advisors, or attorneys. Attached to the complaint should be a list of any sources of information (for example, witnesses, correspondence, records, and the like) that the Complainant or Reporter believes may be relevant to the investigation. However, a complaint should not be delayed if such sources of information are unknown or unavailable.

The Grievance Committee will not investigate a new complaint if it has already adjudicated a formal complaint based on the same circumstances or if the parties and the School or Deputy Director of Student Success and Distance Learning already have agreed to an informal resolution

based on the same circumstances. Whether or not a complaint is filed with the Grievance Committee, any person may file a complaint of discrimination with California Commission Against Discrimination, the U.S. Equal Employment Opportunity Commission, the U.S. Department of Education Office of Civil Rights, or any other state or federal agency having jurisdiction.

### **Timeframe for Filing a Complaint**

The University does not limit the timeframe for filing a complaint. The University encourages complaints to be filed as soon as reasonably possible following an alleged Policy violation because the University's ability to gather adequate information may be limited where a significant length of time has elapsed between an incident and the filing of a complaint. Further, the University's ability to complete its processes may be limited with respect to Respondents who are no longer employed by the University.

### **Initial Review**

Once a complaint is received by the The Grievance Committee, Deputy Director of Student Success and Distance Learning will begin an initial review. Virscend may designate an additional individual to work jointly with the Investigator (collectively, the "Investigative Team"). Investigators will have appropriate training, so that they have the specialized skill and understanding to conduct prompt and effective sexual and gender-based harassment investigations.

The Investigative Team will contact the Complainant or Reporter in an attempt to gather a more complete understanding of the allegations, as well as any related conduct that may implicate the Policy. When a complaint is brought by a Reporter, the Investigative Team will endeavor to meet with the person identified as the potential Complainant both to gather information and to discuss his or her interest in participating in an investigation.

Based on the information gathered, the Investigative Team will determine whether the information, if true, would constitute a violation of the Policy such that an investigation is warranted or whether the information warrants an administrative closure. The Investigative Team will convey this determination to: the Complainant (and the Reporter, if there is one); the Grievance Committee, the President of Virscend, and the Director of Academic Programs. The Investigative Team will work with the Grievance Committee to implement any appropriate interim measures to be put in place by the School pending the completion of the case (or to revise as necessary any measures already in place).

Ordinarily, the initial review will be concluded within one week of the date the complaint was received.

### **Investigation**

Following the decision to begin an investigation, the Investigative Team will notify the Respondent in writing of the allegations and will provide a copy of the Policy and these procedures. The Respondent will have one week in which to submit a written statement in response to the allegations. This statement must be in the Respondent's own words; Respondents

may not submit statements authored by others, including family members, advisors, or attorneys. Attached to the statement should be a list of all sources of information (for example, witnesses, correspondence, records, and the like) that the Respondent believes may be relevant to the investigation.

If the decision is made to begin an investigation in a case where a Reporter filed the complaint, and the Complainant is unwilling to participate but the School has assessed the severity of the harassment and the potential risk of a hostile environment for others in the community and has determined to proceed, then, for the purposes of these Procedures, the School or Deputy Director of Student Success and Distance Learning (or a designee) will be considered the Complainant.

The Investigative Team will request individual interviews with the Complainant and the Respondent, and, as appropriate, with other witnesses, which may include those identified by the parties as well as relevant officers of the School or University or others. When identifying potential witnesses, the parties should understand that the purpose of interviews is to gather and assess information about the incident(s) at issue in the complaint, not to solicit general information about a party's character.

When a complaint involves allegations that, if true, also might constitute criminal conduct, Respondents are hereby advised to seek legal counsel before making any written or oral statements. The investigation process is not a legal proceeding, but Respondents might wish to obtain legal advice about how this process could affect any criminal case in which they are or may become involved.

After the collection of additional information is complete but prior to the conclusion of the investigation, the Investigative Team will request individual follow-up interviews with the Complainant and the Respondent to give each the opportunity to respond to the additional information.

### **Personal Advisors**

In cases of alleged domestic violence, dating violence, sexual assault, or stalking, both the Complainant and the Respondent may bring a personal advisor to any interviews with the Investigative Team. A personal advisor may not be related to anyone involved in the complaint or have any other involvement in the process.

In cases where the Respondent is also a member of a collective bargaining unit and requests a union representative, in accordance with a union member's right to request representation during investigatory interviews that may reasonably lead to discipline, the Complainant may bring a personal advisor to any interviews with the Investigative Team.

Personal advisors may view a redacted version of the complaint or other documents provided to the parties, offer feedback on their advisee's written statements, and provide general advice. During interviews, personal advisors may not speak for their advisees, although they may ask to suspend the interviews briefly if they feel their advisees would benefit from a short break.

### **Confidentiality**

The Grievance Committee, personal advisors, and others at the University involved in or aware of the complaint will take reasonable steps to protect the privacy of all involved. Once a complaint is filed, the Complainant or Reporter, the Respondent, and any witnesses will be notified of the potential for compromising the integrity of the investigation by disclosing information about the case and the expectation that they therefore keep such information – including any documents they may receive or review – confidential. They also will be notified that sharing such information might compromise the investigation or may be construed as retaliatory. Retaliation of any kind is a separate violation of the Policy and may lead to an additional complaint and consequences.

The parties remain free to share their own experiences, though to avoid the possibility of compromising the investigation, it is generally advisable to limit the number of people in whom they confide.

### **Coordination with Law Enforcement Authorities**

In all cases, the Investigative Team will have completed the initial review without delay and, as appropriate, will have proposed interim measures to the School. In the event that an allegation includes behavior or actions that are under review by law- enforcement authorities, the Investigative Team will, in light of status updates from law-enforcement authorities and the Deputy Director of Student Success and Distance Learning, assess and reassess the timing of the investigation under the Policy, so that it does not compromise the criminal investigation.

### **Conclusion of the Investigation and Issuance of Final Report**

At the conclusion of the investigation, the Investigative Team will make findings of fact, applying a preponderance of the evidence standard, and determine based on those findings of fact whether there was a violation of the Policy.

The Investigative Team will provide the Complainant and the Respondent with a written draft of the findings of fact and analysis and will give both parties one week to submit a written response to the draft. The Investigative Team will consider any written responses before finalizing these sections of the report and the final section of the report, which will outline any recommended measures to be taken by the School or unit to eliminate any harassment, prevent its recurrence, and address its effects. The Deputy Director of Student Success and Distance Learning and the School or unit will work jointly to put in place such measures as they determine are appropriate. Consistent with School policies, measures imposed at this stage might include, among others: restrictions on contact; work- schedule alteration; leaves of absence; or increased monitoring of certain areas of the campus.

The investigation will be completed and the final report provided to the Complainant, the Respondent, the School, Deputy Director of Student Success and Distance Learning, and the appropriate officer in the School or unit, ordinarily within six weeks of receipt of the complaint. The imposition of disciplinary sanctions will be considered separately by the Board of Trustees and the President of Virscend.

### **B3. Special Circumstances**

#### **Request for Anonymity**

If a potential Complainant asks to remain anonymous, then the Investigative Team, as appropriate, will consider how to proceed, taking into account the potential Complainant's wishes, the University's commitment to provide a non-discriminatory environment, and the potential Respondent's right to have specific notice of the allegations. The Investigative Team may conduct limited fact finding to better understand the context of the complaint. In some circumstances, a request for anonymity may mean an investigation cannot go forward, or the Investigative Team may determine that further investigation is necessary, in which case the potential Complainant will be informed that his or her identity will be disclosed as necessary for the investigatory process. In other circumstances, the Investigative Team may determine that the matter can be appropriately resolved without further investigation and without revealing the Complainant's identity.

#### **Administrative Closure**

If, after conducting the initial review of a formal complaint, the Investigative Team finds that the allegation, if true, would not constitute a violation of the Policy, then the Grievance will administratively close the case and notify the Complainant (and the Reporter, if there is one), the Deputy Director of Student Success and Distance Learning and the Grievance Committee.

Where the Complainant is unwilling to participate in further investigation, the Grievance Committee will assess the severity of the alleged harassment or the potential risk of a hostile environment for others in the community and will determine whether administrative closure is appropriate or whether the University should proceed with an investigation.

Within one week of the decision to close a case administratively, the Complainant or Reporter may request reconsideration on the grounds that there is substantive and relevant new information that was not available at the time of the decision and that may change the outcome of the decision. The Deputy Director of Student Success and Distance Learning will consider requests for reconsideration and inform the Complainant or Reporter of the outcome, ordinarily within one week of the date of the request.

In cases where the Grievance Committee concludes that the alleged conduct, while not a violation of the Policy, might implicate other University conduct policies, the Grievance Committee may refer the complaint to the appropriate School or University official.

#### **Request to Withdraw the Complaint**

While every effort will be made to respect the Complainant's wishes to withdraw a formal complaint, the University must be mindful of its overarching commitment to provide a non-discriminatory environment. Thus, in certain circumstances, the Grievance Committee may determine that investigation is appropriate despite a Complainant's request to withdraw the complaint or failure to cooperate. Other circumstances also may result in a request to withdraw the complaint being declined, where, for example, a request to withdraw is made after a



significant portion of the investigation has been completed and terminating the investigation would be inequitable.

### **Request for Informal Resolution After a Complaint has Been Filed**

Once a complaint has been opened for investigation and before the final report has been provided to the parties, a party may request informal resolution as an alternative to formal resolution of the complaint, but that disposition requires agreement of the Complainant and the Respondent and the approval of the Grievance Committee.

If such a request is approved, the timeframes will be stayed, and the Investigator or a designee will take such steps as he or she deems appropriate to assist in reaching a resolution. If the parties cannot reach an informal resolution within two weeks from receipt of the request, then the Investigative Team will resume the investigation of the complaint in accordance with the formal complaint procedures.

### **Appeal**

Both the Respondent and the Complainant may appeal the decision of the Investigative Team to the Deputy Director of Student Success and Distance Learning or designee based on the following grounds:

1. A procedural error occurred, which may change the outcome of the decision; or
2. The appellant has substantive and relevant new information that was not available at the time of investigation and that may change the outcome of the decision.

Disagreement with the Investigative Team's findings or determination is not, by itself, a ground for appeal.

Appeals of the Investigative Team's decision must be received by the Deputy Director of Student Success and Distance Learning within one week of the date of the final report. Likewise, appeals of decisions to administratively close a case or to deny a request to withdraw the complaint must be received by the Deputy Director of Student Success and Distance Learning Within one week of the date of the decision under appeal. Ordinarily, appeals will be decided within two weeks and the parties will be informed of the outcome in writing.

### **B4. Student Disciplinary Proceedings Following the Resolution of a Formal Complaint of Harassment or Misconduct That Results in a Finding of a Policy Violation**

Whenever the final report concludes that a student has violated this Policy, the Director of Student Success and Distance Learning shall forward the report to the Administrative Council. The representative of the Administrative Council shall notify the Respondent and the Complainant that the final report has been received. Both the Respondent and the Complainant will be notified about the nature of the Administrative Council's disciplinary process; they will, furthermore, be informed about the speed with which the Grievance Committee will act

following the disposition of any appeals. The representative of the Administrative Council will meet with the Respondent to explain the disciplinary process and the range of sanctions. The Complainant will be invited to meet with the Administrative Council representative, but is not required to do so.

If either party invokes the right to appeal a decision contained in a final report, granted by the University Procedures, the Grievance Committee will notify the Deputy Director of Student Success and Distance Learning. In accordance with University Policy, the Grievance Committee will allow one week for the Complainant and Respondent to lodge an appeal of the finding before it begins any deliberations.

- If an appeal is filed, the Grievance Committee will wait until it is resolved. Within three calendar days of either the end of the appeal waiting period or the resolution of the appeal, as appropriate, the Complainant and the Respondent may each submit a written statement reflecting their views about suitable discipline. Neither is required to do so. Both the Complainant and the Respondent will be provided with instructions regarding the allowable nature, length, and format of the written statement. The representative of the Grievance Committee will furnish copies of each filing to the other party. A Complainant or Respondent who chooses to submit a written statement must keep the following in mind: 1) the written statement may not challenge the validity of the findings and conclusions contained in the final report; and 2) the written statement may not introduce facts that could have been presented to the Investigator or that conflict with any of the findings in the final report. In writing such a statement, the Complainant and Respondent should keep in mind that the Administrative Council's function is limited to determining whether to discipline the Respondent and, if so, the form that discipline should take.

Sanctions shall take into account the severity and impact of the conduct, the Respondent's previous disciplinary history (based on consultations), any written statements submitted by the parties relevant to sanctions, and the goals of this Policy.

Any disciplinary action requires at least a majority vote and, in the case of a requirement to withdraw, at least a two-thirds vote of the Administrative Council members present and eligible to vote. Rules for eligibility are determined by each Administrative Council.

If the Administrative Council votes to impose discipline, it will notify in writing the Respondent and, as appropriate, the Complainant of the discipline imposed. Following an investigation of sexual violence, both the Complainant and the Respondent will be informed of the outcome and all the sanctions. For cases of sexual harassment that do not involve sexual violence, the Complainant will be informed of the outcome and those sanctions that pertain to the Complainant, and the Respondent will be informed of the outcome and all the sanctions.

A degree will not be granted to a student who is not in good standing, or against whom a disciplinary charge is pending. A student on a leave of absence, whether voluntary or involuntary, is ordinarily not allowed to return and register until any pending disciplinary case is resolved.

The Administrative Council may take a number of disciplinary actions, including admonish; place on probation, with or without requirements or restrictions; and require to withdraw with or without a recommendation to dismiss or expel. The nature of the sanction will vary depending on, among other things, the severity of the violation. This Policy does not specify minimum or maximum sanctions, but a severe violation will ordinarily require that the Respondent observe some period of absence from the University.

### **Conclusion of the Case**

Once an outcome has been reached, the representative of the Administrative Council will notify the Complainant and Respondent of the decision. The proceedings and decisions are communicated only to those with a need to know, including the Respondent and the Complainant.

After the case has been decided, regardless of the outcome, a copy of the final report and the notice of decision of the Administrative Council and related materials will be placed in a separate envelope in the Deputy Director of Student Success and Distance Learnings files and in the file of the Complainant, if relevant.

Ordinarily, the file will be redacted to protect the identity and personal information of those involved in the case other than the student in whose file the documents are placed. These documents are part of the Respondent's and, if relevant, the Complainant's educational record, as defined and protected by federal law.

### **Appeals**

Students may appeal the Administrative Council recommendation of specific sanctions, including the sanction of requirement to withdraw with a recommendation to dismiss or expel. The decision to dismiss or expel itself is made by the President himself and not the Administrative Council; it cannot be appealed.

Both the Complainant and the Respondent have the option to appeal disciplinary decisions made by the Administrative Council regarding violations of this Policy, including any decision not to impose discipline. Allowable grounds for appeal are:

- The Administrative Council made a procedural error that may change the determination of discipline
- Based upon a review of the Administrative Council annual disciplinary statistics, as available, the sanction imposed by the Administrative Council was inconsistent with its usual practices and therefore inappropriate.

All appeals must be filed with the Grievance Committee, who will promptly respond to the appeal. Appeals are then screened by the Secondary Administrative Council, a group of three unbiased faculty representatives (none of which are on the Administrative Council). The Secondary Administrative Council may grant or deny the appeal. In the event the Secondary Administrative Council grants the appeal, it will remand the matter to the Administrative Council

for action consistent with its decision. There are no circumstances under which a student may appeal a decision made by the Secondary Administrative Council. Once a student has been awarded a degree, the option to reconsider a decision or to appeal is closed.

Following the decision on appeal, documentation of the appeal decision and materials related to the appeal will be included in the sealed envelope in the Respondent's and Complainant's files. Ordinarily, student names and other private identifying information other than the name of the student in whose file the documents are placed will be redacted.

## **Appendix C: Procedures for Handling Complaints against Virscend Staff Members Pursuant to the Sexual and Gender-based Harassment Policy**

### **C1. Procedures for Handling Complaints against Virscend Staff members Pursuant to the Sexual and Gender-Based Harassment Policy**

Virscend students, faculty, staff, other Virscend appointees, or third parties who believe they are directly affected by the conduct of a Virscend staff member (collectively "Initiating Parties") may: request information or advice, including whether certain conduct may violate the Policy; seek informal resolution; or file a formal complaint. These three options are described below. Initiating Parties are encouraged to bring their concerns to the Deputy Director of Student Success and Distance Learning, any member of the Grievance Committee, or Administrative Council, but may, if they choose, contact another School or University officer, who will refer the matter as appropriate.

As set forth below, interim measures designed to support and protect the Initiating Party or the University community may be considered or implemented at any time, including during a request for information or advice, informal resolution, or a formal complaint proceeding. Consistent with School or unit policy, interim measures might include, among others: restrictions on contact; work-schedule alteration; changes in work locations; leaves of absence; or increased monitoring of certain areas of the campus. These interim measures are subject to review and revision throughout the processes described below.

#### **Requests for Information or Advice**

Anyone seeking information or advice can expect to learn about resources available at the University and elsewhere that provide counseling and support. They also will be advised about the steps involved in pursuing an informal resolution or filing a formal complaint. The Deputy Director of Student Success and Distance Learning has information about any companion policies or procedures that may apply at the local School or unit. The Director of Student Success and Distance Learning, any member of the Grievance Committee, or Administrative Council may discuss with Initiating Parties whether any interim measures are appropriate at this stage.

#### **Requests for Informal Resolution**

Initiating Parties may make a request, either orally or in writing, for informal resolution to the Director of Student Success and Distance Learning, any member of the Grievance Committee, or

Administrative Council. The request should identify the alleged harasser (if known) and describe the allegations with specificity. The Director of Student Success and Distance Learning, any member of the Grievance Committee, or Administrative Council will assess the severity of the alleged harassment and the potential risk of a hostile environment for others in the community to determine whether informal resolution may be appropriate.

Upon determining that informal resolution is appropriate, the Director of Student Success and Distance Learning, any member of the Grievance Committee, or any member of the Administrative Council will consult further with the person initiating the request, inform the person who is the subject of the allegations, and gather additional relevant information as necessary from the parties and others, as indicated. The Director of Student Success and Distance Learning, any member of the Grievance Committee, or Administrative Council also may put in place any appropriate interim measures to protect the educational and work environment. The Director of Student Success and Distance Learning, any member of the Grievance Committee, or Administrative Council will attempt to aid the parties in finding a mutually acceptable resolution. A matter will be deemed satisfactorily resolved when both parties expressly agree to an outcome that is also acceptable to the School or Director of Student Success and Distance Learning.

When the allegations, if true, might constitute criminal conduct, the party against whom they are brought is hereby advised to seek legal counsel before making any written or oral statements. Those facing allegations may wish to obtain legal advice about how this process could affect any criminal case in which they are or may become involved.

At any point prior to such resolution, the Initiating Party may withdraw the request for informal resolution and initiate a formal complaint under these Procedures.

Ordinarily, the informal resolution process will be concluded within two to three weeks of the date of the request.

## **C2. Procedures for Formal Complaints**

### **Initiating a Complaint**

An Initiating Party may file a formal complaint alleging a violation of the Policy. A complaint of sexual or gender-based harassment against a staff member should be filed directly with the Grievance Committee. The Grievance Committee will inform the Director of Student Success and Distance Learning(s) for the Complainant and the Respondent that a complaint has been received, and, if indicated, Director of Student Success and Distance Learning will put in place any appropriate interim measures.

A formal complaint must be in writing and signed and dated by a Complainant or a third party filing on behalf of a potential Complainant (Reporter). It should state the name of the alleged harasser (if known) and describe with reasonable specificity the incident(s) of alleged harassment, including the date and place of such incident(s). The complaint must be in the Complainant or Reporter's own words, and may not be authored by others, including family members, advisors, or attorneys. Attached to the complaint should be a list of any sources of information (for example, witnesses, correspondence, records, and the like) that the Complainant or Reporter believes may be relevant to the investigation. However, a complaint should not be delayed if such sources of information are unknown or unavailable.

The Grievance Committee will not investigate a new complaint if it has already adjudicated a formal complaint based on the same circumstances or if the parties and the School or Director of Student Success and Distance Learning already have agreed to an informal resolution based on the same circumstances. Whether or not a complaint is filed with the Grievance Committee, any person may file a complaint of discrimination with California Commission Against Discrimination, the U.S. Equal Employment Opportunity Commission, the U.S. Department of Education Office of Civil Rights, or any other state or federal agency having jurisdiction.

### **Timeframe for Filing a Complaint**

The University does not limit the timeframe for filing a complaint. The University encourages complaints to be filed as soon as reasonably possible following an alleged Policy violation because the University's ability to gather adequate information may be limited where a significant length of time has elapsed between an incident and the filing of a complaint. Further, the University's ability to complete its processes may be limited with respect to Respondents who are no longer employed by the University.

### **Initial Review**

Once a complaint is received by the Grievance Committee, Deputy Director of Student Success and Distance Learning will begin an initial review. Virscend may designate an additional individual to work jointly with the Investigator (collectively, the "Investigative Team"). Investigators will have appropriate training, so that they have the specialized skill and

understanding to conduct prompt and effective sexual and gender-based harassment investigations.

The Investigative Team will contact the Complainant or Reporter in an attempt to gather a more complete understanding of the allegations, as well as any related conduct that may implicate the Policy. When a complaint is brought by a Reporter, the Investigative Team will endeavor to meet with the person identified as the potential Complainant both to gather information and to discuss his or her interest in participating in an investigation.

Based on the information gathered, the Investigative Team will determine whether the information, if true, would constitute a violation of the Policy such that an investigation is warranted or whether the information warrants an administrative closure. The Investigative Team will convey this determination to the Complainant (and the Reporter, if there is one); the Grievance Committee, the President of Virscend, and the Director of Academic Programs. The Investigative Team will work with the Grievance Committee to implement any appropriate interim measures to be put in place by the School pending the completion of the case (or to revise as necessary any measures already in place).

Ordinarily, the initial review will be concluded within one week of the date the complaint was received.

## **Investigation**

Following the decision to begin an investigation, the Investigative Team will notify the Respondent in writing of the allegations and will provide a copy of the Policy and these procedures. The Respondent will have one week in which to submit a written statement in response to the allegations. This statement must be in the Respondent's own words; Respondents may not submit statements authored by others, including family members, advisors, or attorneys. Attached to the statement should be a list of all sources of information (for example, witnesses, correspondence, records, and the like) that the Respondent believes may be relevant to the investigation.

If the decision is made to begin an investigation in a case where a Reporter filed the complaint, and the Complainant is unwilling to participate but the School has assessed the severity of the harassment and the potential risk of a hostile environment for others in the community and has determined to proceed, then, for the purposes of these Procedures, the School or Deputy Director of Student Success and Distance Learning (or a designee) will be considered the Complainant.

The Investigative Team will request individual interviews with the Complainant and the Respondent, and, as appropriate, with other witnesses, which may include those identified by the parties as well as relevant officers of the School or University or others. When identifying potential witnesses, the parties should understand that the purpose of interviews is to gather and assess information about the incident(s) at issue in the complaint, not to solicit general information about a party's character.

When a complaint involves allegations that, if true, also might constitute criminal conduct, Respondents are hereby advised to seek legal counsel before making any written or oral statements. The investigation process is not a legal proceeding, but Respondents might wish to obtain legal advice about how this process could affect any criminal case in which they are or may become involved.

After the collection of additional information is complete but prior to the conclusion of the investigation, the Investigative Team will request individual follow-up interviews with the Complainant and the Respondent to give each the opportunity to respond to the additional information.

### **Personal Advisors**

In cases of alleged domestic violence, dating violence, sexual assault, or stalking, both the Complainant and the Respondent may bring a personal advisor to any interviews with the Investigative Team. A personal advisor may not be related to anyone involved in the complaint or have any other involvement in the process.

In cases where the Respondent is also a member of a collective bargaining unit and requests a union representative, in accordance with a union member's right to request representation during investigatory interviews that may reasonably lead to discipline, the Complainant may bring a personal advisor to any interviews with the Investigative Team.

Personal advisors may view a redacted version of the complaint or other documents provided to the parties, offer feedback on their advisee's written statements, and provide general advice. During interviews, personal advisors may not speak for their advisees, although they may ask to suspend the interviews briefly if they feel their advisees would benefit from a short break.

### **Confidentiality**

The Grievance Committee, personal advisors, and others at the University involved in or aware of the complaint will take reasonable steps to protect the privacy of all involved. Once a complaint is filed, the Complainant or Reporter, the Respondent, and any witnesses will be notified of the potential for compromising the integrity of the investigation by disclosing information about the case and the expectation that they therefore keep such information – including any documents they may receive or review – confidential. They also will be notified that sharing such information might compromise the investigation or may be construed as retaliatory. Retaliation of any kind is a separate violation of the Policy and may lead to an additional complaint and consequences.

The parties remain free to share their own experiences, though to avoid the possibility of compromising the investigation, it is generally advisable to limit the number of people in whom they confide.

### **Coordination with Law Enforcement Authorities**



In all cases, the Investigative Team will have completed the initial review without delay and, as appropriate, will have proposed interim measures to the School. In the event that an allegation includes behavior or actions that are under review by law-enforcement authorities, the Investigative Team will, in light of status updates from law-enforcement authorities and the Deputy Director of Student Success and Distance Learning, assess and reassess the timing of the investigation under the Policy, so that it does not compromise the criminal investigation.

### **Conclusion of the Investigation and Issuance of Final Report**

At the conclusion of the investigation, the Investigative Team will make findings of fact, applying a preponderance of the evidence standard, and determine based on those findings of fact whether there was a violation of the Policy.

The Investigative Team will provide the Complainant and the Respondent with a written draft of the findings of fact and analysis and will give both parties one week to submit a written response to the draft. The Investigative Team will consider any written responses before finalizing these sections of the report and the final section of the report, which will outline any recommended measures to be taken by the School or unit to eliminate any harassment, prevent its recurrence, and address its effects. The Deputy Director of Student Success and Distance Learning and the School or unit will work jointly to put in place such measures as they determine are appropriate. Consistent with School policies, measures imposed at this stage might include, among others: restrictions on contact; work-schedule alteration; leaves of absence; or increased monitoring of certain areas of the campus.

The investigation will be completed, and the final report provided to the Complainant, the Respondent, the School, Deputy Director of Student Success and Distance Learning, and the appropriate officer in the School or unit, ordinarily within six weeks of receipt of the complaint. The imposition of disciplinary sanctions will be considered separately by the Board of Trustees and the President of Virscend.

### **C3. Special Circumstances**

#### **Request for Anonymity**

If a potential Complainant asks to remain anonymous, then the Investigative Team, as appropriate, will consider how to proceed, taking into account the potential Complainant's wishes, the University's commitment to provide a non-discriminatory environment, and the potential Respondent's right to have specific notice of the allegations. The Investigative Team may conduct limited fact finding to better understand the context of the complaint. In some circumstances, a request for anonymity may mean an investigation cannot go forward, or the Investigative Team may determine that further investigation is necessary, in which case the potential Complainant will be informed that his or her identity will be disclosed as necessary for the investigatory process. In other circumstances, the Investigative Team may determine that the matter can be appropriately resolved without further investigation and without revealing the Complainant's identity.

## **Administrative Closure**

If, after conducting the initial review of a formal complaint, the Investigative Team finds that the allegation, if true, would not constitute a violation of the Policy, then the Grievance will administratively close the case and notify the Complainant (and the Reporter, if there is one), the Deputy Director of Student Success and Distance Learning and the Grievance Committee.

Where the Complainant is unwilling to participate in further investigation, the Grievance Committee will assess the severity of the alleged harassment or the potential risk of a hostile environment for others in the community and will determine whether administrative closure is appropriate or whether the University should proceed with an investigation.

Within one week of the decision to close a case administratively, the Complainant or Reporter may request reconsideration on the grounds that there is substantive and relevant new information that was not available at the time of the decision and that may change the outcome of the decision. The Deputy Director of Student Success and Distance Learning will consider requests for reconsideration and inform the Complainant or Reporter of the outcome, ordinarily within one week of the date of the request.

In cases where the Grievance Committee concludes that the alleged conduct, while not a violation of the Policy, might implicate other University conduct policies, the Grievance Committee may refer the complaint to the appropriate School or University official.

## **Request to Withdraw the Complaint**

While every effort will be made to respect the Complainant's wishes to withdraw a formal complaint, the University must be mindful of its overarching commitment to provide a non-discriminatory environment. Thus, in certain circumstances, the Grievance Committee may determine that investigation is appropriate despite a Complainant's request to withdraw the complaint or failure to cooperate. Other circumstances also may result in a request to withdraw the complaint being declined, where, for example, a request to withdraw is made after a significant portion of the investigation has been completed and terminating the investigation would be inequitable.

## **Request for Informal Resolution After a Complaint has Been Filed**

Once a complaint has been opened for investigation and before the final report has been provided to the parties, a party may request informal resolution as an alternative to formal resolution of the complaint, but that disposition requires agreement of the Complainant and the Respondent and the approval of the Grievance Committee.

If such a request is approved, the timeframes will be stayed, and the Investigator or a designee will take such steps as he or she deems appropriate to assist in reaching a resolution. If the parties cannot reach an informal resolution within two weeks from receipt of the request, then the

Investigative Team will resume the investigation of the complaint in accordance with the formal complaint procedures.

## **Appeal**

Both the Respondent and the Complainant may appeal the decision of the Investigative Team to the Deputy Director of Student Success and Distance Learning, or designee based on the following grounds:

1. A procedural error occurred, which may change the outcome of the decision; or
2. The appellant has substantive and relevant new information that was not available at the time of investigation and that may change the outcome of the decision.

Disagreement with the Investigative Team's findings or determination is not, by itself, a ground for appeal.

Appeals of the Investigative Team's decision must be received by the Deputy Director of Student Success and Distance Learning within one week of the date of the final report. Likewise, appeals of decisions to administratively close a case or to deny a request to withdraw the complaint must be received by the Director of Student Success and Distance Learning Within one week of the date of the decision under appeal. Ordinarily, appeals will be decided within two weeks and the parties will be informed of the outcome in writing.

## **C4. Staff Disciplinary Proceedings Following the Resolution of a Formal Complaint of Harassment or Misconduct That Results in a Finding of a Policy Violation**

The administration of discipline in cases against Virscend Faculty is subject to the authority of the President or his or her designee (hereby will be referred to as President); thus, as appropriate, having received the report, the President separately will consider the imposition of discipline and notify the parties, as appropriate. Sanctions may range from reprimand to dismissal.

Procedures concerning alleged harassment by staff will mirror those established by the University Procedures. Some modifications are necessary to reflect the different nature of the relationship between the University and employees compared with the relationship between the University and students. The University intends that all members of our community will abide by the same Policy and, in principle, that violations of that Policy will be investigated and adjudicated using the same basic procedures.

Decisions about the imposition of disciplinary sanctions in cases against Staff will be made by the President and the Director of Academic Programs, in consultation with the Board of Trustees as appropriate. Disciplinary action may range from a verbal warning up to and including termination. The President will notify the parties of any disciplinary action, as appropriate.

If the investigation reveals, by a preponderance of the evidence, that the complaint was not submitted in good faith, that either party provided false or misleading information, or that either

party retaliated against the other, this will be reported to the President as a separate violation of the Policy and may result in discipline.

The Director of Student Success and Distance Learning for Staff will ensure that any action determined by the President is carried out.

*This policy was adapted and modified from Harvard University*

