RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF GVSU POLICY PROHIBITING DISCRIMINATION, HARASSMENT AND MISCONDUCT (Hereinafter the "Resolution Process")

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Overview

GVSU will act on any Complaint or Report of a potential violation of the GVSU Policy Prohibiting Discrimination, Harassment and Misconduct for All Faculty, Students, Employees, and Third Parties ("Policy") that the GVSU Office of Civil Rights and Title IX ("OCRTIX") or Mandatory Reporter receives by applying the Resolution Processes outlined in this document.

I. Initial Evaluation

A. Notice

Upon receipt of Notice, by Report or Complaint, of an alleged Policy violation, the OCRTIX will initiate a prompt Initial Evaluation to determine next steps. The OCRTIX will contact the Complainant or other source of the Notice to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

If OCRTIX's first Notice of an incident is by direct phone call or walk-in to its office, OCRTIX will advise the Complainant of their Confidential Reporting Options under the Policy before initiating the Initial Evaluation.

B. Initial Evaluation Overview

The OCRTIX conducts an Initial Evaluation typically within seven (7) business days of receiving Notice of an alleged incident.

The initial evaluation will include:

- Assessing whether the allegations reported may reasonably constitute a violation of the Policy. OCRTIX will not move forward with reported allegations that may not reasonably constitute a violation of the Policy. Any remaining allegations will then continue through the Resolution Process, if applicable.
- Determining whether GVSU has jurisdiction over the reported conduct, as defined in the Policy, including verifying the identity of the Complainant and Respondent. If the conduct is not within GVSU jurisdiction, the matter is dismissed.
- Engaging in the prompt and effective response to allegations as outlined in the Policy, including offering and coordinating supportive measures for the Complainant and Respondent as applicable, notifying the Complainant and Respondent of the applicable resolution process, including any applicable grievance procedures, determining whether the Complainant, the OCRTIX itself, or any other person on behalf of the Complainant, will initiate a formal Complaint, and taking any other necessary prompt action in effort to ensure prohibited conduct does not continue or recur.
- If the matter does not move forward through the OCRTIX Resolution Process, the conduct may be referred to an alternate GVSU office or other entity for resolution. For example, when a Complainant chooses not to move forward with a Formal Complaint and OCRTIX determines, after conducting a Risk Assessment, that it does not meet the criteria for necessitating a Complaint signed by OCRTIX, the matter may be referred to another appropriate office for handling.

C. Complaint by Complainant

If the Complainant, or other legal representative of the Complainant on their behalf, indicates during the Initial Evaluation that they wish to initiate a Complaint, the OCRTIX will help to facilitate the Complaint, which will include:

- Advising the Complainant of the Methods of Notice under the Policy, including assistance with filing the Complaint if requested.
- Advising the Complainant of the Time Limits on Reporting under the Policy.

D. Complaint by OCRTIX

If the Complainant does not wish to file a Complaint, the OCRTIX, who has ultimate discretion as to whether a Complaint is initiated, will both offer supportive measures and determine whether to initiate a Complaint itself. To make this determination, the OCRTIX will determine if there is a serious and imminent threat to a person's safety or if GVSU cannot ensure the community's continued access to its education programs and activities without initiating a Complaint. The OCRTIX will consider the following non-exhaustive factors when evaluating whether to file a Complaint:

- The Complainant's request not to initiate a Complaint.

- The Complainant's reasonable safety concerns regarding initiating a Complaint.
- The risk that additional acts of discrimination, harassment or misconduct would occur if a Complaint is not initiated.
- The severity of the alleged policy violation, including whether the behavior, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence.
- The age and relationship of the Parties, including whether the Respondent is a GVSU employee.
- The scope of the alleged conduct, including information suggesting a pattern, ongoing prohibited conduct, or conduct alleged to have impacted multiple individuals.
- The availability of evidence to assist a Decision-Maker in determining whether discrimination, harassment or misconduct occurred.
- Whether GVSU could end the alleged prohibited conduct and prevent its recurrence without initiating its resolution process.

If deemed necessary, the OCRTIX may consult with appropriate GVSU employees, and/or conduct a Risk Assessment to aid its determination whether to initiate a Complaint.

When the OCRTIX initiates a Complaint, it does not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

E. Counter-Complaints

GVSU is obligated to ensure that the Resolution Process is not abused for retaliatory purposes. Although GVSU permits the filing of counter-complaints, the OCRTIX will use an initial evaluation, described above, to assess whether the allegations in the counter-complaint are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a violation of the Policy.

Counter-complaints determined to have been reported in good faith will be processed using the Resolution Process below. If the OCRTIX determines it feasible, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

F. Advisors in the Resolution Process

The Parties may each have an Advisor present with them for all meetings, interviews, and hearings within the Resolution Process, including intake and Initial Evaluation. The presence of an Advisor is required for all Formal Resolution Grievance Procedures.

i. Who Can Serve as an Advisor?

The Parties may select whomever they wish to serve as their Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) as long as the Advisor is eligible and available.

Eligible and available means the Advisor has the inclination, time, and availability to assist the party. The Advisor cannot have institutionally conflicting roles, such as being an administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is also a witness in the process creates potential for bias and conflicts of interest and is prohibited.

The OCRTIX will offer to assign a trained Advisor to any party if the party chooses. If the Parties choose an Advisor from the Resolution Process Pool available from GVSU, GVSU will have trained the Advisor and familiarized them with GVSU's Resolution Process.

GVSU 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, GVSU 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 the OCRTIX 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.

GVSU may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the OCRTIX. The decision to grant this request is based on the complexity of the case (including number of persons or allegations involved and severity of the allegations) as determined by the OCRTIX and if granted, will be granted equitably to all Parties.

If a party requests that all communication be made through their attorney Advisor instead of to the party, GVSU may refuse that request as typically both the party and their Advisor are included on communications.

Advisors appointed by the institution cannot be Confidential Employees, and although they will not be asked to disclose details of their interactions with their advisees to institutional officials or Decision-Makers absent an emergency, they are still reminded of their Mandatory Reporter responsibilities.

As a public entity, GVSU fully respects and accords the Weingarten rights of employees, meaning that for Parties who are entitled to union representation, GVSU will allow the unionized employee to have their union representative as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are permitted to have union representation or Advisors in Resolution Process interviews or meetings.

ii. 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 unless given specific permission to do so as determined by the OCRTIX.

The Parties are expected to ask and 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.

iii. Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to access relevant evidence, the evidence summary, and written investigation report.

Advisors are expected to maintain the confidentiality of the records GVSU shares with them, per all provisions of the Policy addressing Confidentiality. Advisors may not disclose any GVSU work product or evidence GVSU obtained solely through the Resolution Process for any purpose not explicitly authorized by GVSU.

Accordingly, Advisors may be asked to sign Non-Disclosure Agreements (NDAs). GVSU may decline to share materials with any Advisor who has not executed the NDA. GVSU may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by GVSU's confidentiality expectations.

iv. Advisor Expectations

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

GVSU may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies.

All Advisors are subject to GVSU policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by GVSU. Advisors are expected to advise without disrupting proceedings.

v. Advisor Policy Violations

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who violates the Policy or these procedures, will initially be warned. If the Advisor continues the conduct, the meeting, interview or hearing may be ended, or other appropriate measures implemented, including GVSU requiring the party to use a different Advisor or providing a different GVSU-appointed Advisor. Subsequently, the OCRTIX will determine how to address the Advisor's non-compliance and future role.

II. Potential Early Actions by OCRTIX

Following the Initial Evaluation, GVSU will determine next steps, including whether dismissal is appropriate and whether additional emergency or interim actions such as removal or leaves of absences are necessary.

A. Dismissal

The OCRTIX (or other appointed Decision-Maker) will dismiss a Complaint (or a portion thereof) if, at any time during the Initial Evaluation, Investigation or Resolution Process, one or more of the following grounds are met:

1) GVSU determines it does not have Jurisdiction as outlined in the Policy;
2) GVSU is unable to identify the Respondent;
3) GVSU is unable to identify other sufficient evidence to reach a determination after taking reasonable steps to do so;
4) A Complainant voluntarily withdraws any or all of the allegations in the Complaint in writing, and the OCRTIX declines to initiate a Complaint on the withdrawn allegations;
5) GVSU determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven.

A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

GVSU will not dismiss a Complaint solely because the Respondent is no longer participating in GVSU's education program or activity and/or is no longer employed by GVSU.

Upon any dismissal, GVSU will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, GVSU will also notify the Respondent of the dismissal, simultaneously. GVSU will offer supportive measures to the Complainant or Respondent as appropriate and take any other necessary action in effort to ensure that discrimination does not continue or recur within GVSU's education programs or activities.

This dismissal decision is appealable by any party.

B. Appeal of Complaint Dismissal

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be in writing and filed by email within three (3) business days of the notification of the dismissal.

If an appeal is determined to have standing (sufficiently states facts that, if true, would meet the ground(s) for appeal as alleged by the appealing party), the OCRTIX will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals and is determined to have standing, but the Respondent was not notified of the Complaint, the OCRTIX must then provide the Respondent with a Notice of Investigation and Allegation (NOIA) and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, GVSU will:

- Implement dismissal appeal procedures equally for the Parties;
- Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint;
- Where standing has been determined, before deciding the merits of the appeal, the Dismissal Appeal Officer provides the Parties and OCRTIX a reasonable and equal opportunity to provide a written statement in support of, or challenging, the dismissal;
- Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for appeals of dismissal of Complaint are limited to:

1) A procedural irregularity that affected the outcome.
2) New evidence that could affect the outcome and that was not reasonably available at the time the dismissal determination was made.
3) The OCRTIX had a conflict of interest or bias for or against complainants or respondents generally or the specific Complainant or Respondent that affected the outcome.

The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the OCRTIX will share the petition with all other Parties and provide three (3) business days for other Parties and the OCRTIX to respond to the request. At the conclusion of the response period, the OCRTIX will forward the appeal, as well as any response provided by the other Parties and/or the OCRTIX to the Dismissal Appeal Officer for consideration.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the Dismissal Appeal Officer will deny the request, and the Parties, their Advisors, and the OCRTIX will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will notify all Parties and their Advisors, and the OCRTIX, of their decision and rationale in writing. The effect will be to reinstate the Complaint.

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 Dismissal Appeal Officer has seven (7) business days to review and decide on the appeal, though extensions can be granted if the OCRTIX determines it reasonable and necessary in light of the circumstances (good cause for the extension has been established), and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Dismissal Appeal Officer may consult with the OCRTIX and/or legal counsel on questions of procedure or rationale for clarification, if needed. The OCRTIX will maintain documentation of all such consultation and will not be required to disclose confidential information.

C. Emergency Removal/Interim Suspension of a Student

GVSU may remove or suspend an individual accused of prohibited conduct under the Policy on an emergent basis during the Initial Evaluation, Investigation, or at any time during the Resolution Process. Prior to an emergency removal, GVSU will conduct a risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of prohibited conduct justifies such action.

The OCRTIX will consult with appropriate GVSU employees to aid its determination whether to implement emergency removal under this policy.

When an emergency removal or interim suspension is imposed, wholly or partially, the affected student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the OCRTIX will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal or suspension should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, should be modified, or lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal or interim suspension will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. A Complainant and their Advisor may be permitted to participate in this meeting if it is objectively necessary for them to do so to ensure an equitable process.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the OCRTIX for review also.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The OCRTIX will communicate the final decision in writing, typically within three (3) business days of the review meeting.

D. Placing an Employee on Leave

When the Respondent is an employee, or a student employee accused of misconduct in the course of their employment, OCRTIX will collaborate with Human Resources regarding whether to place the employee on administrative leave pending the outcome of the investigation.

Relevant procedures for unionized employee leave or suspension can be found in the respective union contracts: https://www.gvsu.edu/hro/union-contracts-9.htm.

III. Complaint Investigation

A. Investigator Appointment

Once an investigation is initiated, the OCRTIX appoints an Investigator(s) to conduct it. These Investigators may be members of the Resolution Process Pool, or any other properly trained Investigator, whether internal or external to GVSU's community.

B. Investigation Overview

All Formal Resolution process grievance procedures include Complaint investigations. Investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviewing all relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

GVSU may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator(s) would take the following steps, if not already completed, and not necessarily in this order:

- Determine the identity and contact information of the Complainant.
- Identify all offenses implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.
- Assist the OCRTIX, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- Work with the OCRTIX, as necessary, to prepare the initial NOIA. The NOIA may be amended with any additional or dismissed allegations.

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, and order of interviews for the Parties and witnesses.
- When participation of a party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Interview the Complainant and the Respondent and conduct any necessary follow-up interviews with each.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide each Party an equal opportunity to inspect, review and comment on the evidence by providing electronic copies of the evidence and any summary of the evidence at least ten (10) days prior to finalizing the investigation report.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses. Document which requested questions were asked with a rationale for any changes or omissions in the investigation report.
- Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the investigation.
- Prior to the conclusion of the investigation, provide the Parties and their respective Advisors with a list of witnesses whose information will be used to render a finding.
- Provide the Parties and their respective Advisors an electronic copy of the final investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation, and party and witness interviews, provides all relevant evidence, and considers all input submit by the parties during the review period, for their review and written response at least ten (10) days in advance of the live hearing.

The Investigator may share the investigation report with the OCRTIX and/or legal counsel for their review and feedback.

C. Notice of Investigation and Allegations (NOIA)

Prior to an investigation, the OCRTIX will provide the Parties with a detailed written NOIA. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations. For climate culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department, office or program head for the area or program being investigated.

The NOIA typically includes:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)

- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The name(s) of the Investigator(s), along with a process to notify the OCRTIX of any conflict of interest that the Investigator(s) may have in advance of the interview process
- A statement that GVSU presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence, as well as to provide an impact or mitigation statement
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share GVSU work product obtained through the Resolution Process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that GVSU's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how a party may request disability accommodations or other support assistance during the Resolution Process
- Detail regarding each party's ability to initiate informal resolution where applicable and how a party may do so.
- A link to GVSU's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations
- A statement that Parties who are members of a union are entitled to union representation throughout the process

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address(es) as indicated in official GVSU records, or emailed to the Parties' GVSU-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

D. Written Record of Interview

It is standard practice for Investigators to create a written record of all interviews pertaining to the Resolution Process. 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. The summary of those meetings will be provided to the Parties for their review in the summary of evidence, after which the Parties may pose additional questions for the parties and/or

witnesses and make additional comments to the investigator. Any subsequent discussions are also recorded in writing and shared with the Parties in the final investigation report.

E. Witness Role and Participation in the Investigation

Employees (not including Complainant and Respondent) are expected to cooperate with and participate in GVSU's investigation and Resolution Process. Student witnesses and witnesses from outside the GVSU community are encouraged to cooperate with GVSU investigations and to share what they know about a Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx), or, in limited circumstances, by telephone. GVSU will take appropriate steps to ensure the security and privacy of remote interviews as well as reasonably confirm the identity of the interviewee where necessary.

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

F. Evidentiary Considerations

The Investigator(s) and the Decision-Maker(s) will only consider evidence that is deemed relevant and not otherwise impermissible.

Relevant Evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by GVSU to determine whether one of the exceptions listed below applies. Such evidence will not be disclosed and will not otherwise be used, regardless of whether it is relevant:

1. Evidence that is protected under a privilege recognized by Federal or State law;
2. Evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
3. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless GVSU obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
4. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless a) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or b) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent. The fact of prior consensual sexual conduct occurred between the Complainant and Respondent does not by itself

demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Allegations of a pattern of misconduct will be included when there is a prior finding of similar conduct and the Complainant (or OCRTIX following a threat assessment) makes a pattern allegation. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct. Evidence of a pattern of conduct without a prior finding of responsibility for that prior conduct, will not be included as a pattern allegation, but may be deemed relevant for the purpose of determining whether more than one case should be brought against the Respondent.

IV. Resolution Process

A. Resolution Options Overview

The GVSU Resolution Process, consisting of Informal Resolution or Formal Resolution (with hearing), is GVSU's chosen approach to addressing all forms of discrimination on the basis of protected characteristics, harassment, or other misconduct under the Policy. The process considers the Parties' preferences but is ultimately determined by the OCRTIX.

Resolution proceedings are confidential. All individuals present at any time during the Resolution Process are expected to maintain the confidentiality of the proceedings in accordance with GVSU Policy.

B. Resolution Timeline

GVSU will make a good faith effort to complete the Resolution Process within 60-90 business days, including any appeals, which the OCRTIX can extend as necessary for good cause. Good cause for limited extensions or temporary delays may include but are not limited to absence of a party, a party's advisor or a witness, concurrent law enforcement activity, University closings or semester breaks, informal resolution, other university processes with an outcome that may affect the viability of an OCRTIX claim, or the need for language assistance or accommodation of disabilities. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any limited extensions or temporary 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 issues such as the nature, extent, and

complexity of the allegations, witness availability, law enforcement involvement, and other factors.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, GVSU reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to resume participation in the Resolution Process. However, if a party or witness does not submit to cross-examination at the live hearing, and their credibility is in question, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility.

C. Resolution Process Pool

The Resolution Process relies on a pool of administrators ("the Pool") to carry out the process.

i. Pool Member Roles

Members of the Pool are trained annually, and can serve in the following roles, as determined by the OCRTIX:

- Appropriate intake of and initial guidance pertaining to Complaints
- Advisor to Parties
- Informal Resolution Facilitator
- Perform or assist with initial evaluation
- Investigator
- Hearing Facilitator
- Decision-Maker for challenges to emergency removal and supportive measures
- Decision-Maker
- Appeal of Dismissal Decision-Maker
- Appeal Decision-Maker

ii. Pool Member Appointment

The OCRTIX, in consultation with senior administrators as necessary, appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Complaints, GVSU can also designate permanent roles for individuals in the Pool.

iii. Pool Member Training

Resolution Process Pool members receive annual training through the OCRTIX related to their respective roles.

D. Informal Resolution

To initiate Informal Resolution (if permitted), a Complainant or Respondent may make such a request to the OCRTIX at any time after filing a Complaint and prior to a final determination. The

OCRTIX may offer the option for informal resolution to the Parties in writing at any time following the filing of a Complaint where appropriate. GVSU will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

If the case involves alleged sexual harassment, discrimination on the basis of sex, or other sexual misconduct under the Policy by an Employee against a student, including a student employee, Informal Resolution will not be permitted.

Before initiation of an Informal Resolution process, GVSU will provide the Parties with a Notice of Informal Resolution (NOIR) that explains:

- The allegations.
- The requirements of the Informal Resolution process.
- That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume GVSU's Resolution Process.
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution Process will preclude the Parties from initiating or resuming the Resolution Process arising from the same allegations.
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties.
- The consequences for participating in informal resolution, including what information GVSU will maintain, and whether and how GVSU could disclose such information gained during the informal resolution process for use in its Formal Resolution Process.

GVSU offers three categories of Informal Resolution:

1) **Educational Conversation**. When the OCRTIX can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct. When the process is resolved through Educational Conversation, the parties agree that OCRTIX will offer education and supportive measures only.

2) **Accepted Responsibility**. When the Respondent is willing to accept responsibility for violating Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and GVSU 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 below.

The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Decision-Maker, or Appeal Decision-Maker.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Resolution (Grievance Procedures). Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time prior to an agreement being reached 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.

If an investigation is already underway, the OCRTIX 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.

E. Types of Informal Resolution

i. Educational Conversation

The Complainant(s) may request that the OCRTIX address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. OCRTIX will also determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to GVSU's education program and activity. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received a NOIA or NOIR, the OCRTIX may also provide reasonable supportive measures for the Respondent as deemed appropriate. The educational conversation and offer of supportive measures will be documented as the Informal Resolution for the matter. In light of the conversation, or the Respondent's decision not to attend, the OCRTIX may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of the recurrence of any behaviors that may not align with Policy.

ii. Accepted Responsibility

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

If Informal Resolution is available, the OCRTIX will determine whether all Parties and GVSU are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the OCRTIX implements the accepted finding that the Respondent

is in violation of GVSU 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 Resolution Process will continue.

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

iii. 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 the OCRTIX or other appropriate GVSU 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.

The OCRTIX 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 risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether an emergency removal or other 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)

The OCRTIX 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. The OCRTIX will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The OCRTIX 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 or disciplinary actions (e.g., dissolution of the agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). The results of Complaints resolved by alternative resolution are not appealable.

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

F. Pre-Hearing Meetings

If the Resolution Process continues to Formal Resolution, the Decision-Maker will offer to convene a pre-hearing meeting(s) with the Parties and their Advisors and invite them to submit the questions or topics they wish to ask or discuss at the Hearing. This allows the Decision-Maker to consider relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Parties from submitting a question at the hearing for the first time or asking for a reconsideration on a Decision-Maker's pre-hearing decision based on any new information or testimony offered at the hearing. The Decision-Maker will document and share their rationale for any evidence or question exclusion or inclusion, if any, at a pre-hearing meeting with each party.

The Decision-Maker will work with the Parties to finalize a witness list for the hearing, and the OCRTIX will notify any witnesses of the hearing's logistics. The Decision-Maker, *only with the agreement of all Parties in writing,* may decide in advance of the hearing that certain witnesses or Parties do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the Final Investigation Report or during the hearing, and their presence is not essential to assess their credibility.

Pre-hearing meeting(s) will not be recorded. The pre-hearing meetings will typically be conducted as separate meetings with each party and/or Advisor, and can be done remotely, or as a written communication exchange. The Decision-Maker will work with the Parties to establish the format and timing of the meetings and will circulate a summary of any rulings made to ensure all Parties and Advisors are aware.

G. Formal Resolution Hearing Process (Grievance Procedures)

i. Hearing Notice

The OCRTIX will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing, typically at least seven (7) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice includes:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result;
- The time, date, and location of the hearing;
- A description of any technology that will be used to facilitate the hearing;
- Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the Parties and potential witnesses participating in the hearing, the identity of the Decision-Maker, details related to questioning, the role of Advisors, and how to request disability accommodations or other assistance;
- Notice that the Party must advise OCRTIX at least three (3) business days prior to the hearing whether they will appear in person or virtually at the hearing, whether they will need an interpreter at the hearing; and
- Notice that the Party must provide any Impact or Mitigation Statement at least 24 hours in advance of the hearing.

ii. Introductions and Hearing Procedure Explanation

The Decision-Maker will explain the hearing procedures and introduce the participants. The Decision-Maker will answer any procedural questions prior to and as they arise throughout the hearing.

iii. Presentation of Final Investigation Report

The Decision-Maker will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. If requested to be called as a witness, the Investigator may be questioned first by the Decision-Maker and then by the Parties. The Investigator may attend the duration of the hearing or be excused after their testimony as determined by the Decision-Maker.

iv. Live Hearing Requirements

The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** Participants in the live hearing may appear in person or via video technology. Regardless of participant location, the hearing will be conduct via video technology. The Decision-Maker and Parties must be able to simultaneously see and hear a party or witness while that person is speaking.
    - Parties who choose to appear at the hearing in person or via video technology, must notify OCRTIX of their intention to do so at least three (3) business days prior to the hearing.
    - All hearings will be recorded, and Parties may request a copy of the recording from the OCRTIX following the live hearing.
    - No unauthorized recordings are permitted.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision-Maker(s), hearing facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Decision-Maker. Witnesses are present only during their portion of the testimony.
- **Advisors.** The Parties may have the assistance of an Advisor of their choosing at the hearing or can request that GVSU appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves. If a party decides not to have an Advisor, they will forfeit the option of asking questions at the hearing.
    - During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor(s). No other persons (e.g., additional support persons, advisors, friends, family) may accompany, attend, or listen in on the hearing unless explicitly authorized by the OCRTIX, with each party being provided the same opportunity.
    - Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a matter consistent with Policy.
    - During the hearing, all questions that a party wishes to ask must be posed by the Advisor, not the Parties where applicable.
    - If the party does not have an Advisor, the OCRTIX will provide the party with an Advisor for the purpose of Advisor-conducted questioning.
- **Disability Accommodations and Other Assistance**. Parties should contact the OCRTIX at least seven (7) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- **Conflicts of Interest or Bias.** The Decision-Maker must not have a bias for or against complainants or respondents generally or the individual Complainant or Respondent in particular. The OCRTIX conducts conflict of interest checks in advance of assigning a Decision-Maker.
    - The Decision-Maker must recuse themselves if such bias or conflict of interest exists.
    - If the Decision-Maker believes there is possible conflict of interest or bias, they will consult with the OCRTIX about possible recusal or removal.

- The Parties may raise challenges that the Decision-Maker is biased or has a conflict of interest. The Parties must raise challenges with the OCRTIX within two (2) business days of receiving the hearing notice.
- The OCRTIX will only remove and replace a Decision-Maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
- If a Decision-Maker recuses themselves as the result of a conflict of interest or bias, or is removed, the OCRTIX will promptly appoint a new Decision-Maker who does not have a conflict of interest or bias and notify the Parties accordingly.

- **Evidence Provided to Decision-Maker and Parties.**
  - The Decision-Maker will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least seven (7) business days in advance of the hearing.
  - The Parties will be provided with electronic copies of all the materials provided to the Decision-Maker as part of the hearing notice, unless those materials have already been provided to them. Hard-copy materials may be provided upon request to the Coordinator. The Final Investigation Report and relevant evidence may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

v. Hearing Recordings

GVSU records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-Maker, the Parties, their Advisors, Appeal Decision-Makers, and other appropriate GVSU officials will be permitted to review the recording or review a transcript of the recording upon request to the OCRTIX. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

vi. Testimony and Questioning

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Decision-Maker. The Decision-Maker will facilitate questioning of the Parties and witnesses first by the Decision-Maker and then by the Parties through their Advisors.

Questions that the Parties wish to have posed can be questions for that party themselves, another party, or witnesses.

The Decision-Maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-Maker will limit or disallow questions deemed not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Decision-Maker has final say on all questions and determinations of relevance and appropriateness. The Decision-Maker may consult with legal counsel on any questions of admissibility.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-Maker at the hearing, the Decision-Maker may elect to address those issues, consult with legal counsel, refer them to the OCRTIX, and/or preserve them for appeal. If bias is not an issue at the hearing, the Decision-Maker should not permit irrelevant questions that probe for Investigator bias.

The Decision-Maker will allow witnesses who have relevant and not impermissible information to appear at a portion of the hearing to respond to specific questions from the Decision-Maker and the Parties, and the witnesses will then be excused.

vii. Refusal to Submit to Questioning or Supply Evidence and Inferences

Any party or student witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. However, if a party or witness does not submit to cross-examination at the live hearing, and their credibility is in question, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility. Employee witnesses are expected to participate in the hearing if they are reasonably available. The Decision-Maker can only rely on the available relevant and not impermissible evidence in making the ultimate determination of responsibility. The Decision-Maker may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer any or all questions or provide evidence.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

viii. Witness Participation

Student witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. Employee witnesses are expected to participate in, and make themselves reasonably available for, the hearing. Witnesses may participate in-person or via video technology that allows the Decision-Maker and the Parties to see and hear the witness while that person is speaking. Witnesses (other than the Parties) are not permitted to be accompanied by an Advisor. A witness may join by phone if no other reasonable alternative is available as determined by the Decision-Maker.

If any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. However, if a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility. For compelling reasons, the OCRTIX may reschedule the hearing to accommodate witness availability.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet GVSU's resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Resolution Processes that occur during months between contracts.

The OCRTIX will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless:

- All Parties and the Decision-Maker assent to the new witness's participation in the hearing without remanding the complaint back to the investigator, and
- The Decision-Maker deems the evidence presented by the new witness to be relevant, not impermissible, and not information already established in the record, and
- The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

If the above criteria are not met, but the witness's evidence is deemed relevant, not impermissible, and not duplicative, the Decision-Maker may, as deemed reasonable, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties at least five (5) business days to review the relevant portions of the new witness's statements, if such statements are submitted.
- Remand the Complaint back to the Investigator for further investigation or verification.
- Allow the Parties to review and comment on the testimony of the new witness.

If the evidence is deemed not relevant or impermissible, the Decision-Maker may proceed with the hearing absent the new witness's participation.

ix. Evidentiary Considerations

The Parties must provide all evidence to the Investigator(s) prior to completing the Final Investigation Report.

Evidence offered after that time will be evaluated by the Decision-Maker for relevance.

If the new evidence is deemed relevant and not impermissible, the new evidence will be admitted to the record if:

- All Parties and the Decision-Maker assent to the new evidence being included in the hearing without remanding the Complaint back to the investigator, and
- The evidence is not duplicative of evidence already in the record, and
- It is not impermissible, 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, as deemed reasonable, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties with at least five (5) business days to review the relevant evidence.
- Remand the Complaint back to the Investigator for further investigation or analysis.
- Allow the Parties to review and comment on the new evidence.

If the evidence is deemed not relevant or impermissible, the Decision-Maker may proceed with the hearing without allowing the new evidence.

x. Joint Hearings

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the OCRTIX may permit the investigation and/or hearings pertinent to each Respondent or Complainant to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complainant with respect to each alleged Policy violation.

xi. Collateral Misconduct

Collateral misconduct is defined to include potential violations of other GVSU policies not incorporated into the Policy that occur in conjunction with alleged violations of the 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 Policy, to be resolved jointly under these Procedures. In such circumstances, the OCRTIX may consult with GVSU officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what, if any, charges should be filed, but the exercise of collateral charges under these procedures is determined by the OCRTIX. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student, faculty, and/or staff handbooks.

H. Recordkeeping

For a period of at least seven (7) years following the conclusion of the Resolution Process, GVSU will maintain records of:

1) Each discrimination, harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation.
2) Any disciplinary sanctions imposed on the Respondent.
3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to GVSU's education program or activity.
4) Any appeal and the result therefrom.
5) Any Informal Resolution and the result therefrom.
6) All materials used to provide training to the OCRTIX, OCRTIX and designees, Investigators, Decision-Makers, Appeal Decision-Makers, Informal Resolution Facilitators, and any person who is responsible for implementing GVSU's Resolution Process, or who has the authority to modify or terminate supportive measures. GVSU will make these training materials available for review upon request.
7) All materials used to train all employees consistent with the requirements in the Title IX Regulations.

GVSU will also maintain any and all records in accordance with federal and state laws.

I. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the OCRTIX, Investigator(s), and Decision-Maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The OCRTIX will vet the assigned Investigator(s), Decision-Maker(s), and Appeal Decision-Makers for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the OCRTIX will determine whether the concern is reasonable and supportable. If so, another Pool member 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 the OCRTIX, concerns should be raised with the Vice President for People, Culture, and Equity.

The Resolution Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based 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.

J. Accommodations and Support During the Resolution Process

i. Disability Accommodations

GVSU is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure all are able to participate in GVSU's Resolution Process.

Anyone needing such accommodations or support should contact Accessibility Resources, who will work with the OCRTIX 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.

ii. Other Support

GVSU will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout the Resolution Process

Other support as objectively deemed reasonable and necessary to allow participation in the Resolution Process.

V. Deliberation and Determination

After closing statements from the Parties, the Decision-Maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the standard of proof. If a panel is used, a simple majority vote is required to determine the finding. Deliberations are not recorded.

When there is a finding of responsibility for one or more of the allegations, the OCRTIX in consultation with Decision-Maker may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate sanction(s). The OCRTIX will ensure that any submitted statements are exchanged between the Parties if they are

viewed by the Decision-Maker. Impact/mitigation statements do not influence the finding, they only potentially influence the sanctions. For more information regarding impact/mitigation statements, refer to the Potential Outcomes section below.

The Decision-Maker will then prepare and provide the OCRTIX with a written outcome letter detailing all findings and final determinations, the rationale(s) explaining the decision(s), the relevant and not impermissible evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s).

This outcome letter will be submitted to the OCRTIX within ten (10) business days from the conclusion of the hearing, unless the OCRTIX grants an extension. The OCRTIX will notify the Parties of any extension.

A. Withdrawal or Resignation Before Complaint Resolution

i. Students

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from GVSU, the Resolution Process may continue, or the OCRTIX will conduct a risk assessment to determine whether to dismiss the Complaint. If the Complaint is dismissed, OCRTIX will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or misconduct.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, the OCRTIX 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 discrimination, harassment, and/or misconduct.

When a student withdraws or leaves while the process is pending, the student may not return to GVSU in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. The Registrar, Office of Admissions, and HR will be notified, accordingly.

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

ii. Employees

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent leaves their employment with GVSU with unresolved allegations pending, the Resolution Process may continue, or the OCRTIX may dismiss the Complaint after

conducting an appropriate risk assessment. If the Complaint is dismissed, the OCRTIX may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged discrimination, harassment, and/or misconduct.

When an employee resigns and the Complaint must be dismissed due to impossibility of completion caused by the Respondent employee's failure to cooperate, the employee may not return to GVSU in any capacity. The Registrar, Office of Admissions, and HR will be notified, accordingly. A note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with GVSU. The records retained by the OCRTIX will reflect that status.

B. Potential Outcomes

Prior to determining outcomes, the OCRTIX and the Decision-Maker will review any submitted Impact/Mitigation statement presented by the parties. These statements allow the parties to share information regarding how the reported misconduct or resolution process has impacted them and/or how a particular sanction might impact them. Although these statements do not affect the determination of a finding of responsibility, they may be helpful to OCRTIX and the Decision-Maker when deciding sanctions. When the OCRTIX shares the impact statements with the Decision-Maker, they will also be shared with the Parties.

Part of the resolution as determined by OCRTIX in consultation with the Decision-Maker, may include Dismissal, Emergency Removal, Interim Suspension, Employee Leave or Procedures which follow a Respondent Admitting Responsibility, which are governed by and handled in accordance with the applicable provisions of these Procedures and the Policy.

Outcomes may also include:

i. Sanction Considerations

Factors that OCRTIX in consultation with the Decision-Maker may consider when determining sanctions and responsive actions 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 to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions to prevent the future recurrence of discrimination, harassment, and/or misconduct
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the Parties
- The Respondent's acceptance of responsibility
- Any other information deemed relevant by the Decision-Maker(s)

The sanctions will be implemented as soon as it 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 this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

ii. Student Sanctions

The following are the common sanctions that may be imposed upon students singly or in combination:

- *Reprimand*: A formal statement that the conduct was unacceptable and a warning that further violation of any GVSU policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either GVSU-sponsored (University Counseling Center) or external counseling to better comprehend the misconduct and its effects.
- *Restrictions*: A student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or holding leadership roles in student organizations. This may include restrictions on returning to GVSU for students who graduate.
- *Probation*: An official sanction for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from extra-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Separation from the institution, or one or more of its facilities, for a defined period of time, typically not to exceed two (2) years, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the student is eligible to return if the institution determines it is appropriate to re-enroll/readmit the student. The student is typically required to vacate institutional property within 24 hours of notification of the action, though this deadline may be extended by the OCRTIX or other appropriate official. During an institution-wide suspension, the student is banned from institutional property, functions, events, and activities unless they receive prior written approval from an appropriate institutional official. This sanction may be enforced with a trespass action, as necessary.
- *Expulsion and Banning*: Permanent separation from the institution. The student is banned from institutional property, and the student's presence at any institution-sponsored activity or event is prohibited. This action may be enforced with a

trespass action, as necessary. This may include banning a graduated student from returning to GVSU.

- *Withholding Diploma*: GVSU may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for violating Policy.

Other Actions: In addition to, or in place of, the above sanctions, GVSU may assign any other sanctions as deemed appropriate.

iii. Student Group and Organization Sanctions

The following are the common sanctions that may be imposed upon student groups or organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any GVSU policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation*: An official sanction for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of GVSU funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student group or organization recognition and/or institutional support for a defined period of time not to exceed two (2) years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in GVSU-related activities, whether they occur on- or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from GVSU.
- *Expulsion*: Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- *Loss of Privileges*: Restricted from accessing specific GVSU privileges for a specified period of time.

Other Actions: In addition to or in place of the above sanctions, GVSU may assign any other sanctions as deemed appropriate.

iv. Employee Sanctions/Responsive/Corrective Actions

Possible outcomes for an employee who has engaged in discrimination, harassment, and/or misconduct 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, GVSU may assign any other actions as deemed appropriate.

C. Notice of Outcome

Within three (3) business days of the conclusion of an Informal Resolution Process, the OCRTIX provides the Parties with a written outcome notification, outlining the agreement reached between the Parties.

For Formal Resolution, within seven (7) business days of receipt of the outcome letter from the Decision-Maker, the OCRTIX provides the Parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, all applicable sanctions that GVSU is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Decision-Maker, supporting the findings to the extent GVSU is permitted to share under federal or state law. The notification will include access to a video recording and/or transcript of the hearing at which the finding of responsibility occurred.

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.

The OCRTIX will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official GVSU records, or emailed to the Parties' GVSU-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

VI. Appeal of the Determination

The OCRTIX will designate an Appeal Decision-Maker – either a three-member panel, an individual chosen from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-Maker(s) will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure challenge or dismissal appeal that may have been decided earlier in the process. If a panel is used, a voting chair will be designated by the OCRTIX.

A. Appeal Grounds

Appeals are limited to the following grounds:

1) A procedural irregularity that affected the outcome.
2) New evidence that could affect the outcome and that was not reasonably available at the time the determination regarding responsibility was made.
3) The OCRTIX, Investigator(s), or Decision-Maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific Complainant or Respondent that affected the outcome.
4) The Final Determination by OCRTIX in consultation with the Decision-Maker is substantially contrary to the weight of the evidence in the record (applicable to sanctions of suspension, expulsion, or termination, only).

B. Request for Appeal

Any party may submit a written request for appeal ("Request for Appeal") to the OCRTIX within three (3) business days of the delivery of the Notice of Outcome. All individuals involved in the Resolution Process must retain all relevant notes generated during the process until the closure of the appeal window or delivery of the Notice of Appeal Outcome letter, whichever is later.

The Request for Appeal will be forwarded to the Appeal Decision-Maker for consideration to determine if the request meets the 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 Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Decision-Maker, and the appealing party and their Advisor(s) will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the Request for Appeal meets the grounds in this Policy, then the Appeal Decision-Maker will notify all Parties and their Advisors, the OCRTIX, and, when appropriate, the Investigator(s) and/or the original Decision-Maker.

All other Parties and their Advisors, the OCRTIX, and, when appropriate, the Investigator(s) and/or the Decision-Maker will be provided a copy of the Request for Appeal with the approved grounds and then be given three (3) 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 Request for Appeal will be reviewed by the Appeal Decision-Maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the OCRTIX, and the Investigator(s) and/or original Decision-Maker, as necessary, who will submit their responses, if any, within three (3) 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 accordingly, in writing.

No party may submit any new Requests for Appeal 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.

C. Appeal Determination Process

In most cases, 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 only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. When the Decision-Maker is a panel, all decisions are made by majority vote and apply the preponderance of the evidence standard of proof.

An appeal is not an opportunity for the Appeal Decision-Makers 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 the OCRTIX and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The OCRTIX will maintain documentation of all such consultation.

D. 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 the OCRTIX (as in cases of bias), the Appeal Decision-Maker may order a new investigation and/or a new determination with new Pool members serving in the Investigator and Decision-Maker roles.

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

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official institutional records, or emailed to the Parties' GVSU-issued email or otherwise approved account. Once mailed, 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; 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 following a reconsideration, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new investigation and or new determination, that then has an outcome that is different from the originally appealed determination, that new determination can be appealed, once, on the grounds listed above and in accordance with these procedures.

E. Sanction Status During the Appeal

Unless otherwise approved by the OCRTIX, any sanctions imposed or responsive actions taken as a result of the 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.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed above) for a "show cause" meeting on the justification for doing so must be permitted within two (2) business days of implementation.

VI. Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the OCRTIX may implement additional long-term remedies or actions with respect to the Parties and/or GVSU community that are intended to stop the discrimination, harassment, and/or misconduct, remedy the effects, and prevent recurrence. The Title IX Coordinator is responsible for effective implementation of any remedial action.

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
- Education to the individual and/or the community
- 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.

As determined by the OCRTIX, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found.

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

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

VII. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms

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(s), including the Appeal Panel or 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 for any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from GVSU.

Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees, if instructed by OCRTIX to do so.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved as determined by the OCRTIX.

VIII. Revision of these Procedures

The OCRTIX will regularly review and update these procedures. GVSU reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

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

These procedures are retroactively effective **08-14-2020**, based on guidance from the Department of Education dated February 04, 2025.