

Title IX Sexual Harassment Policy

Effective 12/08/2023

I. POLICY STATEMENT

Consistent with McGaw's Notice of Nondiscrimination for its Graduate Medical Education Programs ("GME Programs") and the U.S. Department of Education's implementing regulations for Title IX of the Education Amendments of 1972 ("Title IX") (*see* 34 C.F.R. § 106 *et seq.*), McGaw prohibits Title IX Sexual Harassment that occurs within its Education Programs or Activities.

For purposes of this policy, Title IX Sexual Harassment includes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking.

McGaw trainees, McGaw employees or staff members, and other individuals associated with McGaw GME Programs who commit Title IX Sexual Harassment are subject to the full range of available discipline, including verbal reprimand; written reprimand; mandatory training, coaching, or counseling; mandatory monitoring; warning status; probationary status; suspension; termination or dismissal; physical restriction from McGaw property; cancellation of contracts; and any combination of the same.

McGaw will provide persons who have experienced Title IX Sexual Harassment ongoing remedies as reasonably necessary to restore or preserve access to McGaw's Education Programs or Activities.

II. SCOPE

This policy applies to Title IX Sexual Harassment that occurs within McGaw's Education Programs or Activities, and that is committed by a McGaw trainee, a McGaw employee or staff member, or any other individual associated with McGaw GME Programs.

Consistent with the U.S. Department of Education's implementing regulations for Title IX, this policy does not apply to Sexual Harassment that occurs outside the geographic boundaries of the United States, even if the Sexual Harassment occurs in McGaw's Education Programs or Activities. Sexual Harassment that occurs outside the geographic boundaries of the United States is governed by McGaw's Nondiscrimination Policy and will be addressed pursuant to the procedures contained in the Safe and Healthy Learning Environment Policy.

Complaints of other forms of sex discrimination and harassment are governed by McGaw's Nondiscrimination Policy and will be addressed pursuant to the Safe and Healthy Learning Environment Policy. In the event that multiple policies and procedures could apply in a particular situation, McGaw retains the discretion to determine how a particular situation will be addressed and will inform the parties involved of this determination.

III. KEY DEFINITIONS

- A.** “**Title IX Sexual Harassment**” is conduct on the basis of sex that constitutes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking.
- B.** “**Quid Pro Quo Sexual Harassment**” is the conditioning the provision of an aid, benefit (including but not limited to an evaluation), or service in relation to a McGaw’s Education Programs or Activities on an individual’s participation in unwelcome sexual conduct.
- C.** “**Hostile Environment Sexual Harassment**” is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person access to McGaw’s Education Programs or Activities.
- D.** “**Sexual Assault**” includes the sex offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape.¹
- 1.** “**Rape**” is the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. There is “carnal knowledge” if there is the slightest penetration of the vagina or penis by the sexual organ of the other person. Attempted Rape is included.
 - 2.** “**Sodomy**” is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
 - 3.** “**Sexual Assault with an Object**” is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia.
 - 4.** “**Fondling**” is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
 - 5.** “**Incest**” is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Illinois law.
 - 6.** “**Statutory Rape**” is sexual intercourse with a person who is under the statutory age of consent as defined by Illinois law.
- E.** “**Domestic Violence**” is felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a

¹ McGaw’s definition of “Sexual Assault” is mandated by federal regulations implementing Title IX of the Education Amendments of 1972. Those regulations require McGaw to adopt a definition of “Sexual Assault” that incorporates various forcible and non-forcible sex crimes as defined by the FBI’s Uniform Crime Reporting System. See 34 C.F.R. § 106.30(a).

child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under Illinois domestic or family violence laws, or by any other person against an adult or youth victim who is protected from that person's acts under Illinois domestic or family violence laws.

- F.** **“Dating Violence”** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship is determined based on a consideration of the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.
- G.** **“Stalking”** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.
- H.** **“Consent”** refers to words or actions that a reasonable person in the perspective of the Respondent would understand as agreement to engage in the sexual conduct at issue. A person who is Incapacitated is not capable of giving Consent.
- I.** **“Incapacitated”** refers to the state where a person does not appreciate the nature or fact of sexual activity because of a state of unconsciousness or sleep, a medical condition or disability, or the effect of drugs or alcohol consumption.
- J.** **“Retaliation”** is intimidation, threats, coercion, or adverse action taken against any individual for the purpose of interfering with any right or privilege secured by Title IX or because an individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or adjudication under this policy.
- K.** **“Complainant”** means an individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.
- L.** **“Respondent”** means an individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment.
- M.** **“Formal Complaint”** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that McGaw investigate the allegation of Title IX Sexual Harassment in accordance with this policy. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in McGaw's Education Programs or Activities. The document must contain the Complainant's physical or electronic signature or otherwise indicate that the Complainant is the person filing the complaint.
- N.** **“Supportive Measures”** are non-disciplinary, non-punitive individualized services offered, as appropriate, and reasonably available, and without fee or charge, that are designed to restore or preserve equal access to McGaw's Education Programs or Activities without unreasonably burdening another party. Supportive measures may include counseling, extensions of deadlines, program-related adjustments, modifications to work schedules, changes in work locations, leaves of absence, increased security and monitoring of certain

physical locations, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report.

- O. “Education Programs or Activities”** refers to all the operations of McGaw’s GME Programs that occur on property owned or occupied by McGaw. It also includes GME Program locations, events, or circumstances over which McGaw exercises substantial control over the Respondent and the context in which the Title IX Sexual Harassment occurs.

IV. UNDERSTANDING HOSTILE ENVIRONMENT SEXUAL HARASSMENT

In determining whether a hostile environment exists, McGaw will consider the totality of circumstances, including factors such as the actual impact the conduct has had on the Complainant; the nature and severity of the conduct at issue; the frequency and duration of the conduct; the relationship between the parties (including accounting for whether one individual has power or authority over the other); the context in which the conduct occurred; and the number of persons affected. McGaw will evaluate the totality of circumstances from the perspective of a reasonable person in the Complainant’s position. A person’s adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment.

Some specific examples of conduct that may constitute Title IX Sexual Harassment if unwelcome include, but are not limited to:

- Unreasonable pressure for a dating, romantic, or intimate relationship or sexual contact
- Unwelcome kissing, hugging, or massaging
- Sexual innuendos, jokes, or humor
- Displaying sexual graffiti, pictures, videos, or posters
- Using sexually explicit profanity
- Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities
- E-mail, internet, or other electronic use that violates this policy
- Leering or staring at someone in a sexual way, such as staring at a person’s breasts or groin
- Sending sexually explicit emails, text messages, or social media posts
- Commenting on a person’s dress in a sexual manner
- Giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship
- Insulting, demeaning, or degrading another person based on gender or gender stereotypes

V. REPORTING TITLE IX SEXUAL HARASSMENT

Any person may report any conduct that they believe does or may constitute Title IX Sexual Harassment to McGaw’s Title IX Coordinator. Reports may be made in person, by regular mail, telephone, email, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. In-person

reports must be made during normal business hours, but reports can be made by regular mail, telephone, or email at any time, including outside normal business hours.

The name and contact information for the Title IX Coordinator is:

Nancy Parlapiano
Executive Director of Graduate Medical Education
420 E. Superior, Suite 9-900
Chicago, IL 60611
n-parlapiano@northwestern.edu
(312) 503-4536

In addition to reporting to the Title IX Coordinator, any person may report Title IX Sexual Harassment to the Director of Diversity and Inclusion or an Assistant Designated Institutional Official (collectively "Reporting Officials") who must promptly forward such report of Title IX Sexual Harassment to the Title IX Coordinator.

McGaw Program Directors required to forward reports of Title IX Sexual Harassment to the Title IX Coordinator. All other employees are encouraged, but not required, to forward reports of Title IX Sexual Harassment to the Title IX Coordinator.

VI. PRELIMINARY ASSESSMENT

After receiving a report of Title IX Sexual Harassment, the Title IX Coordinator will conduct a preliminary assessment to determine:

- Whether the conduct, as reported, falls, or could fall, within the scope of this policy;
- Whether the conduct, as reported, constitutes, or could constitute, Title IX Sexual Harassment; and
- Whether to confer, and coordinate the review and processing of the report, with Northwestern University, the hospital at which any McGaw trainee or McGaw Education Programs or Activities relevant to the subject matter of the report is based, or any third-party training site relevant to the subject matter of the report.

If the Title IX Coordinator determines that the conduct reported could not fall within the scope of the policy, and/or could not constitute Title IX Sexual Harassment, even if investigated, the Title Coordinator will close the matter. The Title IX Coordinator may refer the report for resolution under a different policy or process, as appropriate.

If the Title IX Coordinator determines that the conduct reported could fall within the scope of the policy, and/or could constitute Title IX Sexual Harassment, if investigated, the Title IX Coordinator will proceed to contact the Complainant.

As part of the preliminary assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Complainant, if it is not apparent from the report.

In addition, as part of the preliminary assessment or at any other time, the Title IX Coordinator or designee may confer with any other institution or entity that employs or that has another relationship or affiliation with a Complainant or with a Respondent or potential Respondent (e.g., Northwestern University, Northwestern Memorial Hospital, Lurie Children's Hospital, Shirley Ryan AbilityLab) to determine whether another institution or entity will coordinate with McGaw or assume responsibility for investigating and/or resolving the report in conjunction with, on behalf of, or in lieu of McGaw.

VII. CONTACTING THE COMPLAINANT

If a report is not closed as a result of the preliminary assessment, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures; to discuss and consider the Complainant's wishes with respect to Supportive Measures; to inform the Complainant about the availability of Supportive Measures with or without filing a Formal Complaint; and to explain the process for filing and pursuing a Formal Complaint. The Complainant will also be provided options for filing complaints with the local police and information about resources that are available from McGaw and in the community.

VIII. SUPPORTIVE MEASURES

If a report is not closed as a result of the preliminary assessment, McGaw will offer and make available Supportive Measures to the Complainant regardless of whether the Complainant elects to file a Formal Complaint.

When the Respondent is notified of a Formal Complaint, the Title IX Coordinator will offer and make available Supportive Measures to the Respondent in the same manner it offers and makes them available to the Complainant. McGaw will also offer and make available Supportive Measures to the Respondent prior to the Respondent being notified of a Formal Complaint, if the Respondent requests such measures.

McGaw will maintain the confidentiality of Supportive Measures provided to either a Complainant or Respondent to the extent that maintaining such confidentiality does not impair McGaw's ability to provide the Supportive Measures in question.

IX. INTERIM REMOVAL

In the case of a Respondent who is a McGaw trainee, at any time after receiving a report of Title IX Sexual Harassment, the Title IX Coordinator may remove a trainee from one or more of McGaw's GME Programs on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any individual arising from the allegations of Title IX Sexual Harassment justifies removal. In the event the Title IX Coordinator imposes an interim removal, the Title IX Coordinator must offer to meet with the Respondent within twenty-four hours and provide the Respondent an opportunity to challenge the interim removal. This removal is not considered disciplinary action, suspension, or corrective action under McGaw's GME discipline or grievance processes.

In the case of a Respondent who is a non-trainee McGaw employee or staff member, and in its discretion, McGaw may place the Respondent on administrative leave at any time after receiving a report of Title IX Sexual Harassment, including during the pendency of the investigation and adjudication process.

For all other Respondents, including independent contractors and guests, McGaw retains broad discretion to prohibit such persons from entering its facilities or participating in McGaw GME Programs at any time, and for any reason, whether after receiving a report of Title IX Sexual Harassment or otherwise.

X. FORMAL COMPLAINT

A Complainant may file a Formal Complaint with the Title IX Coordinator requesting that McGaw investigate and adjudicate a report of Title IX Sexual Harassment in accordance with this policy and its procedures. Provided, however, that at the time the Complainant submits a Formal Complaint, the Complainant must be currently participating in, or attempting to participate in, one or more of McGaw's Education Programs or Activities.

A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by regular mail, or by email. Formal Complaints may not be anonymous, and no person may submit a Formal Complaint on the Complainant's behalf.

In any case, including a case where a Complainant elects not to file a Formal Complaint, the Title IX Coordinator may file a Formal Complaint on behalf of McGaw if doing so is not clearly unreasonable. Such action will normally be taken in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the McGaw community.

If the Complainant or the Title IX Coordinator files a Formal Complaint, then McGaw will commence an investigation and proceed to adjudicate the matter as specified below. In all cases where a Formal Complaint is filed, the Complainant will be treated as a party, irrespective of the party's level of participation.

In a case where the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

XI. CONSOLIDATION OF FORMAL COMPLAINTS

McGaw may consolidate Formal Complaints where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances. A Formal Complaint of Retaliation may be consolidated with a Formal Complaint of Title IX Sexual Harassment.

XII. DISMISSAL PRIOR TO COMMENCEMENT OF INVESTIGATION

In a case where the Complainant files a Formal Complaint, the Title IX Coordinator will evaluate the Formal Complaint and must dismiss it if the Title IX Coordinator determines:

- The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint falls outside the scope of the policy because the alleged conduct did not occur in McGaw's Education Programs or Activities.

In the event the Title IX Coordinator determines the Formal Complaint should be dismissed pursuant to this Section, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal. The Title IX Coordinator may refer the subject matter of the Formal Complaint for resolution under other policies and procedures, as appropriate.

XIII. NOTICE OF FORMAL COMPLAINT

Within five (5) days of the Title IX Coordinator receiving a Formal Complaint, the Title IX Coordinator will transmit a written notice to the Complainant and Respondent that includes:

- A physical copy of this policy or a hyperlink to this policy;
- Sufficient details known at the time so that the parties may prepare for an initial interview with the investigator, to include the identities of the parties involved in the incident (if known), the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the alleged incident (if known);
- A statement that the Respondent is presumed not responsible for the alleged Title IX Sexual Harassment and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal;

- Notifying the Complainant and Respondent of their right to be accompanied by an advisor of their choice.
- Notifying the Complainant and Respondent of their right to inspect and review evidence.
- Notifying the Complainant and Respondent of McGaw's prohibitions on retaliation and false statements.
- Information about resources that are available through McGaw and in the community.

Should McGaw elect, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, McGaw will provide a supplemental written notice describing the additional allegations to be investigated.

XIV. INVESTIGATION

A. Commencement and Timing

After the written notice of Formal Complaint is transmitted to the parties, an investigator (who may be an external investigator) selected by the Title IX Coordinator will undertake an investigation to gather evidence relevant to the alleged misconduct, including inculpatory and exculpatory evidence. The burden of gathering evidence sufficient to reach a determination in the adjudication lies with McGaw and not with the parties. The investigation will culminate in a written investigation report that will be submitted to the decision maker. Although the length of each investigation may vary depending on the totality of the circumstances, McGaw strives to complete each investigation within ninety (90) calendar days of the transmittal of the written notice of Formal Complaint.

B. Equal Opportunity

During the investigation, the investigator will provide an equal opportunity for the parties to be interviewed, to present witnesses (including fact and expert witnesses), and to present other inculpatory and exculpatory evidence. Notwithstanding the foregoing, the investigator retains discretion to limit the number of witnesses that will be interviewed if the investigator finds that testimony would be unreasonably cumulative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible, such as testimony concerning sexual history of the Complainant. The investigator will not restrict the ability of the parties to gather and present relevant evidence on their own.

The investigation is a party's opportunity to present testimonial and other evidence that the party believes is relevant to resolution of the allegations in the Formal Complaint. A party that is aware of and has a reasonable opportunity to present particular evidence and/or identify particular witnesses during the investigation, and elects not to, will be prohibited from introducing any such evidence during the adjudication absent a showing of mistake, inadvertence, surprise, or excusable neglect.

C. Documentation of Investigation

The investigator will take reasonable steps to ensure the investigation is documented. Interviews of the parties and witnesses may be documented by the investigator's notes, audio recorded, video recorded, or transcribed. The particular method utilized to record the interviews of parties and witnesses will be determined by the investigator in the investigator's sole discretion, although whatever method is chosen shall be used consistently throughout a particular investigation.

D. Access to the Evidence

At the conclusion of the evidence-gathering phase of the investigation, but prior to the completion of the investigation report, the investigator will transmit to each party and their advisor, in either electronic or hard copy form, all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including inculpatory or exculpatory evidence whether obtained from a party or some other source. Thereafter, the parties will have ten (10) days in which to submit to the investigator a written response, which the investigator will consider prior to completing the investigation report.

The parties and their advisors are permitted to review the evidence solely for the purposes of this grievance process and may not duplicate or disseminate the evidence to the public.

E. Investigation Report

After the period for the parties to provide any written response has expired, the investigator will complete a written investigation report that fairly summarizes the various steps taken during the investigation, summarizes the relevant evidence collected, lists material facts on which the parties agree, and lists material facts on which the parties do not agree. When the investigation report is complete, the investigator will transmit a copy to the Title IX Coordinator. The investigator will also transmit the investigation report to each party and their advisor, in either electronic or hard copy form.

XV. ADJUDICATION

The relevant Senior Associate Dean for Graduate Medical Education and Designated Institutional Official (“DIO”) or designee will render a determination of responsibility for the allegations in the Formal Complaint at the conclusion of the adjudication process. The Title IX Coordinator will provide the DIO with a copy of the investigation report and a copy of all evidence transmitted to the parties by the investigator.

A. Exchange of Questions

Upon receipt of the investigation report, the DIO will notify the parties of their opportunity to submit written, relevant questions that the party wants asked of the other party or any witness. Unless specified otherwise by the DIO, the questions must be submitted within five (5) days from the date of transmittal of the written notice.

The DIO will transmit the relevant questions submitted to each party and/or witness, who will have three (3) days to respond in writing. All answers submitted in response to the questions will be shared with the party who initially posed the question. That party will then have three (3) additional days to submit, in writing, any follow-up questions for the other party or witness.

All questions must be relevant to the allegations being investigated. Questions about the sexual history of the Complainant are generally impermissible and will be excluded unless they fall within one of the exceptions outlined in the “Sexual History” section of this Policy. The DIO will provide a written explanation to the relevant party of any decision to exclude a question.

The DIO will not draw an inference about the determination regarding responsibility based solely on a party or a witness’s refusal to respond to questioning.

B. Written Response to Investigation Report

At the conclusion of the exchange of questions, the DIO will notify the parties in writing of the opportunity and deadline to submit a written response to the investigation report. A party’s written response to the investigation report should include:

- To the extent the party disagrees with the investigation report, any argument or commentary regarding such disagreement;
- Any argument that evidence should be categorically excluded from consideration based on privilege, relevancy, the prohibition on the use of sexual history specified in “Sexual History,” or for any other reason;
- Argument regarding whether any of the allegations in the Formal Complaint are supported by a preponderance of the evidence; and
- Argument regarding whether any of the allegations in the Formal Complaint constitute Title IX Sexual Harassment.

C. Deliberation and Determination

The DIO will objectively evaluate all relevant evidence collected during the investigation and adjudication, including both inculpatory and exculpatory evidence, and ensure that any credibility determinations made are not based on a person’s status as a Complainant, Respondent, or witness. The DIO will take care to exclude from consideration any evidence that was ruled inadmissible. The DIO will resolve disputed facts using a preponderance of the evidence (that is, “more likely than not”) standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the policy as alleged in the Formal Complaint.

D. Discipline and Remedies

In the event the DIO determines that a resident or fellow is responsible for violating this policy, the DIO will, prior to issuing a written decision, consult with the relevant Program Director to determine the appropriate sanction and initiate the applicable GME policy and procedures to finalize the disciplinary action. For all other Respondents, the DIO will, prior to issuing a written decision, consult with an appropriate McGaw official with disciplinary authority over the Respondent and such official will determine any discipline, sanction, or other corrective action to be imposed.²

The DIO will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing support measures or other remedies will be provided to the Complainant.

1. Written Decision

After reaching a determination and consulting with the appropriate McGaw official and Title IX Coordinator, the DIO will prepare a written decision that will include:

- Identification of the allegations potentially constituting Title IX Sexual Harassment made in the Formal Complaint;
- A description of the procedural steps taken by McGaw upon receipt of the Formal Complaint, through issuance of the written decision, including notification to the parties, interviews with the parties and witnesses, and the methods used to gather non-testimonial evidence.

² Individuals who are not employed by McGaw may not be subject to disciplinary action under McGaw policies but may have their participation in McGaw GME Programs restricted or terminated if there is a finding that a policy violation occurred.

- Findings of fact, made under a preponderance of the evidence standard, that support the determination;
- A statement of, and rationale for, each allegation that constitutes a separate potential incident of Title IX Sexual Harassment, including a determination regarding responsibility for each separate potential incident;
- The discipline to be imposed (where applicable);
- Whether the Complainant will receive any ongoing support measures or other remedies as determined by the Title IX Coordinator; and
- A description of McGaw's process and grounds for appeal.

The DIO's written determination will be transmitted to the parties. Transmittal of the written determination to the parties concludes the adjudication process, subject to any right of appeal.

Although the length of each adjudication will vary depending on the totality of the circumstances, McGaw strives to issue the DIO's written determination within fourteen (14) days after the exchange of questions and receipt of written responses to the investigation report.

XVI. DISMISSAL DURING INVESTIGATION OR ADJUDICATION

McGaw shall dismiss a Formal Complaint at any point during the investigation or adjudication process if the Title IX Coordinator determines that one or more of the following is true:

- The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint falls outside the scope of the policy because the alleged conduct did not occur in McGaw's Education Programs or Activities.

McGaw may dismiss a Formal Complaint at any point during the investigation or adjudication process if the Title IX Coordinator determines that any one or more of the following is true:

- The Complainant provides the Title IX Coordinator written notice that the Complainant wishes to withdraw the Formal Complaint or any discrete allegations therein (in which case those discrete allegations may be dismissed);
- The Respondent is no longer employed by McGaw or participating in a McGaw GME Program; or
- Specific circumstances prevent McGaw from gathering evidence sufficient to reach a determination as to the Formal Complaint, or any discrete allegations therein (in which case those discrete allegations may be dismissed).

In the event the Title IX Coordinator dismisses a Formal Complaint pursuant to this Section, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal. The Title IX Coordinator may refer the subject matter of the Formal Complaint for resolution under other policies and procedures, as appropriate.

XVII. APPEAL

Either party may appeal the determination of an adjudication, or a dismissal of a Formal Complaint, on one or more of the following grounds:

- A procedural irregularity affected the outcome;
- There is new evidence that was not reasonably available at the time the determination or dismissal was made, that could have affected the outcome;
- The Title IX Coordinator, investigator, or DIO had a conflict of interest or bias for or against complainants or respondents generally, or against the individual Complainant or Respondent, that affected the outcome.

No other grounds for appeal are permitted.

A party must file an appeal within seven (7) days of the date they receive notice of dismissal or determination appealed from or, if the other party appeals, within three (3) days of the other party appealing, whichever is later. The appeal must be submitted in writing to the President of McGaw, who serves as the appeal officer. The appeal must specifically identify the determination and/or dismissal appealed from, articulate which one or more of the three grounds for appeal are being asserted, explain in detail why the appealing party believes the appeal should be granted, and articulate what specific relief the appealing party seeks.

Promptly upon receipt of an appeal, the appeal officer will conduct an initial evaluation to confirm that the appeal is timely filed and that it invokes at least one of the permitted grounds for appeal. If the appeal officer determines that the appeal is not timely, or that it fails to invoke a permitted ground for appeal, the appeal officer will dismiss the appeal and provide written notice of the same to the parties.

If the appeal officer confirms that the appeal is timely and invokes at least one permitted ground for appeal, the appeal officer will provide written notice to the other party that an appeal has been filed and that the other party may submit a written opposition to the appeal within seven (7) days. The appeal officer shall also promptly obtain from the Title IX Coordinator any records from the investigation and adjudication necessary to resolve the grounds raised in the appeal.

Upon receipt of any opposition, or after the time period for submission of an opposition has passed without one being filed, the appeal officer will promptly decide the appeal and transmit a written decision to the parties that explains the outcome of the appeal and the rationale.

The determination of a Formal Complaint, including any discipline, becomes final when the time for appeal has passed with no party filing an appeal or, if any appeal is filed, at the point when the appeal officer has resolved all appeals, either by dismissal or by transmittal of a written decision.

No further review beyond the appeal is permitted.

Although the length of each appeal will vary depending on the totality of the circumstances, McGaw strives to issue the appeal officer's written decision within (21) calendar days of an appeal being filed.

XVIII. ADVISOR OF CHOICE

From the point a Formal Complaint is made, and until an investigation, adjudication, and appeal are complete, the Complainant and Respondent will have the right to be accompanied by an advisor of their choice to all meetings and interviews that are part of the investigation, adjudication, and appeal process. The advisor may be, but is not required to be, an attorney.

The advisor will play a passive role and is not permitted to communicate on behalf of a party, insist that communication flow through the advisor, or communicate with McGaw about the matter without the party being included in the communication. In the event a party's advisor of choice engages in material violation of the parameters specified in this Section, McGaw may preclude the advisor from further participation, in which case the party may select a new advisor of their choice.

XIX. TREATMENT RECORDS AND OTHER PRIVILEGED INFORMATION

During the investigation and adjudication processes, the investigator and/or DIO are not permitted to access, consider, disclose, permit questioning concerning, or otherwise use the following unless McGaw has obtained the party's voluntary, written consent to do so for the purposes of the investigation and adjudication process:

- A party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party; or
- Information or records protected from disclosure by any other legally-recognized privilege, such as the attorney client privilege;

Notwithstanding the foregoing, the investigator and/or DIO may consider any such records or information otherwise covered by this Section if the party holding the privilege affirmatively discloses the records or information to support their allegation or defense.

XX. SEXUAL HISTORY

During the investigation and adjudication processes, questioning regarding a Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. Notwithstanding the foregoing, a Complainant who affirmatively uses information otherwise considered irrelevant by this Section for the purpose of supporting the Complainant's allegations, may be deemed to have waived the protections of this Section.

XXI. INFORMAL RESOLUTION

At any time after the parties are provided written notice of the Formal Complaint and before the completion of any appeal, the parties may voluntarily consent, with the Title IX Coordinator's approval, to engage in mediation, facilitated resolution, or other form of dispute resolution, the goal of which is to enter into a final resolution resolving the allegations raised in the Formal Complaint by agreement of the parties.

The specific manner of any informal resolution process will be determined by the parties and the Title IX Coordinator, in consultation together. Prior to commencing the informal resolution process agreed upon, the Title IX Coordinator will transmit a written notice to the parties that:

- Describes the parameters and requirements of the informal resolution process to be utilized;
- Identifies the individual responsible for facilitating the informal resolution (who may be the Title IX Coordinator, another McGaw official, or a suitable third-party);

- Explains the effect of participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations at issue in the Formal Complaint; and
- Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.

After receiving the written notice specified in this paragraph, each party must voluntarily provide written consent to the Title IX Coordinator, before the informal resolution may commence.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur are stayed and all related deadlines are suspended.

If the parties reach a resolution through the informal resolution process, and the Title IX Coordinator agrees that the resolution is not clearly unreasonable, the Title IX Coordinator will reduce the terms of the agreed resolution to writing and present the resolution to the parties for their written signature. Once both parties and the Title IX Coordinator sign the resolution, the resolution is final, and the allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by McGaw, except as otherwise provided in the resolution itself, absent a showing that a party induced the resolution by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to McGaw. Informal resolution pursuant to this Section is not subject to appeal.

A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized.

Absent extension by the Title IX Coordinator, any informal resolution process must be completed within twenty-one (21) days. If an informal resolution process does not result in a resolution within twenty-one (21) days, and absent an extension, abeyance, or other contrary ruling by the Title IX Coordinator, the informal resolution process will be deemed terminated, and the Formal Complaint will be resolved pursuant to the investigation and adjudication procedures. The Title IX Coordinator may adjust any time periods or deadlines in the investigation and/or adjudication process that were suspended due to the informal resolution.

Other language in this Section notwithstanding, informal resolution will not be permitted if the Respondent is a non-trainee employee accused of committing Title IX Sexual Harassment against a student.

XXII. PRESUMPTION OF NON-RESPONSIBILITY

From the time a report or Formal Complaint is made, a Respondent is presumed not responsible for the alleged misconduct until a determination regarding responsibility is made final.

XXIII. RESOURCES

Any individual affected by or accused of Title IX Sexual Harassment will have equal access to support services offered through McGaw. McGaw encourages any individual who has questions or concerns to seek support from McGaw identified resources. The Title IX Coordinator is available to provide information about McGaw's policy and procedure and to provide assistance. A list of McGaw identified resources is located on the McGaw website: <https://www.mcgaw.northwestern.edu/>.

XXIV. CONFLICTS OF INTEREST, BIAS, AND PROCEDURAL COMPLAINTS

The Title IX Coordinator, investigator, DIO, appeals officer, and informal resolution facilitator will be free of any material conflicts of interest or material bias. Any party who believes one or more of these McGaw

officials has a material conflict of interest or material bias must raise the concern promptly so that McGaw may evaluate the concern and find a substitute, if appropriate. The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal or otherwise.

XXV. RELATIONSHIP WITH CRIMINAL PROCESS

This policy sets forth McGaw's processes for responding to reports and Formal Complaints of Title IX Sexual Harassment. McGaw's processes are separate, distinct, and independent of any criminal processes. While McGaw may temporarily delay its processes under this policy to avoid interfering with law enforcement efforts if requested by law enforcement, McGaw will otherwise apply this policy and its processes without regard to the status or outcome of any criminal process.

XXVI. RECORDINGS

Wherever this policy specifies that an audio or video recording will be made, the recording will be made only by McGaw and is considered property of McGaw, subject to any right of access that a party may have under this policy and other applicable federal, state, or local laws. Only McGaw is permitted to make audio or video recordings under this policy. The surreptitious recording of any meeting, interview, or other interaction contemplated under this policy is strictly prohibited.

XXVII. VENDORS, CONTRACTORS AND THIRD PARTIES

McGaw does business with various vendors, contractors, and other third parties who are not employees of McGaw. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under this policy, McGaw retains its right to limit any vendor, contractor, or third-party's access to its facilities for any reason. And McGaw retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under this policy.

XXVIII. BAD FAITH COMPLAINTS AND FALSE INFORMATION

It is a violation of this policy for any person to submit a report or Formal Complaint that the person knows, at the time the report or Formal Complaint is submitted, to be false or frivolous. It is also a violation of this policy for any person to knowingly make a materially false statement during the course of an investigation, adjudication, or appeal under this policy. Violations of this Section are not subject to the investigation and adjudication processes in this policy; instead, they will be addressed under other applicable McGaw policies and standards.

XXIX. RETALIATION

It is a violation of this policy to engage in Retaliation. Reports and Formal Complaints of retaliation may be directed to the Title IX Coordinator. Any report or Formal Complaint of Retaliation will be processed under this policy in the same manner as a report or Formal Complaint of Title IX Sexual Harassment. McGaw retains the discretion to consolidate a Formal Complaint of Retaliation with a Formal Complaint of Title IX Sexual Harassment for investigation and/or adjudication purposes if the two Formal Complaints share a common nexus.

XXX. CONFIDENTIALITY

McGaw will keep confidential the identity of any individual who has made a report or Formal Complaint of Title IX Sexual Harassment or Retaliation, including any Complainant, the identity of any individual who has been reported to be a perpetrator of Title IX Sexual Harassment or Retaliation including any Respondent, and the identity of any witness. McGaw will also maintain the confidentiality of its various records generated in response to reports and Formal Complaints, including, but not limited to, information concerning Supportive

Measures, notices, investigation materials, adjudication records, and appeal records. Notwithstanding the foregoing, McGaw may reveal the identity of any person or the contents of any record if permitted by privacy laws, if necessary to carry out McGaw's obligations under Title IX and its implementing regulations, including the conduct of any investigation, adjudication, or appeal under this policy or any subsequent judicial proceeding, or as otherwise required by law. Further, notwithstanding McGaw's general obligation to maintain confidentiality as specified herein, the parties to a report or Formal Complaint will be given access to investigation and adjudication materials in the circumstances specified in this policy.

While McGaw will maintain confidentiality specified in this Section, McGaw will not limit the ability of the parties to discuss the allegations at issue in a particular case. Parties are advised, however, that the manner in which they communicate about, or discuss a particular case, may constitute Title IX Sexual Harassment or Retaliation in certain circumstances and be subject to discipline pursuant to the processes specified in this policy.

XXXI. OTHER VIOLATIONS OF THIS POLICY

Alleged violations of this policy, other than violations of the prohibitions on Title IX Sexual Harassment and Retaliation, will be subject to review under other McGaw policies and standards.

XXXII. DEADLINES, NOTICES, AND METHOD OF TRANSMITTAL

All deadlines and other time periods specified in this policy are subject to modification by McGaw where, in McGaw's sole discretion, good cause exists. Good cause may include, but is not limited to, the unavailability of parties or witnesses; the complexities of a given case; extended holidays or closures; illness of the investigator, adjudicator, or the parties; the need to consult with McGaw's legal counsel; unforeseen weather events; and the like.

Any party who wishes to seek an extension of any deadline may do so by filing a request with the Title IX Coordinator. Such request must state the extension sought and explain what good cause exists for the requested extension. Whether to grant such a requested extension will be in the sole discretion of McGaw.

The parties will be provided written notice of the modification of any deadline or time period specified in this policy, along with the reasons for the modification.

Unless otherwise specified in this policy, the default method of transmission for all notices, reports, responses, and other forms of communication specified in this policy will be email using McGaw email addresses. A party is deemed to have received notice upon transmittal of an email to their McGaw email address.

XXXIII. TRAINING

McGaw will ensure that McGaw officials acting under this policy, including but not limited to the Title IX Coordinator, investigators, DIO, informal resolution facilitators, and appeals officers receive training in compliance with 34 C.F.R. § 106.45(b)(1)(iii) and any other applicable federal or state law.

XXXIV. RECORDKEEPING

McGaw will retain those records specified in 34 C.F.R. § 106.45(b)(10) for a period of seven years after which point in time they may be destroyed, or continue to be retained, in McGaw's sole discretion. The records specified in 34 C.F.R. § 106.45(b)(10) will be made available for inspection, and/or published, to the extent required by 34 C.F.R. § 106.45(b)(10) and consistent with any other applicable federal or state law, including FERPA.

