

# Title IX Nondiscrimination Policy and Notice of Nondiscrimination

New Mexico Junior College (“NMJC”) does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

Inquiries about Title IX may be referred to:

- (i) NMJC’s Title IX Coordinator:  
Cathy Mitchell Title IX Coordinator  
Ben Alexander Student Learning Center  
1 Thunderbird Circle Hobbs, New Mexico 88240  
Telephone: (575)631-6999  
Email: [cmitchell@nmjc.edu](mailto:cmitchell@nmjc.edu)

or

- (ii) U.S. Department of Education’s Office for Civil Rights:  
U.S. Department of Education  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Building  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Telephone: 800-421-3481  
FAX: 202-453-6012; TDD: 800-877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

NMJC’s nondiscrimination policy and grievance procedures can be located at [NMJC Title IX Policy.pdf](#).

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to the link on the NMJC website [Sexual Harassment / Assault Reporting Form \(may be anonymous\) \(maxient.com\)](#) or contact NMJC’s Title IX Coordinator as set forth above.

## Mandated Reporting and Confidential Employees

All NMJC faculty and employees (including student-employees), other than those deemed Confidential Employees, are Mandated Reporters and are expected to promptly report all known details of actual or suspected discrimination, harassment, and/or retaliation to appropriate officials immediately, although there are some limited exceptions. Supportive measures may be offered as the result of such disclosures without formal NMJC action.

Complainants may want to carefully consider whether they share personally identifiable details with Mandated Reporters, as those details must be shared with the Title IX Coordinator.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or Policy violations, and these employees will immediately pass Notice to the Title IX Coordinator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

The following sections describe NMJC's reporting options for a Complainant or third party (including parents/guardians when appropriate):

#### Confidential Employees

To enable Complainants to access support and resources without filing a Complaint, NMJC has designated specific employees as Confidential Resources. Those designated by NMJC as Confidential Resources are not required to report actual or suspected discrimination, harassment, or retaliation in a way that identifies the Parties. They will, however, provide the Complainant with the Title IX Coordinator's contact information and offer options and resources without any obligation to inform an outside agency or NMJC official unless a Complainant has requested the information be shared.

There are three categories of Confidential Employees: 1) Those with confidentiality bestowed by law or professional ethics, such as lawyers, medical professionals, clergy, and counselors; 2) Those whom NMJC has specifically designated as confidential for purposes of providing support and resources to the Complainant; and 3) Those conducting human subjects research as part of a study approved by NMJC's Institutional Review Board (IRB). For those in category 1), above, to be able to respect confidentiality, they must be in a confidential relationship with the person reporting, such that they are within the scope of their licensure, professional ethics, or confidential role at the time of receiving the Notice. These individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor, elder, or individual with a disability, or when required to disclose by law or court order.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the following Confidential Employees:

#### Confidential Employees

Kelly Rueda- Dean of Student Outreach, Advancement, and Resources (SOAR)  
Ben Alexander Student Center Room 115  
New Mexico Junior College  
1 Thunderbird Circle  
Hobbs, New Mexico 88240  
[krueda@nmjc.edu](mailto:krueda@nmjc.edu)  
(575)492-2576

Cyndi Stephenson-Counselor  
Ben Alexander Student Center Room 111  
New Mexico Junior College  
1 Thunderbird Circle  
Hobbs, New Mexico 88240  
cstephenson@nmjc.edu  
(575)492-2574

Employees who have confidentiality as described above, and who receive Notice within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, or patient.

Failure of a Mandated Reporter, as described above in this section, to report an incident of discrimination, harassment, or retaliation of which they become aware is a violation of NMJC Policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a harasser is a Mandated Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this Policy.

A Mandated Reporter who is themselves a target of harassment or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

In addition, Complainants may speak with individuals unaffiliated with NMJC without concern that Policy will require them to disclose information to the institution without permission:

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

## Jurisdiction

This Policy applies to NMJC's education programs and activities (defined as including locations, events, or circumstances in which NMJC exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where NMJC has disciplinary authority, and to misconduct occurring within any building owned or controlled by a NMJC-recognized student organization.

This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to NMJC's education program or activities.

For disciplinary action to be issued under this Policy, the Respondent must be a NMJC faculty member, student, or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of NMJC community, the Title IX Coordinator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). NMJC can also assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

All vendors serving NMJC through third-party contracts are subject to the policies and procedures of their employers and/or to these Policies and procedures if their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences sex discrimination in an externship, study abroad program, or other environment external to NMJC where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Title IX Coordinator if brought to their attention.

## Supportive Measures

NMJC will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged discrimination, harassment, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to NMJC's education program or activity, including measures designed to protect the safety of all Parties and/or NMJC's educational environment and/or to deter discrimination, harassment, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the Parties upon receiving Notice/Knowledge or a Complaint. At the time that supportive measures are offered, if a Complaint has not been filed, NMJC will inform the Complainant, in writing, that they may file a Complaint with NMJC either at that time or in the future. The Title IX Coordinator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

NMJC will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair NMJC's ability to provide those supportive measures. NMJC will act to ensure as minimal an academic/occupational impact on the Parties as possible. NMJC will implement measures in a way that does not unreasonably burden any party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact limitations (no contact orders) between the Parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

The Parties are provided with a timely opportunity to seek modification or reversal of NMJC's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the definition of supportive measures in the Federal Title IX Regulations. NMJC will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances change materially. NMJC typically renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted party(ies) and the Title IX Coordinator.

## Standard of Proof

NMJC uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that NMJC will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s).

## Reports/Complaints of Sex Discrimination, Sex-based harassment, and/or Retaliation

A Report provides notice to NMJC of an allegation or concern about sex discrimination, sex-based harassment, or retaliation and provides an opportunity for the Title IX Coordinator to provide information, resources, and supportive measures. A Complaint provides notice to NMJC that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Complaint. Reports or Complaints of discrimination, sex-based harassment, and/or retaliation may be made by filing Complaint with, or giving verbal Notice directly to, the Title IX Coordinator. Such a Complaint may be made at any time (including during non-business hours) by using the telephone number, email address, or by mail to the office of the Title IX Coordinator or by reporting online at [Sexual Harassment / Assault Reporting Form \(may be anonymous\) \(maxient.com\)](#)

Reporting carries no obligation to initiate a Complaint, and in most situations, NMJC can respect a Complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where NMJC may need to initiate a resolution process. If a Complainant does not wish to file a Complaint, NMJC will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice that allows NMJC to discuss and/or provide supportive measures, in most circumstances.

### Time Limits on Reporting

There is no time limitation on providing Notice/Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to NMJC's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

Acting on Notice/Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Title IX Coordinator's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

### False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official investigating or resolution process can be subject to discipline under appropriate NMJC policies.

## Confidentiality/Privacy

NMJC makes every effort to preserve the Parties' privacy. NMJC will not share the identity of any individual who has made a Complaint of sex-based harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of discrimination, sex-based harassment, or retaliation; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures.

## Unauthorized Disclosure of Information

Parties and Advisors are prohibited from unauthorized disclosure of information obtained by NMJC through the Resolution Process, to the extent that information is the work product of NMJC (meaning it has been produced, compiled, or written by NMJC for purposes of its investigation and resolution of a Complaint). It is also a violation of NMJC Policy to publicly disclose work product or a party's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

## Emergency Removal/Interim Actions/Leaves

NMJC can act to remove a student Respondent accused of Sex discrimination or Sex-based Harassment from its education program or activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator and may be done in conjunction with the CARE Team, and/or Campus Safety and/or Counseling and/or the Dean of Students and/or Human Resources, if the alleged incident involves an employee using standard objective violence risk assessment procedures. Employees are subject to existing procedures for interim actions and leaves.

## Independence and Conflicts of Interest

The Title IX Coordinator acts with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. The members of the Resolution Pool are vetted and trained to ensure they are not biased for or against any party in a specific Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or sex discrimination by the Title IX Coordinator, contact the NMJC President. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Resolution Pool member should be raised with the Title IX Coordinator.

## Revision of this Policy and Procedures

This Policy succeeds previous policies addressing Title IX sex discrimination, sex-based harassment, and/or retaliation, though previous policies and procedures remain in force for incidents occurring before August 1, 2024. The Title IX Coordinator reviews and updates these policies and procedures regularly. NMJC reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If government 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 government laws, regulations, or court holdings.

This Policy and the accompanying procedures do not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

## **RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF TITLE IX POLICY (Hereinafter the “Resolution Process”)**

### Overview

NMJC will act on any Notice, Complaint, or Knowledge of a potential violation of the Policy that is received by the Title IX Coordinator or any other Mandated Reporter by applying the Resolution Process below.

### Notice/Complaint

Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, the Title IX Coordinator, or the Title IX Coordinator’s designee will initiate a prompt initial evaluation to determine NMJC’s next steps. The Title IX Coordinator will contact the Complainant/source of the Notice to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

### Collateral Misconduct

Collateral misconduct is defined to include potential violations of other NMJC 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 charges. 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 Title IX Coordinator may consult with NMJC officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of Title IX Coordinator. 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 staff handbooks.

### Initial Evaluation

The Title IX Coordinator conducts an initial evaluation typically within seven (7) business days of receiving Notice/Complaint/Knowledge of alleged misconduct.<sup>1</sup> The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.

---

<sup>1</sup> If circumstances require, the President of NMJC or Title IX Coordinator will designate another person to oversee the Resolution Process should an allegation be made about the Title IX Coordinator or the Title IX Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

- If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
- Determining whether NMJC has jurisdiction over the reported conduct, as defined in the Policy.
  - If the conduct is not within NMJC jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate NMJC office for resolution.
- Offering and coordinating supportive measures for the Complainant.
- Offering and coordinating supportive measures for the Respondent, as applicable.
- Notifying the Complainant, or the person who reported the allegation(s), of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
- Determining whether the Complainant wishes to make a Complaint.
- Notifying the Respondent of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.

### *Helping a Complainant to Understand Options*

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), the Title IX Coordinator will help to facilitate the Complaint, which will include:

- Working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:
  - a supportive and remedial response, and/or
  - Informal Resolution, or
  - the Resolution Process described below.

The Title IX Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

If the Complainant elects for the Resolution Process below, and the Title IX Coordinator has determined the Policy applies and that NMJC has jurisdiction, they will route the matter to the appropriate Resolution Process, will provide the Parties with a Notice of Investigation and Allegation(s), and will initiate an investigation consistent with these Procedures.

If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option, the Title IX Coordinator will assess whether the matter is suitable for Informal Resolution and refer the matter, accordingly.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Title IX Coordinator), though the Complainant can elect to initiate one later, if desired.

### ***Title IX Coordinator Authority to Initiate a Complaint***

If the Complainant does not wish to file a Complaint, the Title IX Coordinator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. To make this determination, the Title IX Coordinator will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if NMJC cannot ensure equal access without initiating a Complaint. The Title IX Coordinator will consider the following non-exhaustive factors to determine whether to file a Complaint:

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

If deemed necessary, the Title IX Coordinator may consult with appropriate NMJC employees, and/or conduct a violence risk assessment to aid their determination whether to initiate a Complaint.

When the Title IX Coordinator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

### **Dismissal**

NMJC **may** dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

- 1) NMJC is unable to identify the Respondent after taking reasonable steps to do so
- 2) NMJC no longer enrolls or employs the Respondent

- 3) A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Title IX Coordinator declines to initiate a Complaint
- 4) NMJC determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven

A Decision-maker can recommend dismissal to the Title IX Coordinator, if they believe the grounds are met. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Upon any dismissal, NMJC 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, NMJC will also notify the Respondent of the dismissal.

This dismissal decision is appealable by any party.

## Appeal of 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 filed within three (3) business days of the notification of the dismissal.

The Title IX Coordinator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Title IX Coordinator must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, NMJC 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;
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal; and
- Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

- 1) Procedural irregularity that would change the outcome;
- 2) New evidence that would change the outcome and that was not reasonably available when the dismissal was decided;
- 3) The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.
- 4) The dismissal was erroneously granted or denied.

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

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Dismissal Appeal Officer, and the Parties, their Advisors, and the Title IX Coordinator 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 Title IX Coordinator, of their decision and rationale in writing. The effect will be to reinstate the Complaint.

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 Dismissal Appeal Officer has seven (7) business days to review and decide on the appeal, though extensions can be granted at the discretion of the Title IX Coordinator, 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 Title IX Coordinator and/or legal counsel on questions of procedure or rationale for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultation.

## Emergency Removal/Interim Suspension of a Student

NMJC may emergency remove a student accused of Sex discrimination or Sex-based Harassment upon receipt of Notice/Knowledge, a Complaint, or at any time during the resolution process. Prior to an emergency removal, NMJC will conduct an individualized 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 sex discrimination justifies such action.

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 Title IX Coordinator 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/action 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 the Title IX Coordinator determines it is equitable to do so.

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 Title IX Coordinator for review.

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 Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

## Placing an Employee on Leave

When the Respondent is an employee, or a student employee accused of misconduct in the course of their employment, existing provisions contained in the NMJC Employee Handbook for interim action are typically applicable instead of the above emergency removal process.

## Counter-Complaints

NMJC is obligated to ensure that the resolution process is not abused for retaliatory purposes. Although NMJC permits the filing of Counter-Complaints, the Title IX Coordinator 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. At the Title IX Coordinator's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

## Advisors in the Resolution Process

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings and interviews within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.

The Title IX Coordinator will offer to assign a trained Advisor to any party if the party chooses. If the Parties choose an Advisor from the pool available from NMJC, NMJC will have trained the Advisor and familiarized them with NMJC's Resolution Process.

NMJC 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, NMJC 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 Title IX Coordinator 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.

NMJC may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Title IX Coordinator. The decision to grant this request is at the Title IX Coordinator's sole discretion and 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, NMJC will agree to copy both the party and their Advisor on all 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 Mandated Reporter responsibilities.

## 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.

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.

## Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report that accurately summarizes this evidence.

Advisors are expected to maintain the confidentiality of the records NMJC shares with them, as set forth in this Policy and as required by applicable law. Advisors may not disclose any NMJC work product or evidence NMJC obtained solely through the Resolution Process for any purpose not explicitly authorized by NMJC.

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

## Advisor Expectations

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

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

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

## 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 refuses to comply with NMJC's established rules of decorum, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview may be ended, or other appropriate measures implemented, including NMJC requiring the party to use a different Advisor or providing a different NMJC-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

## Resolution Option Overview

This Resolution Process, consisting of Informal Resolution or Administrative Resolution, is NMJC's chosen approach to addressing all forms of sex discrimination, sex-based harassment, and retaliation. The process considers the Parties' preferences but is ultimately determined at the Title IX Coordinator's discretion.

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 NMJC Policy.

## Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a final determination, or the Title IX Coordinator may offer the option to the Parties, in writing. NMJC 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.

Before initiation of an Informal Resolution process, NMJC will provide the Parties with a NOIA 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 NMJC'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; and
- What information NMJC will maintain, and whether and how it could disclose such information for use in its Resolution Process.

NMJC offers four categories of Informal Resolution:

- 1) **Supportive Resolution.** When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.
- 2) **Educational Conversation.** When the Title IX Coordinator 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.
- 3) **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 NMJC are agreeable to the resolution terms.
- 4) **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 an Administrative Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Administrative 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 Administrative Resolution Process, should Informal Resolution not be successful, unless agreed to by all Parties.

If an investigation is already underway, the Title IX Coordinator 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.

### Categories of Informal Resolution

#### Supportive Resolution

The Title IX Coordinator will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to NMJC'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 the NOIA, the Title IX Coordinator may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Title IX Coordinator does not initiate a Complaint.

#### Educational Conversation

The Complainant(s) may request that the Title IX Coordinator 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. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent's decision not to attend, the Title IX Coordinator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of recurrence of any behaviors that may not align with Policy.

#### 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 Title IX Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Title IX Coordinator will determine whether all Parties and NMJC are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of NMJC Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate Title IX Coordinator(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 either continue or resume.

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

## 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 Title IX Coordinator or other appropriate NMJC 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 Title IX Coordinator may consider the following factors to assess whether Alternative Resolution is appropriate, or which form of Alternative Resolution may be most successful for the Parties:

- The Parties' amenability to Alternative Resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties

- Results of a violence risk assessment/ongoing risk analysis
- Respondent’s disciplinary history
- Whether 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, etc.)

The Title IX Coordinator 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 Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the institution’s compliance obligations in addition to the Alternative Resolution.

The Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the Agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the Agreement, etc.). The results of Complaints resolved by Alternative Resolution are not appealable.

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

## Resolution Process Pool

The Resolution Process relies on a pool of Title IX trained parties, which may include external trained parties (“the Pool”) to carry out the process.

### Pool Member Roles

Members of the Pool are trained annually, and can serve in the following roles, at the discretion of the Title IX Coordinator:

- 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

## Pool Member Appointment

The Title IX Coordinator 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, NMJC can also designate permanent roles for individuals in the Pool.

## Notice of Investigation and Allegations

Prior to an investigation, the Title IX Coordinator will provide the Parties with a detailed written Notice of Investigation and Allegations (“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/program head for the area/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 identify to the Title IX Coordinator, in advance of the interview process, any conflict of interest that the Investigator(s) may have
- A statement that NMJC 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
- 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 NMJC 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 NMJC'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 during the Resolution Process
- A link to NMJC's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations

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

## Resolution Timeline

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

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on 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, NMJC 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 participate in the Resolution Process.

NMJC may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to delay the investigation temporarily, NMJC breaks or holiday breaks, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. NMJC will promptly resume its Resolution Process as soon as feasible. During such a delay, NMJC will implement and maintain supportive measures for the Parties as deemed appropriate.

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

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

### Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator, 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 Title IX Coordinator will vet the assigned Investigator(s), Decision-maker(s), and Appeals officers 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 Title IX Coordinator 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 Title IX Coordinator, concerns should be raised with the President of NMJC.

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 solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

### Investigator Appointment

Once an investigation is initiated, the Title IX Coordinator 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 NMJC's community.

### Witness Role and Participation in the Investigation

Employees (not including Complainant and Respondent) are required to cooperate with and participate in NMJC's investigation and Resolution Process. Student witnesses and witnesses from outside NMJC community cannot be required to participate but are encouraged to cooperate with NMJC 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, etc.), or, in limited circumstances, by telephone. NMJC will take appropriate steps to ensure the security/privacy of remote interviews.

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

## Interview Recording

It is standard practice for Investigators to create record of all interviews pertaining to the Resolution Process (other than Informal Resolution meetings). 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. If an Investigator(s) elects to audio and/or video record interviews, all involved individuals should be made aware of audio and/or video recording.

All interviews are recorded. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may pose additional questions to each other. Those subsequent meetings or interviews are also recorded and/or transcribed and shared with the Parties.

## 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.

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) 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 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. 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.

## Respondent Admits Responsibility

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Decision-maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would also waive all rights to appeal for the Respondent. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion.

## Investigation

All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviews with all relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within five (5) business days or any alternate time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

NMJC 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) typically take(s) the following steps, if not already completed and not necessarily in this order:

- Determine the identity and contact information of the Complainant and Respondent.
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.
- Assist the Title IX Coordinator, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- Work with the Title IX Coordinator, 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, intended investigation time frame, 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.
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible.
- Interview the Complainant and the Respondent and conduct follow-up interviews with each, as necessary.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.

- Provide each interviewed party and witness an opportunity to review and verify the Investigator’s summary notes (or transcript or recording) of the relevant evidence/testimony from their respective interviews and meetings.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses. Document in the investigation report which questions were asked, with a rationale for any changes or omissions.
- 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.
- Ask the Parties to provide a list of questions they would like asked of the other party or any witnesses. The Investigator will ask those questions deemed relevant, and for any question deemed not relevant, will provide a rationale for not asking the question.
- Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation, and party and witness interviews, and provides all relevant evidence.
- Provide the Parties and their respective Advisors an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.
- The Investigator may share the investigation report with the Title IX Coordinator and/or legal counsel for their review and feedback.

## Administrative Resolution Process

The Administrative Resolution Process is used for all Complaints of sex discrimination on the basis of protected characteristics, harassment, retaliation, and Other Prohibited Behaviors (as defined in Policy) or when Informal Resolution is either not elected or is unsuccessful.

The Administrative Resolution Process consists of a hand-off of the investigation report and all relevant evidence to the Decision-maker to make a finding and determine sanctions (if applicable).

At the discretion of Title IX Coordinator, the assigned Decision-maker will be an individual or a panel drawn from the Resolution Process Pool, or other trained individuals either internal or external to the institution. Once the Decision-maker receives and reviews the file, they can recommend dismissal to the Title IX Coordinator, if they believe the grounds are met.

The Administrative Resolution Process typically takes approximately thirty (30) business days to complete, beginning with the Decision-maker’s receipt of the Draft Investigation Report. The Parties will be updated regularly on the timing and any significant deviation from this typical timeline.

### Investigator-led Questioning Meetings

- The Title IX Coordinator provides the Draft Investigation Report to the Decision-maker and the Parties simultaneously for review. The Decision-maker can then provide the Investigator with a list of relevant questions to ask the Parties or any witnesses.
  - To the extent credibility is in dispute and relevant to one or more of the allegations, the questions provided by the Decision-maker may also explore credibility.
- The Investigator will also ask each of the Parties to provide a proposed list of questions to ask the other Parties and any witnesses.
  - To the extent credibility is in dispute and relevant to one or more of the allegations, questions proposed by the Parties may also explore credibility.
  - All party questions must be posed during this phase of the process and cannot be posed later unless authorized by the Decision-maker.
  - The Investigator will share all party-proposed questions with the Decision-maker, who will finalize the list with the Investigator to ensure all questions are both relevant and permissible.
- The Investigator will then hold individual meetings with the Parties and witnesses to ask the questions posed by the Decision-maker, as well as the questions proposed by the Parties that have been deemed relevant and not duplicative, including questions intended to assess credibility. These meetings will be recorded and transcribed.
  - For any question deemed not relevant or duplicative, the Investigator will provide a rationale for not asking the question, either during the recorded meeting, or in writing (typically as an Appendix to the report).
- Typically, within five (5) business days of the last of these meetings, the recordings or transcripts of them will be provided to the Parties for their review. The Parties will then have five (5) business days to review these recordings or transcripts and propose follow-up questions to be asked by the Investigator.
- The Investigator will review the proposed questions with the Decision-maker, to determine relevance and permissibility. If deemed necessary, the Investigator will then meet individually with the Parties or witnesses for whom there are relevant, and not duplicative, follow-up questions. These follow-up meetings will also be recorded, and the Parties will receive the recordings or transcripts of these meetings. This final round of questioning is the last such round permitted, unless leave is granted to extend, by the Decision-maker.
- The Investigator will then incorporate any new, relevant evidence and information obtained through the Parties' review of the Draft Investigation Report, the questioning, and follow-up meetings into a Final Investigation Report.
- The Investigator will also respond in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report and incorporate relevant elements of the Parties' written responses, additional relevant evidence, and any necessary revisions into the Final Investigation Report.
- The Investigator will then share the investigation report with the Title IX Coordinator and/or legal counsel for their review and feedback.
- The Final Investigation Report (FIR) and investigation file will then be provided to the Title IX Coordinator.

### The Decision-maker's Determination

- The Title IX Coordinator will provide the Decision-maker with the FIR and investigation file, including the evidence and information obtained through the Investigator-led Questioning meetings.
- The Decision-maker will review the FIR, all appendices, and the investigation file.
- If the record is incomplete, the Decision-maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the Parties or any witnesses, if needed.
- Upon reviewing the relevant evidence, the Decision-maker may also choose to pose additional questions:
  - To the extent credibility is in dispute and relevant to one or more of the allegations, the Decision-maker may meet individually with the Parties and witnesses to question them in order to assess their credibility. These meetings will be recorded and shared with the Parties.
  - At their discretion, the Decision-maker may also meet with any party or witness to ask additional relevant questions that will aid the Decision-maker in making their findings. These meetings will be recorded and shared with the Parties.
- The Decision-maker will then apply the preponderance of the evidence standard to make a determination on each of the allegations and, if applicable, any attendant sanctions.
- **Timeline.** The Decision-maker's determination process typically takes approximately ten (10) business days, but this timeframe can vary based on a number of factors and variables. The Parties will be notified of any delays.
- **Impact Statements.** Prior to a determination, the Title IX Coordinator will also provide the Parties an opportunity to submit a written impact and/or mitigation statement. The Title IX Coordinator will review these statements upon receipt to determine whether there are any immediate needs, issues, or concerns, but will otherwise hold them until after the Decision-maker has made determinations on the allegations. If there are any findings of a Policy violation, the Decision-maker will request the Impact Statements from the Title IX Coordinator and review them prior to determining sanctions. They will also be exchanged between the Parties at that time.
- If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a Resolution Process at any time, and/or referring that information to another process for resolution.

### Sanctions

Factors considered by the Decision-maker when determining sanctions and responsive actions may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation

- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the Parties
- 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.

## 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 NMJC Policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either NMJC-sponsored 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 from holding leadership in student organizations.
- *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 co-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 definite period of time, typically not to exceed two 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 at the discretion of the Title IX Coordinator 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. This sanction may be noted as a Disciplinary Suspension on the student's official academic transcript, per institutional policy and/or state law.

- *Expulsion*: 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 sanction may be noted as Disciplinary Expulsion on the student's official academic transcript, per institutional policy and/or state law.
- *Withholding Diploma*: NMJC 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.
- *Revocation of Degree*: While very rarely employed, NMJC reserves the right to revoke a degree previously awarded from NMJC for fraud, misrepresentation, and/or other violation of NMJC policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Other Actions*: In addition to, or in place of, the above sanctions, NMJC may assign any other sanctions as deemed appropriate.

## Student Group and Organization Sanctions

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

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any NMJC 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 NMJC 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 definite period of time not to exceed two 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 NMJC-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 NMJC.
- *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 NMJC privileges for a specified period of time.

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

## Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in sex harassment, sex-based discrimination, and/or retaliation 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*
- *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, NMJC may assign any other responsive actions as deemed appropriate.

## Notice of Outcome

Within ten (10) business days of the conclusion of the Resolution Process, the Title IX Coordinator provides the Parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, any applicable sanctions that NMJC 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 NMJC is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to take to request an appeal, and when the determination is considered final if neither party appeals.

The Title IX Coordinator 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 local or permanent address of the Parties as indicated in official NMJC records, or emailed to the Parties' NMJC-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

## Withdrawal or Resignation Before Complaint Resolution

### 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 NMJC, the Resolution Process may continue, or Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, NMJC 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 retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, NMJC 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 retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to NMJC in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Title IX Coordinator has discretion to dismiss the Complaint. The Registrar and Office of Admissions 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 NMJC unless and until all sanctions, if any, have been satisfied.

### 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 withdraws from NMJC with unresolved allegations pending, the Resolution Process may continue, or Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, NMJC 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 retaliation.

When an employee resigns and the Complaint is dismissed, the employee may not return to NMJC in any capacity. Human resources, the registrar, and admissions will be notified, accordingly, and 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 NMJC. The records retained by the Title IX Coordinator will reflect that status.

## Appeal of the Determination

The Title IX Coordinator will designate a three-member Appeal Panel, or a single Appeal Decision-maker 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 or dismissal appeal that may have been heard earlier in the process. If a panel is used, a voting Chair of the Appeal Panel will be designated by the Title IX Coordinator.

## Appeal Grounds

Appeals are limited to the following grounds:

- 1) A procedural irregularity that would change the outcome
- 2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility or dismissal was made
- 3) The Title IX Coordinator, 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 would change the outcome
- 4) The final determination by the Decision-maker is substantially contrary to the weight of the evidence in the record (applicable to sanctions of suspension, expulsion, or termination, only)
- 5) The sanctions fall outside the range of sanctions designated for this offense, considering the cumulative conduct/disciplinary record of the Respondent (applicable to sanctions of suspension, expulsion, or termination, only)

## Request for Appeal

Any party may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Panel or 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 Panel Chair or Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Panel Chair or Appeal Decision-maker will notify all Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Title IX Coordinator, 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 five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Panel Chair or 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 Panel Chair or 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 Title IX Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties will be notified accordingly, in writing.

No party may submit any new Requests for Appeal after this time period. The Appeal Panel Chair or 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 Panel or Appeal Decision-maker, who will promptly render a decision.

## 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 Appeals Panel or 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. All decisions are made by majority vote and apply the preponderance of the evidence.

An appeal is not an opportunity for the Appeal Panel or 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 Panel or Appeal Decision-maker may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultation.

## 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 Title IX Coordinator (as in cases of bias), the Appeal Panel or 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 will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which NMJC is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent NMJC 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 local or permanent address of the Parties as indicated in official institutional records, or emailed to the Parties' NMJC-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, 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 determination that is different from the appealed determination, that new determination can be appealed, once, on any of the five available appeal grounds.

## Sanction Status During the Appeal

Any sanctions imposed 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.

## Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or NMJC community that are intended to stop the discrimination, harassment, and/or retaliation, remedy the effects, and prevent recurrence.

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

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- 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.

At the discretion of the Title IX Coordinator, 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 Title IX Coordinator will address any remedies NMJC owes the Respondent to ensure no effective denial of educational access.

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

## 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 Appeal Decision-maker or the Informal Resolution agreement.

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

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

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

## Recordkeeping

For a period of at least seven (7) years following the conclusion of the Resolution Process, NMJC 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 NMJC'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 Title IX Coordinator, Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitator, and any person who is responsible for implementing NMJC's Resolution Process, or who has the authority to modify or terminate supportive measures. NMJC 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.

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

## Accommodations and Support During the Resolution Process

### Disability Accommodations

NMJC is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to NMJC's Resolution Process.

Anyone needing such accommodations or support should contact the Title IX Coordinator, who will work with disability support colleagues 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.

### Other Support

NMJC 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 deemed reasonable and necessary to facilitate participation in the Resolution Process

BASED ON THE ATIXA 2024 ONE POLICY, ONE PROCEDURE (1P1P) MODEL.  
©2024 ATIXA. USED WITH PERMISSION.

## APPENDIX A: DEFINITIONS

The following definitions apply to the Title IX Nondiscrimination Policy and Procedures

- **Advisor.** Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
- **Appeal Decision-maker.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the grounds for appeal are met, and directs responsive action(s), accordingly.
- **Complainant.** A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, or retaliation under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination or sex-based harassment or under the Policy and who was participating or attempting to participate in NMJC's education program or activity at the time of the alleged discrimination, harassment or retaliation.
- **Complaint.** An oral or written request to NMJC that can objectively be understood as a request for NMJC to investigate and make a determination about the alleged Policy violation(s).
- **Confidential Employee.**
  - An employee whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
  - An employee whom NMJC has designated as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, or retaliation. If the employee also has a duty not associated with providing those services, the employee's confidential status only applies with respect to information received about discrimination, harassment, or retaliation in connection with providing those services; or
  - An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination, harassment, or retaliation. The employee's confidential status only applies with respect to information received while conducting the study.
- **Day.** A business day when NMJC is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.
- **Decision-maker.** The person or panel who hears evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions.

- ***Education Program or Activity.*** Locations, events, or circumstances where NMJC exercises substantial control over the context in which the discrimination, harassment, and/or retaliation occurs and also includes any building owned or controlled by a student organization that NMJC officially recognizes.
- ***Employee.*** A person employed by NMJC either full- or part-time, including student employees when acting within the scope of their employment.
- ***Final Determination.*** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.
- ***Finding.*** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
- ***Informal Resolution.*** A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process.
- ***Investigation Report.*** The Investigator’s summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- ***Investigator.*** The person(s) authorized by NMJC to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- ***Knowledge.*** When NMJC receives Notice of conduct that reasonably may constitute harassment, discrimination, or retaliation in its Education Program or Activity.
- ***Mandated Reporter.*** A NMJC employee who is obligated by Policy to share Knowledge, Notice, and/or reports of discrimination, harassment, and/or retaliation with the Title IX Coordinator.
- ***Notice.*** When an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of discriminatory, harassing, and/or retaliatory conduct.
- ***Parties.*** The Complainant(s) and Respondent(s), collectively.
- ***Policy.*** This Title IX Nondiscrimination Policy and Notice of Nondiscrimination.
- ***Relevant Evidence.*** Evidence that may aid a Decision-maker in determining whether the alleged discrimination, harassment, or retaliation occurred, or in determining the credibility of the Parties or witnesses.
- ***Remedies.*** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to NMJC’s Education Program and Activity.
- ***Resolution Process.*** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution and/or Administrative Resolution.
- ***Respondent.*** A person who is alleged to have engaged in conduct that could constitute sex discrimination, sex-based harassment, or retaliation.

- **Retaliation** means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient’s education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated this Policy.
- **Sex-based harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:
  - (1) *Quid pro quo harassment.* An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;
  - (2) *Hostile environment harassment.* Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
    - (i) The degree to which the conduct affected the complainant’s ability to access the recipient’s education program or activity;
    - (ii) The type, frequency, and duration of the conduct;
    - (iii) The parties’ ages, roles within the recipient’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
    - (iv) The location of the conduct and the context in which the conduct occurred;
 and
    - (v) Other sex-based harassment in the recipient’s education program or activity.
  - (3) *Specific offenses.*
    - (i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
    - (ii) Dating violence meaning violence committed by a person:
      - A. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
      - B. Where the existence of such a relationship shall be determined based on a consideration of the following factors:

1. The length of the relationship;
  2. The type of relationship; and
  3. The frequency of interaction between the persons involved in the relationship;
- (iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:
- A. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
  - B. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  - C. Shares a child in common with the victim; or
  - D. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
- (iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- A. Fear for the person’s safety or the safety of others; or
  - B. Suffer substantial emotional distress.

- **Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- **Student.** Any person who has gained admission.
- **Title IX Coordinator.** The official designated by NMJC to ensure ultimate oversight of compliance with Title IX and NMJC’s Title IX program. The Title IX Coordinator has the primary responsibility for overseeing and enforcing the Policy. As used in these policies and procedures, the “Title IX Coordinator” also includes their designee(s).

## APPENDIX B: STATEMENT OF THE PARTIES' RIGHTS

### **Under this Policy and procedures, the Parties have the right to:**

- An equitable investigation and resolution of all credible allegations of prohibited discrimination, harassment, retaliation, and Other Prohibited Behaviors, when reported in good faith to NMJC officials.
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the specific misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated Policies and procedures, and possible sanctions.
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations.
- Be informed in advance of any NMJC public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- Have all personally identifiable information protected from NMJC's release to the public without consent, except to the extent permitted by law.
- Be treated with respect by NMJC officials.
- Have NMJC Policy and these procedures followed without material deviation.
- Voluntarily agree to resolve allegations under this Policy through Informal Resolution without NMJC pressure, if Informal Resolution is approved by the Title IX Coordinator.
- Not be discouraged by NMJC officials from reporting discrimination, harassment, retaliation, and Other Prohibited Behavior to both on-campus and off-campus authorities.
- Be informed of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by NMJC in notifying such authorities, if the party chooses. This also includes the right to not be pressured to report.
- Have allegations of violations of this Policy responded to promptly and with sensitivity by NMJC law enforcement and/or other NMJC officials.
- Be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, visa and immigration assistance, and/or other services, both on-campus and in the community.
- A NMJC-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- Be informed of available assistance in changing academic, living, and/or employment situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either institutional or criminal, needs to occur for this option to be available. Such actions may include, but are not limited to:
  - Relocating an on-campus student's housing to a different on-campus location
  - Assistance from NMJC staff in completing the relocation
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation assistance

- Visa/immigration assistance
  - Arranging to dissolve a housing contract and provide a pro-rated refund
  - Rescheduling or adjusting an exam, paper, and/or assignment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)
  - Campus safety escorts
  - Alternative course completion options
- Have NMJC maintain supportive measures for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair NMJC's ability to provide the supportive measures.
  - Receive sufficiently advanced written notice of any NMJC meetings or interviews involving another party, when possible.
  - Identify and have the Investigator(s) and/or Decision-maker question relevant available witnesses, including expert witnesses.
  - Provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant and permissible by the Investigator(s)/Decision-maker, may be asked of any party or witness.
  - Have Complainant's inadmissible sexual interests/prior sexual history or any Party's irrelevant character evidence excluded by the Decision-maker.
  - Access the relevant evidence obtained and respond to that evidence.
  - A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
  - Receive a copy of all relevant and permissible evidence obtained during the investigation, subject to privacy limitations imposed by federal and state law and be given ten (10) business days to review and comment on the evidence.
  - The right to receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed, and to have at least seven (7) business days to review the report prior to the determination.
  - Be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
  - Regular status updates on the investigation and/or Resolution Process.
  - Have reports of alleged Policy violations addressed by Resolution Process Pool members who have received relevant annual training as required by law.
  - A Decision-making panel that is not single-sex in its composition, if a panel is used.
  - Preservation of confidentiality/privacy, to the extent possible and permitted by law.
  - Meetings, interviews, and/or hearings that are closed to the public.
  - Petition that any NMJC representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
  - Be able to select an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
  - Apply the appropriate standard of proof, preponderance of the evidence, to make a Finding and Final Determination after an objective evaluation of all relevant and permissible evidence.

- Be present, including presence via remote technology, during all testimony given and evidence presented during any hearing.
- Have an impact and/or mitigation statement considered by the Decision-maker following a determination of responsibility for any allegation, but prior to sanctioning.
- Be promptly informed of the Resolution Process finding(s) and sanction(s) (if any) and be given a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay).
- Be informed in writing of when a NMJC decision is considered final and any changes to the Final Determination or sanction(s) that occur post outcome letter delivery.
- Be informed of the opportunity to appeal the Resolution Process finding(s) and sanction(s), and the procedures for doing so in accordance with NMJC's grounds for appeal.
- A fundamentally fair resolution as defined in these procedures.