



Policy Title:

Title IX & Sexual Misconduct Policy and Grievance Procedures

Brewton-Parker Christian University prohibits unlawful discrimination on the basis of sex in any education program or activity it operates. Brewton-Parker Christian University also prohibits retaliation against any person for opposing unlawful sex discrimination or for being part of a discrimination investigation or complaint process. Reports of misconduct, questions about Title IX, or concerns about sex discrimination should be directed to the University's Title IX Coordinator and/or the Assistant Secretary of Education within the U.S. Department of Education Office for Civil Rights (OCR). To contact OCR, please visit <https://ocrcas.ed.gov/office-for-civil-rights-discrimination-complaint-form>.

SECTION 1 – INTRODUCTION

1.1 Statement of Purpose

Brewton-Parker Christian University seeks to glorify Jesus Christ in all endeavors. The University's confessional statement and Christian values acknowledge that every person "possesses full dignity and is worthy of respect and Christian love." (Baptist Faith & Message 2000 ("BF&M") § III). The Bible instructs that there should be no sexual immorality or obscenity in a Christian community (Ephesians 5:1-5, *Christian Standard Version*). Because both men and women are created in the image of God, it is essential to the University's mission to help students reach their full potential as educated citizens and worldwide-servant leaders that Brewton-Parker Christian University's policies addressing sex discrimination and sexual misconduct affirm the inherent value and potential of each individual, whether male or female. (Genesis 1:26-28; BF&M § XVIII).

Recognizing the preciousness of each person, Brewton-Parker Christian University expects that members of its community strive to follow Romans 12:10: "Love one another deeply as brothers and sisters. Take the lead in honoring one another." Doing so requires conduct characterized by respect and self-control, upholding the rights and sexual purity of others.

Brewton-Parker Christian University has established this Title IX Policy ("Policy") on sex discrimination and sexual harassment in compliance with Title IX of the Education Amendments of 1972 and its implementing regulations at 34 C.F.R. § 106 (collectively "Title IX"). The University provides notice of this Policy to applicants for admission and employment, students, employees, and third-party vendors to the extent required by law.

1.2 Construction

1.2.1 *Headings Not Limiting.* Headings and subheadings in this Policy are provided only to make finding information easier. They shall not be used to limit the scope of any substantive provisions of the Policy.

1.2.2 *Grammar.* Any gendered pronouns shall be read to include individuals of either sex who are in similar roles or circumstances. Plural and singular uses of titles, nouns, and pronouns shall be read to include the alternative, as applicable (for example: employee/employees, activity/activities).

1.2.3 *Defined Terms.* Key roles and terms, which are capitalized throughout, are explained in Section 2.4: Definitions.

1.2.4 *Revision.* This Policy and its grievance procedure are to be reviewed for revision on an annual basis and promptly upon the release of federal or Georgia-specific Title IX regulations or judicial decisions.

1.3 Scope and Applicability

1.3.1 *Individuals Covered by this Policy*

This Policy affects students, employees, and third parties (visitors and vendors) in the United States when Title IX Sex Discrimination, including Sexual Harassment, or Non-Title IX Sexual Misconduct in a Brewton-Parker Christian University Education Program or Activity is alleged. This Policy governs the application of the University's included Title IX Sexual Harassment grievance procedure, as differentiated from the application of criminal law, Title VII with the exception of Non-Title IX Sexual Misconduct, student Code of Conduct, employee policies, and their respective disciplinary procedures.

1.3.2 *Jurisdiction of Authority*

This Policy is under the approval jurisdiction of the President's Cabinet and enforced by the Title IX Coordinator.

1.3.3 *Effective Date*

The effective date of this policy is _____. This policy applies to all Title IX and Non-Title IX sex discrimination and sexual harassment reported to have occurred on or after _____.

(A) *Preemption*

In the event of a conflict with another University policy concerning Sexual Misconduct as defined by this policy, including Sexual Harassment within the Title IX jurisdiction, as described in this section, this Policy and its grievance procedure shall control.

(B) *Conduct Outside the Application of Title IX and Non-Title IX Sexual Misconduct*

For incidents outside the Title IX jurisdiction or substantive scope of this Sexual Misconduct Policy, refer to the Student Handbook or Employee Handbook, as applicable.

SECTION 2 – POLICY

2.1 Application of Title IX Regulations

2.1.1 *Non-Discrimination*

The university does not unlawfully discriminate on the basis of sex with regard to its programs and activities.

Title IX does not apply to undergraduate admissions at private institutions, including Brewton-Parker Christian University. Questions or inquiries about the application of Title IX may be addressed to the University's Title IX Coordinator, to the Assistant Secretary of the Department of Education, or both.

2.1.2 *Religious Exemption*

Brewton-Parker Christian University is a Christian university, operating as a non-profit "public benefit corporation and a religious corporation" under the control of the Board of Trustees. This Policy shall at all times be interpreted within the context of the University's religious tenets, which are set forth in the *Holy Bible* and summarized in the *Baptist Faith & Message 2000*. Nothing in this Policy waives the University's rights to religious freedom under the United States Constitution and other applicable laws. To the extent that a regulation issued under Title IX is inconsistent with the University's religious tenets, Brewton-Parker Christian University is exempt (34 C.F.R. § 106.12(a)).

2.1.3 *Title IX & Non-Title IX Sexual Misconduct Jurisdiction*

Title IX jurisdictional requirements are met when all the following are applicable:

- a) *Complainant*. At the time of filing a Formal Complaint, the Complainant must be participating or attempting to participate in the University's Education Program or Activity.
- b) *Respondent*. At the time of the alleged Prohibited Conduct, Respondent was a student, employee, or official agent of Brewton-Parker Christian University.
- c) *Location and Context*. The alleged conduct must have occurred against a person in the United States who is participating or attempting to participate in Brewton-Parker Christian University's

Education Programs or Activities.

Non-Title IX jurisdictional requirements are met when all the following are applicable:

- a) *Complainant*. At the time of filing a Formal Complaint, the Complainant must be participating or attempting to participate in the University's Education Program or Activity.
- b) *Respondent*. At the time of the alleged Prohibited Conduct, Respondent was a student, employee, or official agent of Brewton-Parker Christian University.
- c) *Location and Context*. The alleged conduct must have occurred in a location under substantial control and part of Brewton-Parker Christian University's Education Program or Activity.

2.1.4 Specified Procedure for Allegations of Sexual Harassment

This Policy's grievance procedure applies when the alleged conduct, if proven, would constitute Sexual Harassment (Quid Pro Quo, Hostile Environment, Sexual Assault, Dating Violence, Domestic Violence, or Stalking) as described in this Policy. Any intentional sexual contact with an Incapacitated person is considered Sexual Assault under this Policy.

2.1.5 Non-Title IX Sexual Misconduct

Reports of sexual misconduct and/or retaliation arising out of sexual misconduct that do not fall within the definitions or jurisdiction of Title IX will be remedied under the University's policies prohibiting such behavior, as outlined in this policy. The University's Title IX Coordinator is available to assist in determining whether this Title IX Policy applies in any particular instance.

2.2 Prohibited Conduct

Brewton-Parker Christian University prohibits Sexual Misconduct in all its operations.

2.2.1 Title IX Sexual Misconduct/Sexual Harassment

Title IX Sexual Misconduct/Harassment is defined as conduct that falls within one or more of the following categories:

- Quid Pro Quo ("Something for Something"):
 - A University employee conditioning the provision of a University aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- Hostile Environment:
 - Unwelcome conduct on the basis of sex that is determined by a reasonable person to be so severe, pervasive, **and** objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity; or
- Sexual Offenses:
 - Sexual Assault (20 U.S.C. 1092(f)(6)(A)(v));
 - Dating Violence (as defined in 34 U.S.C. 12291(a)(11)); Domestic Violence (as defined in 34 U.S.C. 12291(a)(12)); or

- Stalking (as defined in 34 U.S.C. 12291(a)(36)).

2.2.2 Non-Title IX Sexual Misconduct/Harassment

Non-Title IX Sexual Misconduct/Harassment is defined as conduct that falls within one or more of the following categories:

- Hostile Environment:
 - Unwelcome conduct on the basis of sex that is sufficiently severe, persistent, **or** pervasive to interfere with one's work or educational performance creating an intimidating, hostile, or offensive work or learning environment, or interfering with or limiting one's ability to participate in or to benefit from Brewton-Parker Christian University's educational program or activity; or
- Sexual Exploitation:
 - Taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. Examples of sexual exploitation may include, but are not limited to, the following:
 - Invasion of sexual privacy;
 - Prostituting another individual;
 - Non-consensual photos, video, or audio of sexual activity;
 - Non-consensual distribution of photo, video, or audio of sexual activity, even if the sexual activity or capturing of the activity was consensual;
 - Intentional observation of nonconsenting individuals who are partially undressed, naked, or engaged in sexual acts;
 - Knowingly transmitting an STD or HIV to another individual through sexual activity;
 - Intentionally and inappropriately exposing one's breasts, buttocks, groin, or genitals in non-consensual circumstances; and/or
 - Sexually-based bullying.
- Sexual Misconduct occurring between students, students and faculty or staff, between faculty or staff, or between any of these and another member of the BPCU community and that aligns with the definition of Sexual Assault, Dating Violence, Domestic Violence, or Stalking but otherwise does not meet the jurisdictional criteria for Title IX.

2.2.3 Retaliation Expressly Prohibited

The University prohibits Retaliation with regard to reports of violations of Title IX and this Policy. Neither the University nor any other person may engage in Retaliation against an individual because the individual has made a report or Formal Complaint or has testified, assisted, participated, or refused to participate in any manner in an investigation, proceeding, or Hearing under the BPCU Sexual Misconduct grievance procedure, including an Informal Resolution process.

Any person who believes that he or she has experienced Retaliation which is prohibited under this Policy may file a complaint with the Title IX Coordinator.

2.3 Reporting Sex Discrimination

2.3.1 Emergency Report

If you witness or experience any emergency involving Sexual Assault or any other crime of violence, or if you have immediate safety concerns, first call 911, then call Campus Security 912-253-9280.

2.3.2 Reporting to the Title IX Coordinator

The University has designated the following employee to coordinate its efforts to its compliance with Title IX, including the designation of Title IX responsibilities in the absence of the Title IX Coordinator:

TITLE IX COORDINATOR: Cynthia R. Reese
Room 113, Parker Building
Mail: PO Box 197. Mount Vernon, GA 30445
912-583-3120 / creese3@bpc.edu

Any person may report a grievance relating to sex discrimination, including sexual harassment, whether or not the person reporting is the person who may be the victim of conduct being reported. A report may be made to the Title IX Coordinator or designee **in person** during normal business hours **or at any time by mail, telephone, or email.**

2.3.3 Anonymous Reports

A report may be made anonymously, but a report that does not include the names of the potential Complainant and/or Respondent substantially limits the University's ability to respond. To encourage detailed reporting, the University will maintain confidentiality of information to the extent possible in conducting any grievance process that results from a report.

2.3.4 Who Should Report

In order to promptly stop sexual misconduct, prevent its recurrence, and remedy its effects, the university encourages students and Employees to promptly report incidents and allegations of Sexual Harassment to the Title IX Coordinator.

2.3.5 Mandated Reports

All faculty, staff, and volunteers, with the exception of Campus Pastoral Staff and Campus Mental Health Counselors **acting in their respective professional roles**, must report alleged Title IX Sexual Harassment to the Title IX Coordinator or a Responsible Employee within twenty-four (24) hours of witnessing or becoming aware of the conduct.

To allow individuals autonomy over reporting of sexual misconduct, all faculty, staff, and volunteers should alert individuals who may be parties to a complaint as soon as possible of their reporting responsibilities and the options available should the individual not wish to make a report to the Title IX Coordinator or a Responsible Employee. Those options include privileged employees (Campus Pastoral Staff and Campus Mental Health Counselors) or any individual deemed to be a Confidential Employee.

There is no duty for an employee to report sexual trauma disclosed only during a public awareness event or of a previous sexual assault noted only in an academic assignment, but faculty and staff are encouraged to connect students in these situations with the Title IX Coordinator or to Counseling or Campus Ministries, as the student prefers. Reports made to Counseling Services staff and Campus Ministries staff **acting in their respective professional roles** are confidential and not subject to a reporting expectation except in cases of imminent danger.

When the alleged victim is a minor (under eighteen (18) years of age), Georgia law requires anyone with knowledge of sexual abuse (see Mandated Reporter Law - O.C.G.A. §19-7-5) to report it to law enforcement or the Georgia Division of Family and Children Services of the Department of Human Services, or, in the absence of such agency, to an appropriate police authority or district attorney. The Title IX Coordinator will assist with reporting.

2.3.6 Confidentiality

Where Complainants request that their identity be withheld or the allegation(s) not be investigated, the Title IX Coordinator shall consider whether or not such request(s) can be honored in a manner consistent with the University's obligations to promote a safe and nondiscriminatory environment. It shall be the duty of the Title IX Coordinator to inform the Complainant that Brewton-Parker Christian University cannot guarantee confidentiality. Honoring a Complainant's request for confidentiality shall not prevent the institution from reporting information or statistical data as required by law, including the Clery Act.

2.4 Definitions

2.4.1 Procedural Roles

- **Complainant** means an individual who is alleged to have been subjected to conduct that could constitute sex discrimination, including Sexual Harassment, under this Policy.
- **Panel** means the members of a decision-making panel consisting of three voting members and one non-voting Hearing Officer, designated by the University to conduct a Title IX Hearing and to make a determination on the allegations in a Formal Complaint. No Panel Member will be the Title IX Coordinator or the Investigator.
- **Facilitator** means a person or organization serving to facilitate an Informal Resolution of a Formal Complaint through mediation, arbitration, restorative justice, or a similar process.
- **Investigator** means a person designated by the University to investigate a Formal Complaint. If more than one person is designated, this term refers to all of the Investigators.
- **Party** means either the Complainant or the Respondent. Parties refers to all Complainants and all Respondents with respect to a report or Formal Complaint of sex discrimination under Title IX or Prohibited Conduct under this Policy, or with respect to multiple Formal Complaints which have been consolidated. The University is also considered a party to any Informal Resolution that may be reached.
- **Respondent** means an individual alleged to have engaged in conduct that could constitute a violation of this Policy.
- **Title IX Coordinator** means the person that the University has designated to coordinate compliance with Title IX and the University's Sexual Misconduct policies and procedures. The Title IX Coordinator may designate, as appropriate, duties and responsibilities under this policy.

2.4.2 Important Terms

Actual Knowledge means notice of Sexual Harassment or allegations of Sexual Harassment when received by the University's Title IX Coordinator **or** an official with authority to institute corrective measures on behalf of the university. The university is deemed to have Actual Knowledge when a report is made to one or more of these officials, who must report knowledge of Sexual Harassment to the Title IX Coordinator.

Amnesty: Brewton-Parker Christian University understands the destructive power of sin in the lives of young people and seeks to rebuild lives in a positive way. Individuals should be encouraged to come forward and to report Sexual Misconduct notwithstanding their choice to consume alcohol or to use drugs or engage in prior consensual sexual activity. Information voluntarily reported by a student **prior to the discovery** of such activity during an investigation will not be used against the particular student in

a disciplinary proceeding or voluntarily reported to law enforcement; however, students may be provided with resources such as drug and alcohol counseling and/or education or pastoral or mental health counseling, as appropriate. Nevertheless, these students may be required to meet with staff members in regards to the incident and may be required to participate in appropriate educational program(s). The required participation in an educational program under this amnesty procedure will not be considered a sanction. Students shall have the right to request amnesty **once** during their educational careers at Brewton-Parker Christian University.

Nothing in this amnesty provision shall prevent an institution staff member who is otherwise obligated by law (the Clery Act) to report information or statistical data as required.

Business Days means Monday through Friday 8 AM to 5 PM during any portion of the academic year when classes are in session. Legal and campus holidays or times when the campus is closed due to inclement weather or natural disasters or other exceptional circumstances are not considered business days for the purposes of this Policy.

Confidential Employees: Institution employees who have been designated by the University to talk with a Complainant or Respondent in confidence. Confidential Employees must only report that the incident occurred and provide date, time, location, and name of the Respondent (if known) without revealing any information that would personally identify the alleged victim. This minimal reporting must be submitted in compliance with Title IX and the Clery Act. Confidential Employees may be required to fully disclose details of an incident in order to ensure campus safety.

Consent means clear words or actions that show a knowing and voluntary willingness to engage in mutually agreed-upon activity. Consent cannot be gained by force, intimidation, or coercion; by ignoring or acting in spite of objections of another; or by taking advantage of the incapacitation of another where the Respondent knows or reasonably should have known of such incapacitation.

Under Georgia law, minors under the age of 16 cannot legally consent to sexual activity. Under Georgia law, minors under the age of 18 cannot legally consent to being recorded while engaged in sexual activity. Consent is also absent when the activity in question exceeds the scope of consent previously given. Past consent does not imply present or future consent. Silence or an absence of resistance does not imply consent. Consent can be withdrawn at any time by a party by using clear words or actions.

A Respondent's voluntary consumption of alcohol or other substances is not a defense to instances in which lack of consent is alleged.

Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim, where the existence of such a relationship is determined based on consideration of (a) the length of the relationship, (b) the type of relationship, and (c) the frequency of interaction between the persons involved in the relationship.

Domestic Violence is any act that would fall under 34 U.S.C. § 12291(a)(10) or the Georgia Family Violence Law (GA Code § 19-13-1) and means the occurrence of one or more of the following acts between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household:

- (1) Any felony; or
- (2) Commission of offenses of battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint, or criminal trespass.

The term "family violence" shall not be deemed to include reasonable discipline administered by a parent to a child in the form of corporal punishment, restraint, or detention.

Education Program or Activity means any official operation of Brewton-Parker Christian University, including any location (such as a building), event, or circumstance in which the University or an officially chartered student organization exercises (or exercised at the relevant time) substantial control over both the Respondent and the context.

Employee(s) means Brewton-Parker Christian University Faculty, Staff, Residence Assistants, and all individuals in coaching roles for Brewton-Parker Christian University Athletics **or** serving as volunteers, regardless of compensation and including volunteers assigned coaching duties.

Formal Complaint means a document which:

- is filed by a Complainant or signed by the Title IX Coordinator,
- concerns a Complainant who is participating in or attempting to participate in the University's Education Program or Activity,
- alleges that a Respondent engaged in Sexual Harassment, and
- requests that the University investigate.

Hearing means a live hearing, either in person or using real-time technology, before a Panel for the purpose of presenting evidence regarding the allegations in a Formal Complaint and allowing for questioning and cross-examination of Parties and witnesses by the parties' advisors in order for the Panel to determine whether a Respondent is responsible for violating Brewton-Parker Christian University's Sexual Misconduct Policy.

Hearing Officer means a person who has been trained and designated by the Title IX Coordinator to lead and facilitate the formal Sexual Misconduct Hearing and who determines the relevancy of questions and evidence at such hearings. The Hearing Officer is considered a non-voting member of the Panel.

Incapacitation (or Incapacitated) means the inability, temporary or permanent, to give Consent. Incapacitation may result from, by way of example: mental, developmental, and/or physical disability; involuntary physical restraint; sleep; unconsciousness; being unaware that sexual activity is occurring; or lacking the ability to make informed, rational decisions (unable to understand the "who, what, when, where, why, or how" of a sexual interaction) in order to give Consent. The responsibility for establishing Consent falls on the initiator of a sexual act, even if the initiator was under the influence of alcohol or other drugs at the time of the alleged violation. Intoxication is not a defense to a complaint under this Policy. Evaluating Incapacitation requires an assessment of whether a Respondent knew or should have reasonably known of the Complainant's Incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a reasonable person in the Respondent's position.

Informal Resolution is a voluntary method for remedying a Formal Complaint without a formal resolution

and hearing. It may include individual meetings with counselors or the Title IX Coordinator or designee, mediation, or restorative justice.

Investigative Report means a written report created by a trained Investigator who is designated by the Title IX Coordinator or designee that fairly summarizes all relevant evidence obtained during the investigation of a Formal Complaint.

Privileged Employees: Individuals employed by the University to whom a complainant or alleged victim may talk in confidence, as provided by law. Disclosure to these employees will not automatically trigger an investigation against the complainant's or alleged victim's wishes. Privileged Employees include those providing counseling, advocacy, health, mental health, or sexual-assault related services (e.g., pastoral counselors, and campus mental health counselors) or as otherwise provided by applicable law. Exceptions to confidentiality exist where the conduct involves suspected abuse of a minor (in Georgia, under the age of 18) or otherwise provided by law, such as imminent threat of serious harm.

Prohibited Conduct means Sexual Misconduct/Harassment or Retaliation under this Policy.

Sexual Assault means an offense classified as a sex offense (forcible or nonforcible) under the uniform crime reporting system of the Federal Bureau of Investigation (<https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-668/subpart-D/appendix-Appendix%20A%20to%20Subpart%20D%20of%20Part%20668>), including any non-consensual act of genital or anal penetration, however slight, with any body part or object (Non-Consensual Sexual Penetration); non-consensual touching of the private body parts of another person for the purpose of sexual gratification (Non-Consensual Contact); statutory rape (GA Code § 16-6-3); or incest (GA Code § 16-6-22).

Sexual Misconduct/Harassment is defined in Section 2.2.1: Title IX Sexual Misconduct/Harassment.

Responsible Employees: Those employees who must promptly and fully report complaints of or information regarding sexual misconduct to the Title IX Coordinator. Responsible Employees include any administrator, supervisor, faculty member, or other person in a position of authority who is not a Confidential Employee or Privileged Employee. Student employees who serve in a supervisory, advisory, or managerial role are in a position of authority for purposes of this Policy (e.g., teaching assistants, residential assistants, student managers, orientation leaders).

Responsible Employees must provide a complete reporting of all information known to them to the Coordinator. Responsible Employees informed about Sexual Misconduct allegations should not attempt to resolve the situation, but must notify and report all relevant information to the Title IX Coordinator as soon as practicable.

Retaliation means any conduct intended to intimidate, threaten, coerce, harass, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, 34 C.F.R. § 106, this Policy, or its grievance procedure.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer Substantial Emotional Distress.

As used above, "course of conduct" means two or more acts, including but not limited to, acts in which

one person (directly, indirectly, or through third parties) follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with that person's property. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Supportive Measures means non-disciplinary, non-punitive individualized services offered to a Party or potential Party in response to a report of Prohibited Conduct.

SECTION 3 - PROCEDURES

This grievance procedure applies to allegations of Title IX and Non-Title IX Sexual Misconduct and does not restrict the University's ability to investigate and pursue discipline based on alleged violations of other federal, state, or local laws, their implementing regulations, or other University policies, if it is determined by the Title IX Coordinator that none of the alleged behavior falls under this policy. The University may enforce any and all of these through additional procedures described in Brewton-Parker Christian University's Code of Conduct and/or employee and faculty handbooks.

3.1 Prompt Response to Report

3.1.1 University Responsibilities

If the University has Actual Knowledge of Sexual Harassment in its Education Program or Activity, the Title IX Coordinator is responsible for coordinating a response that is prompt and reasonable in light of the known circumstances and includes at least the following:

- (1) Treating Complainants and Respondents equitably;
- (2) Promptly contacting the Complainant to discuss the availability of Supportive Measures;
- (3) Offering Supportive Measures to the parties, whether or not the Complainant files a Formal Complaint;
- (4) Considering the Complainant's wishes with respect to Supportive Measures;
- (5) Explaining to the Complainant the procedure for filing a Formal Complaint; and
- (6) Following this Policy's grievance procedure before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures against a Respondent.

3.1.2 Rights and Options

The University will provide students or employees who report being victims of Sexual Assault, Dating Violence, Domestic Violence, or Stalking with a written explanation of their rights and options for reporting and seeking additional help, regardless of whether the offense occurred on campus. The University will provide Respondents named in Formal Complaints with a written explanation of their rights and options and seeking additional help. The explanation will include written notification of mental health/counseling services, medical services victim advocacy, and other services available for victims (within the University and in the community) and notice of availability of changes to academic, living, and/or working situations, and other Supportive Measures, regardless of whether the student or

employee files a Formal Complaint.

3.1.3 Availability of Supportive Measures

The University will offer the Parties, or those who may become Parties, Supportive Measures as appropriate and reasonably available, without fee or charge, before or after the filing of a Formal Complaint, including where no Formal Complaint is filed. Supportive Measures are designed to restore or preserve equal access to the University's Education Program or Activity without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the University's educational environment, or to deter Sexual Harassment.

The following is a non-exhaustive list of Supportive Measures the University may make available:

- Modifications of class schedules or other course-related adjustments
- Academic support services, such as free tutoring
- Adjustments to campus housing assignments
- Adjustments to campus work schedule or assignments
- Mutual no-contact orders (prohibiting contact with another Party in person or by phone, email, text message, social network, or other means, including a third person)
- Restrictions from areas of the campus, including the scheduling of times related to meals, laundry, tutoring, athletic practice, library services, etc.
- Counseling Services
- Health Services
- Increased security and monitoring of certain areas of the campus

The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

Confidentiality of Supportive Measures. The university will maintain as confidential any Supportive Measures provided to the Complainant or Respondent to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures.

3.1.4 Emergency Removal from the University

The university may place a non-student employee Respondent on administrative leave during the pendency of the grievance procedure. The university may remove any Respondent from its Education Program or Activity on an emergency basis if:

- (1) The university conducts an individualized safety and risk analysis.
- (2) As a result of the analysis, the University determines that the Respondent poses a serious and immediate danger or threat to persons or property. In making such an assessment, the University will consider the existence of a significant risk to the health or safety of the Complainant or the campus community; the nature, duration, and severity of the risk; and the probability of potential injury. The University will implement the least restrictive emergency actions possible considering the circumstances and safety concerns. These actions may include, but are not limited to, removing a student from a residence hall, use of remote academic course options, restricting a student's

- access to or use of facilities or equipment, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, intercollegiate/intramural athletics removal/suspension from campus and the academic setting, and placing Registered Student Organizations on cease and desist.
- (3) The University provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

This provision for administrative leave or emergency removal does not modify any of the Respondent's rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

3.2 Initial Processing of Formal Complaints

3.2.1 Filing a Formal Complaint

Only the Complainant or the Title IX Coordinator may sign a Formal Complaint.

The Formal Complaint requires an investigation into the alleged Sexual Harassment and a resolution through Hearing with a finding of responsibility or non-responsibility or through an agreed Informal Resolution Process, when available.

The Title IX Coordinator will only file a Formal Complaint against the wishes of a Complainant when the Title IX Coordinator identifies factors arising from the allegations that likely indicate an ongoing risk of harm, including but not limited to patterns, predation, threats, violence, weapons, or minors. In this instance, neither the Title IX Coordinator nor the University becomes the Complainant. The Complainant is the person who allegedly experienced the harm. Complainants, even if they choose not to sign or participate, still have all rights afforded to Complainants throughout the process

3.2.2 General Provisions

Brewton-Parker Christian University will:

- a) Treat Complainants and Respondents equitably.
- b) Provide remedies to a Complainant where a determination of responsibility for Sexual Misconduct has been made against a Respondent.
- c) Presume that a Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance procedure.
- d) Inform parties that they have the right to remain silent or otherwise not participate in the investigation or resolution process, but in the event that a party chooses to remain silent or otherwise not participate, the investigation and resolution process may still proceed, and policy violations may result.
- e) Follow this grievance procedure before the imposition against a Respondent of any disciplinary sanctions that are not Supportive Measures, with the exception of emergency removal or administrative leave as described in Section 3.1.4: Emergency Removal from the University.
- f) Provide any Party whose participation is invited or expected written notice via campus email of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the Party to prepare to participate.
- g) Require all persons who serve as the Title IX Coordinator, Investigator, Hearing Officer, Panel Members, Appeal Decision-maker, or Facilitator not to have a conflict of interest or bias for

or against Complainants or Respondents generally or an individual Complainant or Respondent.

- h) Ensure that Title IX Coordinators, Investigators, Decision-makers, and Facilitators receive appropriate training.
- i) Apply the preponderance of the evidence standard in making determinations with respect to all Formal Complaints.
- j) Not prejudice facts at issue and will objectively evaluate all relevant evidence.
- k) Following a determination of responsibility for a violation of this Policy, the university will design remedies to restore or preserve equal access to the University's Education Program or Activity. Remedies may include the same individualized services described as Supportive Measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening a Respondent who has been found responsible for violating this Policy. The Title IX Coordinator is responsible for coordinating implementation of remedies following a determination of responsibility.

3.2.3 Notice of Allegations

The parties shall be provided with written notice of the: report/allegations with sufficient details, pending investigation, possible charges, possible sanctions, available support services and interim supportive measures, and other rights under applicable institutional policies. For the purposes of this provision sufficient details include the identities of the parties involved, if known, the conduct allegedly constituting Sexual Misconduct, and the date and location of the alleged incident, if known. The notice will be amended as necessary to add new offenses or material allegations. The notice shall also include the identity of any investigator(s) involved or that notice will follow promptly once an investigator has been assigned. Notice shall be provided via campus email.

Upon receipt of the written notice, the parties shall have at least three (3) business days to respond in writing. In that response, the Respondent shall have the right to admit or deny the allegations, and to set forth a defense with facts, witnesses, and supporting materials. A Complainant shall have the right to respond to and supplement the notice. Throughout the Sexual Misconduct process the Complainant and the Respondent shall have the right to present witnesses and other inculpatory and exculpatory evidence.

If, in the course of an investigation, new or additional allegations about the Complainant or Respondent that are not included in the initial notice become known, the University will provide an amended notice of the additional allegations to Parties whose identities are known.

If the Respondent accepts formal responsibility prior to the completion of a formal investigation, the process may proceed to the sanctioning phase for a Formal Resolution to the Case. In this instance, acceptance of responsibility constitutes a waiver of hearing rights but not necessarily appeal rights related to the voluntariness of the acceptance or imposed sanctions. In the absence of such waiver, the formal investigation and adjudication process will continue.

3.2.4 Dismissing a Formal Complaint

Mandatory Dismissal. The University **must** dismiss a Formal Complaint as a complaint of Sexual Misconduct under Title IX and the Title IX grievance procedure if the conduct alleged in the Formal Complaint:

- a) would not constitute Sexual Harassment even if proved,
- b) did not occur in an Education Program or Activity, or
- c) did not occur against a person in the United States.

If allegations are mandatorily dismissed under this policy, nothing precludes the University from processing the allegations under another applicable University policy.

Discretionary Dismissal. The university **may** dismiss all or part of a Formal Complaint if at any time during the investigation or Hearing:

- a) Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations in it,
- b) The Respondent is no longer enrolled or employed by the university, or
- c) Specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations in it.

If all or part of a Formal Complaint is dismissed, the University must promptly and simultaneously send written notice of the dismissal and reason(s) for it to the Parties and advise the Parties of their right to appeal the dismissal.

3.2.5 Consolidating Formal Complaints

The university may consolidate Formal Complaints:

- a) as to allegations of Sexual Harassment against more than one Respondent, or
- b) by more than one Complainant against one or more Respondents, or
- c) by one Party against the other Party, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

Where a grievance procedure involves more than one Complainant or more than one Respondent, singular references to “Party,” “Complainant,” or “Respondent” include the plural, as applicable.

All disciplinary charges arising out of the same facts and circumstances will be investigated and adjudicated under this policy, as appropriate.

3.3 Advisors

3.3.1 Designated Advisors and University-Appointed Advisors

A Party may choose and designate an Advisor, who may be an attorney but is not required to be. The University will not limit the choice or presence of an Advisor for either a Complainant or a Respondent in any meeting or grievance proceeding, except as outline in this Policy.

Each Party must have an Advisor during the Hearing but is encouraged to designate an Advisor as soon as possible after notice of the Formal Complaint. A Party may find that having an Advisor is helpful throughout the grievance procedure. The University will appoint an Advisor for any Party who does not have one present for the Hearing. University-appointed Advisors serve at no cost to a Party. However, Advisors appointed by the university serve for the limited purpose of conducting cross-examination at the Hearing. A University-appointed Advisor is not required to be an attorney or to have a level of

competency comparable to that of another Party's designated advisor. An Advisor is not required to perform any function beyond relaying a Party's desired questions to the other Party and witnesses. Because the University is required to provide certain information to a Party's Advisor, each Party must notify the Title IX Coordinator in writing a minimum of 48 hours prior to a scheduled hearing when the Party designates an Advisor or changes to a different Advisor. The Party must include the Advisor's contact information.

3.3.2 Rules for Advisors

Except during a Hearing, the role of the Advisor is limited to providing support, guidance, and/or advice to the Complainant or Respondent throughout the grievance procedure. Advisors may be present solely to advise or support the party and are prohibited from speaking directly to the investigator, hearing panel, other parties or witnesses, except for cross-examination. The following rules apply to all Advisors, including those appointed by the university:

- a) Advisors are not to answer questions posed directly to any Party or witness, nor otherwise interfere with questioning by the Investigator.
- b) An advisor may request reasonable opportunities to confer with the Party being advised.
- c) During meetings, Parties and their respective Advisors may talk quietly with each other.
- d) Advisors do not have the right to question witnesses except in a Hearing.
- e) In the event that a party does not wish to participate in a live hearing, the party's advisor may be allowed to serve the limited purpose of conducting cross-examination at the hearing and note any grounds for appeal.
- f) Advisors may not present opening statements, closing statements, or arguments.
- g) Advisors must act in a respectful manner at all times; bullying, yelling, and abusive conduct are never permitted.
- h) Parties and Advisors must not disturb the Hearing or any other proceeding by loudly conferring with one another.
- i) Advisors must comply with the decisions and directions of the Decision-maker
- j) Advisors may not disclose to other persons any confidential student information which is revealed to the Advisor during the grievance procedure.

If a Party's Advisor (whether designated by the Party or appointed by the University) refuses to comply with these rules, including rules relating to decorum, the University may require the Party to designate a different Advisor or, if no other Advisor is designated, to accept an Advisor appointed by the University to conduct cross-examination on behalf of the Party. The University may remove from any proceeding Advisors who become disruptive or who do not abide by the above restrictions on Advisor participation.

3.4 Informal Resolution

At any time after a Formal Complaint has been filed but before reaching a Formal Resolution and determination regarding responsibility, allegations of Sexual Misconduct may be resolved informally in complaints that do not involve an employee Respondent and a student Complainant. The Complainant, the Respondent, and the University must agree to engage in the informal resolution process and to the terms of the informal resolution. The Complainant(s) and the Respondent(s) have the option to end informal resolution discussions and request a formal process at any time before the terms of an informal resolution are reached. However, matters resolved informally shall not be appealable. The University will not require participation in informal resolution as a condition of enrollment, employment, or receipt

of any benefit.

Before an Informal Resolution can proceed, the University must notify the Parties in writing disclosing:

- the allegations;
- the requirements of the Informal Resolution process, including the circumstances under which it precludes the Parties from resuming a Formal Complaint arising from the same allegations;
- that at any time prior to agreeing to a resolution, either Party has the right to withdraw from the Informal Resolution process and resume the grievance procedure with respect to the Formal Complaint; and
- any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared.

The university must obtain the Parties' voluntary, written consent to proceed with an Informal Resolution process. The formal procedure for resolving a Formal Complaint will normally be suspended during the Informal Resolution process. If the informal process produces a resolution that is agreed upon by the Parties in writing, the grievance procedure shall end, and no further investigation or Hearing shall occur. Informal Resolution does not remove the university's ability to enforce sanctions but permits the Parties to accept them voluntarily after discussion.

The University:

- a) may not offer an Informal Resolution process unless a Formal Complaint has been filed;
- b) may not offer or facilitate Informal Resolution to resolve allegations that a university employee engaged in Sexual Misconduct against a student (Student Complainant/Employee Respondent Sexual Harassment);
- c) may not require the Parties to participate in an Informal Resolution process; and
- d) may not require any person to waive the right to an investigation and adjudication of a Formal Complaint as a condition of enrollment or continuing enrollment, of employment or continuing employment, or of exercising any other right; and
- e) will provide notice to all parties of the pending allegations and the consequences resulting from participation in the informal resolution process.

3.5 Investigation of Formal Complaints

3.5.1 The University's Responsibilities

The University will designate one or more Investigators to investigate the allegations in the Formal Complaint. The burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the university and not on the Parties. The University will objectively evaluate all relevant evidence, including inculpatory and exculpatory evidence. The University shall not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege unless the person holding such privilege has waived it. If the Investigator makes any determinations regarding credibility, those determinations may not be based on a person's status as a Complainant, Respondent, or witness.

The Investigator will attempt to collect all information and evidence relevant to the allegations. While the investigator is gathering the evidence, it is crucial that parties present evidence and identify

witnesses to the Investigator so that may be considered during the investigation process. The investigation file should contain all information gathered during the investigation, not evidence that has been filtered unless clearly irrelevant.

The University may restrict attendees other than the party and the party's advisor from any meeting or proceeding related to the grievance procedure, including meetings or interviews conducted by the Investigator. However, both the Complainant and the Respondent will have the same opportunities to have emotional support persons present during any Formal Hearing. The emotional support person must sign a Participation Agreement and be on the party's FERPA waiver. The Hearing Officer will retain the discretion to determine whether each party will be allowed to have one or two emotional support persons at the hearing, based on space availability.

3.5.2 Equal Opportunity to Present and Review Evidence

In the course of the investigation, all Parties have an equal opportunity to present witnesses, including fact and expert witnesses as deemed relevant by the Investigator and approved by the Hearing Officer, and other inculpatory and exculpatory evidence. **As this investigative and adjudication process is administrative in nature, formal judicial rules of evidence, including the use of hearsay, do not apply to the investigation or hearing process.**

The University does not restrict the ability of either Party to discuss the allegations under investigation in order to gather and present relevant evidence. However, the ability to discuss the allegations freely does not give a Party permission to make false or harassing statements - on social media, for example - without consequences for violating the university's Code of Conduct, expectations for employees, or relevant laws.

Before issuing a final Investigative Report, the Title IX Coordinator will release a preliminary Investigation Report to the parties and to their advisors. Upon the request of the parties, the University will make available for inspection, as allowed under local, federal, and state law, all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a Party or another source. Each Party will have at least ten (10) days to submit a written response to the evidence requesting additional investigation, amendments, or corrections to their statements.

The Investigator will have a maximum of five (5) days to review the written responses and determine if additional investigations or amendments or corrections to the final report.

3.5.3 Medical and Treatment Records

In gathering evidence, except with the Party's voluntary, written consent, the University cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained (a) by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity or assisting in that capacity and (b) made or maintained in connection with the provision of treatment to the Party.

3.5.4 The Investigative Report

At least ten (10) days prior to any Formal Hearing, the Title IX Coordinator will release a Final Investigative Report to the parties and their advisors. The report will fairly summarize all of the relevant evidence gathered in the course of the investigation, including a description of the procedural steps taken from the receipt of the Formal Complaint through the investigation. This should include any notifications to the Parties, interviews with Parties and witnesses, site visits, and description of methods used to gather other evidence.

A copy of the Investigative Report and all written responses from the Parties will be provided to the Hearing Officer and Panel prior to the Hearing. Any responses to the final report must be received by the Title IX Coordinator within five days of when the final report was provided to the party so that the response can be considered by the hearing panel. If warranted, the investigator may choose to update the final report with the new information from the responding party, in which case the hearing date may be postponed.

3.6 Pre-Hearing Procedure

3.6.1 When Hearings Are Required

A live hearing must be held with respect to a Formal Complaint of Title IX Sexual Misconduct or Non-Title IX Sexual Misconduct unless the Formal Complaint has been dismissed, the Respondent has accepted formal responsibility and waived rights to a formal adjudication, or the Parties choose to resolve the case through an Informal Resolution process without a formal resolution. The Parties cannot otherwise waive a hearing.

3.6.2 Preparation for a Hearing

The Title IX Coordinator will designate a Hearing Officer, who will work with the Title IX Coordinator, to arrange the logistics of the Hearing. The Hearing Officer and Title IX Coordinator may invite the Parties, separately, and their Advisors to meetings to review the procedural details of the Hearing.

At least ten (10) days before the Hearing, the university will notify each Party and Advisor in writing of the date, time, location, and participants for the Hearing, including the Hearing Officer and the Panel Members. The Hearing may be conducted with all participants physically present in the same location or, at the University's discretion, any or all Parties, witnesses, and other participants may appear virtually, with technology enabling participants simultaneously to see and hear each other.

The Hearing Officer will identify the panel to the parties ten days in advance of the hearing. The hearing panel members will not be the same person as the Title IX Coordinator or the Investigator. Either party may request a name panel member to be recused if believed to have a conflict or bias. A request for recusal must be delivered in writing to the Title IX Coordinator at least seven days prior to the hearing. The decision on recusal is in the sole discretion of the Title IX Coordinator and, if replacement is determined as necessary delay, may delay the hearing date.

Five days in advance of the hearing, the parties will identify attendees (including advisor), witnesses (including themselves), and the sequence in which the witnesses will appear. This notification will be provided in writing to the Title IX Coordinator. This information is shared with all parties. When necessary for fair resolution and to gather evidence sufficient to reach a determination, the hearing

panel does have discretion to ask the Title IX Coordinator to request additional witnesses after receipt of the parties' witness lists; recognizing, however, that the school has no ability to compel any witness to attend. Any such requested witness will be disclosed to the parties.

Requesting Separate Rooms. At the request of either Party, the university will provide for the Hearing to occur with the Parties located in separate rooms using technology enabling the Decision-maker and Parties to simultaneously see and hear the Party or the witness answering questions. In order to have sufficient time to make the appropriate arrangements, a Party's request to be in a separate room must be made in writing to the Title IX Coordinator at least three (3) business days before the Hearing.

3.6.3 Attendance of Parties and Witnesses

The University is prohibited by law from requiring any Party or witness to appear at the Hearing, or from engaging in any act that would intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, grievance proceeding, or Hearing.

For these reasons, the University is not responsible if a Party or witness fails to appear at the Hearing, and the Hearing may proceed in the absence of the Party or witness. In exceptional circumstances, the Hearing Officer has the discretion to delay or reschedule the Hearing. A request for a delay should be made as soon as possible as described in Section 3.11.2: Temporary Delays or Extensions.

3.7 The Sexual Misconduct Hearing

3.7.1 Advisors Required at the Hearing

If a Party does not have an Advisor present at the Hearing, the university will provide the Party an Advisor of the University's choice without fee or charge to that Party. Advisors are not required to be attorneys. Unless the University grants a delay for good cause shown, the University shall appoint an Advisor for a Party whose designated Advisor is absent from the Hearing.

Each Party's Advisor shall be responsible for conducting cross-examination on behalf of the represented Party. See Section 3.3.1 regarding the limited role of an advisor appointed by the University.

3.7.2 Beginning the Hearing

The Hearing Officer shall convene the Hearing at the appointed time. The Hearing Officer will review Hearing procedures for the Parties. In order to maintain students' privacy as much as possible, witnesses will not be in the Hearing room or attending by technological means except when providing evidence or being cross-examined. An exception to this, at the discretion of the Hearing Officer, is the presence of Campus Security or local or state law enforcement for the purposes of maintaining security or chain of evidence, as well as the Title IX Investigator. Parties and witnesses will be reminded that providing false information in connection with the Hearing is a violation of the University's Code of Conduct for students or expectations of employees.

3.7.3 Examining Parties and Witnesses

Each Party's Advisor will be given an opportunity to ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the Party's advisor, and never by a Party personally.

Relevance. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Hearing Officer must first determine whether the question, if answered, will aid the Panel in making a determination of responsibility. The Hearing Officer must provide a rationale to exclude a question as not relevant. The Hearing Officer may ask both Advisors to provide reasons why a question should or should not be considered relevant. The Hearing Officer will instruct all Parties and witnesses not to answer any question until the Hearing Officer has allowed the question. Federal laws do not require an opportunity for rebuttal to be given.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless:

- a) Such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
- b) The questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

The Hearing Officer shall not permit any questions, nor the introduction of any evidence, that would involve the disclosure of information protected under a legally recognized privilege, unless the person holding the privilege has waived it in writing in advance of the hearing.

Cross-Examination. A cross-examination proceeds as follows:

- An Advisor or Panel Member asks a question.
- The Hearing Officer determines whether the question is relevant and indicates either: "Relevant" or "Not relevant" or in an otherwise clear and consistent manner.
- If the Hearing Officer determines the question is relevant, the person being examined may choose to answer.
- If the Hearing Officer determines the question is not relevant, the Hearing Officer provides a rationale for the determination. Federal laws do not require an opportunity for rebuttal to be given.

The Panel may not draw an adverse inference regarding responsibility based solely on a Party's or witness's absence from the Hearing or refusal to answer cross-examination or other questions. The panel will ask questions prior to advisors being allowed to ask questions of witnesses.

3.7.4 Availability of Evidence

The University will make all evidence that was subject to inspection and review by the Parties in connection with the preparation of the Investigative Report available at the Hearing, digitally or otherwise, unless otherwise prohibited by local, state or federal law. This serves to give each Party equal opportunity to refer to such evidence during the Hearing, including for purposes of cross-examination. To reduce delays during the Hearing, parties should notify the Title IX Coordinator at least forty-eight

(48) hours prior to the Hearing regarding any witnesses, physical evidence, transcripts, recordings, or other items requested to be physically available at the Hearing. Facts or evidence that were not known or knowable to the parties prior to the issuance of the final investigative report shall be admissible during the hearing provided that the Hearing Officer determines that this evidence was 1) not known or knowable prior to the final investigative report and 2) is relevant to the allegations to be adjudicated.

Presentation of Final Investigative Report. The investigator(s) will present a summary of the final investigation report, identifying items that are contested and those that are not. The Hearing Officer and each Party's Advisor may question the investigator(s). The investigator should not be asked to disclose opinions on recommended findings or determinations but can explain what threshold the University must use to determine responsibility. Hearing Officers, Advisors, and Parties will refrain from discussion of these assessments and from questions for investigators about them. If such information is introduced, the Hearing Officer will direct that it be disregarded.

3.7.5 Conducting the Hearing

The Hearing will be conducted substantially as provided below. The Hearing Officer may recess the Hearing for appropriate and reasonable rest and meal breaks. Any Hearing participant may request a break.

- a) A university representative, the Hearing Officer, will serve as the moderator and facilitator for the Hearing. The function of the Hearing Officer is to move the proceeding forward in an unbiased manner and to give the Parties and witnesses an opportunity to have their evidence presented before the Panel.
- b) Each Party, beginning with the Complainant, will have an opportunity to make an opening statement. Advisors or others may not make opening statements on behalf of the Parties. However, at the discretion of the Hearing Officer, a written statement by a party or a witness can be read into the record by either the Hearing Officer or the Title IX Coordinator.
- c) The Panel will question the Complainant.
- d) The Respondent's Advisor will question the Complainant as described in Section 3.7.3 *Cross-Examination* above, and the Panel may further question the Complainant.
- e) The Panel will question the Respondent.
- f) The Complainant's Advisor will question the Respondent as described in Section 3.7.3 above, under *Order*, and the Panel may further question the Respondent.
- g) Each witness will be called before the Panel, either in person or through appropriate technology. The Panel will question each witness.
- h) The Parties' Advisors, beginning with the Advisor for the Complainant, will question each witness. The Parties themselves may not question each other or any witness.
- i) If an Investigator or other University representative is called to address evidence from the Investigative Report, the Panel and each Party's Advisor, beginning with the Advisor for the Complainant, will have the opportunity to question the Investigator or representative.
- j) Prior to dismissing any witness or person offering testimony, the Hearing Officer will ask if the Advisors or the Panel have additional questions or would like the opportunity to recall the witness at a later point in the hearing.
- k) Each Party, beginning with the Complainant, will have the opportunity to make a brief closing statement to the Panel. Advisors or others may not make closing statements on

behalf of the Parties.

- I) After confirming that there is no additional evidence or other matters to be addressed, the Hearing Officer will adjourn the Hearing.

3.7.6 Record of the Hearing

The university will create an audiovisual recording of the Hearing and make it available to the Parties and to any appellate decision-maker for inspection and review for appeals purposes. **Please note that a transcript of the Hearing will not be created, and any AI generated transcript that may be created will not serve as an official transcript. To preserve the privacy of the parties, no additional recording devices or cell phones or electronic devices will be allowed to operate during the Hearing.**

3.8 Determination of the Allegations

The Panel shall exercise independent and unbiased judgment with respect to:

- findings of fact which support the determination(s);
- conclusions regarding the application of the university's Title IX Sexual Harassment Policy to the facts;
- the determination regarding responsibility as to each allegation; and
- the rationale for the Panel's conclusions.

Only if a Panel determines that the Respondent more likely than not committed this violation **or** the Respondent has accepted Formal Responsibility will the Panel determine appropriate sanctions. In determining the severity of sanctions or corrective actions the following should be considered: the frequency, severity, and/or nature of the offense; history of past conduct; an offender's willingness to accept responsibility; previous institutional response to similar conduct; strength of the evidence; and the wellbeing of the University community. The Panel may consult with University officials for information about sanctions and remedies typically used in similarly-situated cases.

3.8.1 Preponderance of the Evidence Standard

The Panel shall determine whether the Respondent is responsible for each of the allegations in the Formal Complaint. The Panel shall reach these decisions by applying the Preponderance of the Evidence standard of evidence. Formal judicial rules of evidence do not apply to the hearing process. A finding of responsibility under this standard means that the Panel determines that it is *more likely than not* that the Respondent engaged in Prohibited Conduct identified in this Policy. In making the determination, the Panel:

- a) must make an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence;
- b) must not make credibility determinations based on a person's status as a Complainant, Respondent, or witness;
- c) must not draw an inference about responsibility based solely on a Party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions; and
- d) must not rely upon evidence or information protected under a legally recognized privilege unless the person holding the privilege has waived it.

The Panel may consider statements made by the Parties and witnesses during the investigation, as well as other relevant evidence, regardless of whether the Parties or witnesses submit to cross-examination at the Hearing. For example, the Panel may consider written communication (texts, emails, etc.) between the Parties from times leading up to the alleged Sexual Harassment and statements about the alleged Sexual Harassment which the Panel determines to be relevant under this Policy. Additionally, the Decision-maker may consider relevant police reports, Sexual Assault Nurse Examiner (SANE) documents, medical reports for which privilege has been waived, and other documents, even if those documents contain statements of a party or witness who is not cross-examined at the Hearing. The Panel cannot draw an adverse inference regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions

3.8.2 Letter of Determination

Within five (5) days of the Panel's decision, the Title IX Coordinator shall issue the Panel's written determination regarding the Respondent's responsibility for the alleged misconduct. The written determination must include:

- the allegations potentially constituting Sexual Misconduct;
- a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of this Brewton-Parker Christian University Sexual Misconduct Policy to the facts;
- a decision and supporting rationale corresponding to each allegation, including a determination of "Responsible" or "Not Responsible";
- as allowed under state and/or federal law, identification of any disciplinary sanctions the University will impose on the Respondent and any remedies designed to restore or preserve equal access to the University's Education Program or Activity the University will provide to the Complainant;
- a rationale for such sanctions and remedies, and
- permissible reasons for Parties to appeal and the University's appeal procedure.

3.8.3 Effective Date of Determination

The University will provide the written determination regarding responsibility to the Parties simultaneously. If neither Party appeals, the determination becomes final on the date on which an appeal would no longer be considered timely.

If a Party appeals the determination, the determination becomes effective on the date the University provides the Parties with the written determination of the result of the appeal, unless the appeal decision requires further proceedings.

3.9 Sanctions and Remedies

Brewton-Parker Christian University may impose a range of disciplinary sanctions and remedies with

respect to any misconduct for which a Respondent has been determined to be responsible. Possible sanctions and remedies include any combination of, but are not limited to, the following:

- Imposing, continuing, or modifying any Supportive Measures, these measures will be provided as needed and as appropriate;
- Warning: A verbal or written reminder to the Respondent about relevant University rules, regulations, or policies and the potential consequences for violating them;
- No Contact Order: A directive to have no contact with the Complainant, including contact in person or by phone, email, text message, social media, or any other means, either directly or through a third party;
- Reprimand: Written notice that University rules, regulations, or policies have been violated and that continuation or repetition of misconduct may result in a more severe sanction;
- Letter(s) or Essays regarding harm and consequences;
- Participation in educational programming for the prevention of sexual misconduct;
- Fines: A monetary fine assessed for a disciplinary violation;
- Disciplinary Probation: Official warning that a student has been found responsible for violating Brewton-Parker Christian University policy, and future violations may result in more severe sanctions (which may include suspension or expulsion). The student will not be in “good disciplinary standing” with the University for a designated period of time and may face specific restrictions on behavior and/or privileges;
- Restitution: Requirement to reimburse or otherwise compensate another for actual harm;
- Temporary or Permanent Residence Life Suspension, including a Criminal Trespass Warning: Notice that the student is not eligible to live in a residence hall for a designated period of time. The student will not receive a refund for room and board fees. A student placed on Residence Life Suspension must vacate the residence hall within the timeframe specified by the Decision-maker and surrender keys;
- Online education in lieu of physical attendance;
- Disciplinary Suspension: Termination of student status at the Brewton-Parker Christian University for a specified period of time, including a Criminal Trespass Warning;
- Disciplinary Expulsion: Permanent termination of student status at the University, including a Criminal Trespass Warning;
- Transcript notation: Disciplinary Suspension or Expulsion noted on transcript;
- Paid or unpaid leave from employment;
- Loss of supervisory or oversight responsibilities;
- Change in employment role or work location;
- Reduction in Pay;
- Termination of employment.

The Title IX Coordinator is responsible for ensuring effective implementation of any supportive measures, sanctions, or remedies.

3.10 Appeals

3.10.1 Right of Appeal

Either Party may request an appeal from a determination regarding responsibility, or from the university’s dismissal of all or any part of a Formal Complaint. Appeals are not automatic and are

not a “re-hearing” of a case. Rather, they are review of the record, based on specified grounds for appeal. The appeal procedure shall apply equally to both Parties.

The following are the only allowable bases for appeal:

- a) to consider new information, sufficient to alter the decision, or other relevant facts not brought out in the original hearing (or appeal), because such information was not known or knowable to the person appealing during the time of the hearing (or appeal); or
- b) to allege a procedural error within the hearing process that may have substantially impacted the fairness of the hearing (or appeal), including but not limited to whether any hearing questions were improperly excluded or whether the decision was tainted by a conflict of interest or bias by the Title IX Coordinator, Conduct Officer, investigator(s), decision makers(s).

3.10.2 Filing an Appeal

The Respondent and/or the Complainant shall have the right to appeal the outcome of a sexual misconduct case on any of the following grounds: (1) to consider new information, sufficient to alter the decision, or other relevant facts not brought out in the original hearing (or appeal), because such information was not known or knowable to the person appealing during the time of the hearing (or appeal); or (2) to allege a procedural error within the hearing process that may have substantially impacted the fairness of the hearing (or appeal), including but not limited to whether any hearing questions were improperly excluded or whether the decision was tainted by a conflict of interest or bias by the Title IX Coordinator, Conduct Officer, investigator(s), decision makers(s). The appeal must be made in writing, must set forth one or more of the bases outlined above, and must be submitted within five (5) business days of the date of the final written decision. The appeal should be made to the Title IX Coordinator, who will promptly forward it and all materials needed for an appellate review to the President or the President’s designated appellate decision-maker. The Coordinator will also share notice of appeal with the non-appealing party.

The appeal shall be a review of the record only, and no new meeting with the Respondent or any Complainant is required. The President or their designee may affirm the original finding and sanction, affirm the original finding but issue a new sanction of greater or lesser severity, remand the case back to any lower decision maker to correct a procedural or factual defect, or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The President or the President’s designee’s decision shall be simultaneously issued in writing to the parties within a reasonable time period. The President or their designee’s decision shall be the final decision of the institution.

3.10.3 Consideration of an Appeal

The university will promptly notify both Parties in writing that an appeal has been filed and provide a copy of the Notice of Appeal to the other Party. The non-appealing Party shall have five (5) days from the date of such notice to submit to the Title IX Coordinator a written statement in support of the initial outcome or in opposition to the appeal. A copy of any such written statement shall be provided to the appealing Party.

The appeal shall be considered and decided by the President or a designated Appeal Decision-maker who

is not the same person as the Investigator, the Title IX Coordinator, or the Hearing Officer or Panel Members that reached the determination regarding responsibility or dismissal. The Appeal Decision-maker shall review the Notice of Appeal, the response of the non-appealing Party, and may review the record of the Hearing as necessary to reach a conclusion on the appeal.

3.10.4 Decision on Appeal

The Appeal Decision-maker shall issue a written decision describing the result of the appeal and the rationale for the result.

The appeal shall be a review of the record only, and no new meeting with the Respondent or any Complainant is required. The President or designee may affirm the original finding and sanction, affirm the original finding but issue a new sanction of greater or lesser severity, remand the case back to any lower decision maker to correct a procedural or factual defect, or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The President or their designee's decision shall be simultaneously issued in writing to the parties within a reasonable time period. The President or designee's decision shall be the final decision of the institution.

3.10.5 Recusal/Challenge for Bias

Any party may challenge the participation of any institution official or employee in the process on the grounds of personal bias by submitting a written statement to the President or the President's designee setting forth the basis for the challenge. The designee shall not be the same individual responsible for investigating or adjudicating the allegations. The written challenge should be submitted within a reasonable time after the individual knows or reasonably should have known of the existence of the bias. The institution's designee will determine whether to sustain or deny the challenge and, if sustained, the replacement to be appointed.

3.11 Timing of Grievance Procedure

3.11.1 Expected Time Frames

The University will generally issue the written Hearing determination within 120 days after the filing of the Formal Complaint.

3.11.2 Temporary Delays or Extensions

The University may direct a temporary delay in the grievance procedure or the limited extension of the normal time frames for good cause in exceptional circumstances. The University will notify the Complainant and the Respondent in writing of any temporary delay or limited extension and the reasons for the action.

The Complainant or Respondent may request a temporary delay or limited extension in writing to the Title IX Coordinator. The written request must state the reason for the delay or extension and the length of the delay or extension being requested.

Some examples of situations which may constitute good cause for a delay or extension include natural

disasters and other emergencies impacting the campus, the absence due illness or factors beyond the control of the Title IX Coordinator, the investigator(s), the advisors, or the Panel, as well as the need for language assistance or accommodation of disabilities. **Please note that federal regulations do not consider concurrent law enforcement activity good cause for a delay.**

The University will attempt to accommodate the schedules of Parties and witnesses throughout the grievance procedure in order to provide Parties with a meaningful opportunity to exercise their lawful rights. However, the University will not delay the grievance procedure indefinitely because a Party, witness, or Advisor is refusing to cooperate. In order to resolve complaints within reasonable time frames, the grievance procedure can proceed to conclusion even in the absence of a Party or witness.

3.12 Record Retention

The University will maintain any and all documents, images, audio or visual recordings, and/or transcripts related to a report, Formal Complaint, investigation, Supportive Measures, Informal Resolution, Formal Resolution, Sanctions and/or remedies administered under this Policy for seven (7) years from the date of resolution.