

## **Ross Education - Title IX Sex-Based Harassment Policy**

### **INTRODUCTION**

Ross Education values civility, dignity, diversity, education, honesty, and safety and is firmly committed to maintaining a campus environment free from all forms of sex discrimination, sex-based harassment, and sexual misconduct.

In furtherance of this commitment, Ross has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

Sex discrimination, sex-based harassment, and sexual misconduct in any form will not be tolerated and will be dealt with promptly. When an allegation of misconduct is reported, protective and other remedial measures will be used to reasonably ensure such conduct ends, is not repeated, and the effects on the victim and community are remedied, including serious sanctions when a responding party is found to have violated this policy. Similarly, retaliation for having brought forward concerns or allegations, or for participating in an investigation of a report of sex discrimination or sex-based harassment, is also expressly prohibited and is grounds for disciplinary action.

The institution uses the preponderance of the evidence (also known as “more likely than not”) as a standard for proof of whether a violation occurred. In campus investigations and grievance procedures, legal terms like “guilt”, “innocence”, and “burden of proof” are not applicable. Ross never assumes a respondent is in violation of its policy. Campus investigations are conducted to take into account the totality of all evidence available from all relevant sources, both inculpatory and exculpatory.

This Policy provides information regarding how an individual – whether a student, faculty member, or staff member can make a report of sex-based harassment or sexual misconduct impacting a student, faculty member, or staff member, and how Ross will proceed once it is made aware of any such report. For information on Ross policies and procedures pertaining to prohibited sex discrimination other than sex-based harassment, please see the Ross Education - Title IX Sex Discrimination Policy.

### **I. TITLE IX COORDINATOR**

Ross has appointed a Title IX Coordinator responsible for implementing the Ross Education Title IX Sex-Based Harassment Policy and related procedures. The Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination, and misconduct policies. Questions about this policy should be directed to the Title IX Coordinator. Anyone (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment) wishing to make a report relating to discrimination or harassment may do so by reporting the concern to Ross at any time (including during non-business hours) in person, by mail, by telephone or by electronic mail via the contact information below.

The institution’s Title IX Coordinator may delegate certain responsibilities under this policy to designated administrators, who will be appropriately trained.



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The Ross Title IX Coordinator's contact information is as follows:

**Jeffrey Biltz**

Vice President of Accreditation and Regulatory Affairs  
22800 Hall Road, Suite 800  
Clinton Township, MI 48036-4805  
[jbiltz@rosseducation.edu](mailto:jbiltz@rosseducation.edu)  
(810) 941-8066

***In the event an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to Ross Education's President/CEO - (810) 956-7350.***

Individuals experiencing harassment or discrimination also have the right to file a formal grievance with government authorities:

**OFFICE FOR CIVIL RIGHTS (OCR) – U.S. DEPARTMENT OF EDUCATION**

***Cleveland Office (Michigan, Ohio)***

1350 Euclid Avenue, Suite 325  
Cleveland, OH 44115  
Telephone: (216) 522-4970  
Facsimile: (216) 522-2573  
Email: [OCR.Cleveland@ed.gov](mailto:OCR.Cleveland@ed.gov)

***Chicago Office (Indiana, Iowa)***

230 S. Dearborn Street, 37th Floor  
Chicago, IL 60604  
Telephone: (312) 730-1560  
Facsimile: (312) 730-1576  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

***Philadelphia Office (Kentucky, West Virginia)***

100 Penn Square East, Suite 515  
Philadelphia, PA 19107-3323  
Telephone: (215) 656-8541  
Facsimile: (215) 656-8605  
Email: [OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov)

***Atlanta Office (Tennessee, Alabama)***

61 Forsyth Street S.W., Suite 19T10  
Atlanta, GA 30303-8927  
Telephone: (404) 974-9406  
Facsimile: (404) 974-9471  
Email: [OCR.Atlanta@ed.gov](mailto:OCR.Atlanta@ed.gov)

***Boston Office (Massachusetts)***

5 Post Office Square, 8th Floor  
Boston, MA 02109-3921  
Telephone: (617) 289-0111  
Facsimile: (617) 289-0150  
Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

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### II. TERMINOLOGY

The following definitions clarify key terminology as used in this policy.

**Advisor** refers to the person permitted to accompany a party in a Title IX grievance process at any meeting regarding a grievance process investigation. All parties are entitled to an advisor of their choosing. This advisor may be, but is not required to be, an attorney. An advisor accompanying a student at any meeting may provide support, guidance, or advice only to the student during the meeting but may not otherwise participate in the meeting unless requested to do so by the institution.

**Complainant** refers to 1) a Ross student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination or sex-based harassment under Title IX or its regulations; or 2) a person other than a Ross student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination or sex-based harassment under Title IX or its regulations and who was participating or attempting to participate in a Ross educational program or activity at the time of the alleged discrimination or harassment.

**Complaint** refers to an oral or written request to Ross that objectively can be understood as a request for Ross to investigate and make a determination regarding alleged discrimination or harassment under Title IX or its regulations.

**Complaint** may also refer to a document signed by the Ross Title IX Coordinator describing allegations which form the basis for a Title IX grievance process in the absence of a complaint from a Complainant or other affected individual. Where the Ross Title IX Coordinator signs a complaint, the Title IX Coordinator is not considered a complainant or otherwise a party.

**Disciplinary Sanctions** refers to consequences imposed on a respondent following a determination under Title IX that the respondent violated Ross's prohibition on sex discrimination or sex-based harassment.

**Exculpatory Evidence** clears someone of responsibility for alleged misconduct.

**Inculpatory Evidence** shows, or tends to show, a person's involvement in an act, or evidence that can establish responsibility for alleged misconduct.

**Party or parties** refer to the complainant(s) and the respondent(s).

**Relevant** means related to the allegations of sex discrimination or sex-based harassment under investigation as part of a Title IX grievance process. Questions are relevant when they seek evidence that may aid in showing whether or not the alleged sex discrimination or sex-based harassment occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged sex discrimination or sex-based harassment occurred.

**Remedies** refers to measures provided, as appropriate, to a complainant or any other person Ross identifies as having had their equal access to Ross educational programs limited or denied by sex discrimination or sex-based harassment. These measures are provided to restore or preserve that person's access to Ross educational programs after a determination that sex discrimination or sex-based harassment occurred.

**Respondent** refers to the individual(s) who are alleged to have violated Ross's prohibition on sex discrimination or sex-based harassment.

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**Retaliation** refers to intimidation, threats, coercion, or discrimination against any person by Ross, a student, or an employee or other person authorized by Ross to provide aid, benefit, or service under a Ross educational program, 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 Federal Title IX regulations.

**Sex-Based Harassment** is a form of sex discrimination and refers to 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. Specific types and instances of sex-based harassment are defined at greater length in section III of this policy, as well as in Federal Title IX regulations.

**Supportive Measures** refers to individualized measures offered as appropriate and as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to 1) restore or preserve a party's access to Ross educational programs, including measures designed to protect the safety of the parties or the Ross educational environment; or 2) provide support during the Title IX grievance process or during an informal resolution process.

**Title IX** refers to Title IX of the Education Amendments of 1972, Public Law 92-318, as amended, which is designed to eliminate discrimination on the basis of sex in any educational program or activity receiving federal financial assistance.

**Witness** refers to any individual who shares information relating to an allegation of prohibited conduct under this policy.

### III. PROHIBITED CONDUCT

This policy addresses Title IX Sex-Based Harassment, which encompasses all of the prohibited conduct described below that occurs on the basis of sex. For information on Ross policies and procedures pertaining to prohibited sex discrimination other than sex-based harassment, please see the Ross Education - Title IX Sex Discrimination Policy.

In determining whether alleged conduct violates this policy, the institution will consider the totality of the facts and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred. Any of the prohibited conduct defined in this policy can be committed by individuals of any gender, and it can occur between individuals of the same gender or different genders. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships.

The prohibited behaviors listed below are serious offenses and will result in discipline by the institution. Prohibited conduct involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another individual's state of incapacitation, will be deemed especially egregious and may result in expulsion or termination of employment. The respondent's consumption of alcohol or the use of illegal substances does not constitute a mitigating circumstance when it contributes to a violation under this policy.

Prohibited behaviors include:

- **Quid Pro Quo Harassment:** An employee, agent, or other person authorized by Ross to provide an aid, benefit, or service under a Ross educational program or activity explicitly or impliedly conditioning

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the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

- **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 Ross educational programs or activities. 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 educational program or activity in question;
  - ii. The type, frequency, and duration of the conduct;
  - iii. The parties' ages, roles within the educational 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 educational program or activity in question;
- **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; or
  - 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;
- **Retaliation:** Intimidation, threats, coercion, or discrimination against any person by Ross, a student, or an employee or other person authorized by Ross to provide aid, benefit, or service under a Ross educational program, 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 Federal Title IX regulations;
- **Complicity:** Assisting, facilitating, or encouraging the commission of a violation of this policy;
- **Other Misconduct Offenses:** Other institutional conduct violations, including the following, when a violation is determined to be motivated by sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity:
  - i. Threatening or causing physical harm, extreme verbal abuse, or other conduct threatening or endangering the health or safety of any person;

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- ii. Intimidation, meaning implied threats or acts that cause an unreasonable fear of harm in another;
  - iii. Hazing, meaning the commission of any act, or conspiring to commit any act that injures, frightens, degrades, disgraces, or tends to injure, frighten, degrade, or disgrace any person;
  - iv. Bullying, meaning repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally, that is not speech or conduct otherwise protected by the First Amendment; and
- Any other offense defined as sex-based harassment under Federal Title IX regulations.

For purposes of this policy, consent to any interaction of a sexual nature is considered a voluntary, informed, un-coerced agreement through words or actions freely given, which could be reasonably interpreted as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate.

Indications that consent is not present include: when physical force is used or there is a reasonable belief of the threat of physical force; when duress is present; when one individual overcomes the physical limitations of another individual; and when an individual is incapable of making an intentional decision to participate in a sexual act, which could include instances in which the individual is in a state of incapacitation.

Ross's assessment of consent for purposes of this policy further takes into account the following:

- Consent to one act does not constitute consent to another act.
- Consent on a prior occasion does not constitute consent on a subsequent occasion.
- The existence of a prior or current relationship does not, in itself, constitute consent.
- Consent can be withdrawn or modified at any time.
- Consent is not implicit in an individual's manner of dress.
- Accepting a meal, a gift, or an invitation for a date does not imply or constitute consent.
- Silence, passivity, or lack of resistance does not necessarily constitute consent.
- Initiation by someone who a reasonable person knows or should have known to be deemed incapacitated is not consent.
- In order to give consent, one must be of legal age. Consent cannot be given by minors to adults, by mentally disabled individuals, or by otherwise physically or mentally incapacitated individuals.

For purposes of this policy, incapacitation (or incapacity) is the state in which an individual's perception or judgment is so impaired that the individual lacks the cognitive capacity to make or act on conscious decisions. The use of drugs or alcohol can cause incapacitation. An individual who is incapacitated is unable to consent to a sexual activity. Engaging in sexual activity with an individual who is incapacitated (and therefore unable to consent), where an individual knows or ought reasonably to have understood that the individual is incapacitated, constitutes Title IX sex-based harassment as defined by this policy.

### IV. COMPLAINTS

The following people have a right to make a complaint of sex-based harassment, requesting that Ross investigate and make a determination about alleged sex-based harassment under Title IX:

- A "complainant," which includes:
  - a student or employee of Ross who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX; or

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- a person other than a student or employee of Ross who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX at a time when that individual was participating or attempting to participate in Ross's education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- The Ross Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of Federal Title IX regulations.

When more than one complainant or more than one respondent is involved, references in this policy to a party, complainant, or respondent include the plural, as applicable.

Ross may consolidate complaints of sex-based harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex-based harassment arise out of the same facts or circumstances, and provided that such consolidation would not violate the Family Educational Rights and Privacy Act (FERPA).

### **V. GRIEVANCE PROCESS INITIATION**

Upon receipt or initiation of a complaint and evaluation thereof, and if the complaint is not dismissed on one of the bases for dismissal detailed in this policy, the Title IX Coordinator will promptly initiate a Title IX grievance process.

Following initiation of the grievance process, the Title IX Coordinator will promptly take the following initial steps:

- Confidentially contact any complainants or other affected individuals to discuss the availability of supportive measures, as described in this policy.
- Conduct an individualized safety and risk analysis, in cooperation with appropriate Ross personnel, to determine whether an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sex-based harassment necessitates the temporary removal of a student respondent from their educational program on an emergency basis. Ross will provide any respondent subject to an emergency removal with notice and an opportunity to challenge the decision.
- Determine whether it is appropriate to place any non-student employees, including an employee respondent, on administrative leave during the pendency of the grievance process.

Ross' grievance process is based on the following basic requirements as outlined in Federal Title IX regulations:

- Ross will treat complainants and respondents equitably.
- Ross requires that any Title IX Coordinator, investigator, or decision-maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- Ross presumes that the respondent is not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance process.

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- Ross has established, or will establish as applicable, reasonable and prompt time frames for major stages of the grievance process, including evaluation of complaints, investigation, investigation, determination, and appeal. Temporary delay or reasonable time extension of time frame for good cause may be allowed on a case-by-case basis, and opportunity to request such extensions will be afforded to the parties throughout the grievance process. Written notice will be provided to the parties of any delay or extension and the reason for the action. Examples of good cause considerations may include, but are not limited to, the absence or unavailability of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
- Ross will take reasonable steps to protect the privacy of the parties and witnesses during its grievance process. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance process. The parties cannot engage in retaliation, including against witnesses.
- Ross will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

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

- Evidence that is protected under a privilege recognized by Federal or State law, or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Ross obtains that party's or witness's voluntary, written consent for use in its grievance process; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

### **VI. NOTICE OF ALLEGATIONS**

Upon initiation of a Title IX grievance process, written notice will be provided to the known parties which shall include the following information:

- Ross's Title IX grievance process and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
- Prohibition of retaliation;



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- The presumption that the respondent is not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance process. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision-maker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- At the conclusion of the investigation, the parties will be entitled to an equal opportunity to access an investigative report that accurately summarizes the relevant and not otherwise impermissible evidence. The parties are further entitled to an equal opportunity to access this relevant and not impermissible evidence upon the request of any party; and
- Ross's Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

Following initial notice, sufficient time will be afforded for the parties to prepare a response before any initial interview, with such period to be no fewer than three business days.

If, in the course of an investigation, Ross decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the written notice, or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

### **VII. SUPPORTIVE MEASURES**

In all cases, Ross will offer and coordinate non-disciplinary, non-punitive supportive measures as appropriate and reasonably available for the complainant and/or respondent. Supportive measures will at all times be made available without fee or charge, and may be provided both before and after the filing of a complaint, or as appropriate in circumstances where no complaint has been filed.

Supportive measures are designed to restore or preserve all parties' equal access to Ross education programs without unreasonably burdening any other parties, or to provide support during Ross's Title IX grievance process or during the informal resolution process. Certain supportive measures may also be designed to ensure the safety of all parties and Ross educational environments, or to deter any sex-based harassment.

For complaints of sex-based harassment, these supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Ross will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair Ross's to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

### **VIII. DISMISSAL OF A COMPLAINT**

At any time prior to the conclusion of a grievance process, Ross may dismiss a complaint if:

- Ross is unable to identify the respondent after taking reasonable steps to do so;

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- The respondent is not participating in Ross’s education program or activity and is not employed by Ross;
- Ross obtains, in writing, the complainant’s voluntary withdrawal of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint in place of the withdrawn allegations, and Ross determines that, without the complainant’s withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex-based harassment under Title IX even if proven; or
- Ross determines the conduct alleged in the complaint, even if proven, would not constitute sex-based harassment under Title IX. Before dismissing the complaint, Ross will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, Ross will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then Ross will notify the parties simultaneously in writing.

Ross will notify the complainant that a dismissal may be appealed on the bases outlined in the Appeals section of this policy. If dismissal occurs after the respondent has been notified of the allegations, then Ross will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, Ross will follow the procedures outlined in the Appeals section.

When a complaint is dismissed, Ross will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex-based harassment does not continue or recur within Ross’s education program or activity.

### **IX. INVESTIGATION**

Ross will provide for adequate, reliable, and impartial investigation of complaints. The investigation will be overseen by the Title IX Coordinator, with the assistance of any appropriately trained Title IX investigators designated by the Title IX Coordinator, and conducted in accordance with the following principles in accordance with Federal Title IX regulations:

- The burden is on Ross—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex-based harassment occurred.
- Any party whose participation is invited or expected will be provided with written notice of the date, time, location, participants, and purpose of all meetings or proceedings, with sufficient time for the party to prepare to participate.
- All parties will be provided with the same opportunity to be accompanied to any meeting or proceeding with an advisor of their choice. Such an advisor may be, but is not required to be, an attorney.
  - Ross will not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding.
  - Ross may establish restrictions regarding the extent to which the advisor may participate in a grievance process, as long as the restrictions apply equally to the parties.
- All parties will be provided with the same opportunities, if any, to have people other than the advisor of the parties’ choice present during any meeting or proceeding.

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- All parties will be provided with equal opportunity to present or recommend fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The Title IX Coordinator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Following the conclusion of the investigation, the Title IX Coordinator will prepare a comprehensive investigative report fairly summarizing all relevant and not otherwise impermissible evidence, and will simultaneously provide this investigative report to all parties and all parties' advisors within five business days of the conclusion of the investigation.

Following distribution of the investigative report, all parties and all the parties' advisors, if any, will be provided with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible upon request.

All parties will be provided with equal and reasonable opportunity to review and respond to the evidence or the investigative report, at least ten business days prior to the commencement of a live hearing. At any time prior to commencement of a hearing, all parties may, but are not required to, submit a written response to the investigative report for consideration by decision-makers and the Title IX Coordinator.

Ross will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance process.

### **X. HEARING**

Upon the conclusion of the investigation, the Title IX Coordinator will appoint a panel of decision-makers to preside over a live hearing. Following the conclusion of the hearing, this panel of decision-makers will render a written determination as to whether sex-based harassment occurred.

Ross will conduct the live hearing with the parties physically present in the same geographic location or, at Ross's discretion or upon the request of either party, will conduct the live hearing with the parties physically present in separate locations with technology enabling the decision-makers and parties to simultaneously see and hear the party or witness while that person is speaking.

The Title IX Coordinator will coordinate with all parties and with the decision-makers to schedule the hearing as soon as is practicable following the conclusion of the investigation and circulation of the investigative report.

Hearing procedures will provide a process that enables the decision-makers to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

Ross's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will allow the decision-maker to ask such questions and, as appropriate, will either:

- Allow each party to propose such questions that the party wants asked of any party or witness, and have those questions asked by the decision-makers, subject to the procedures for evaluating and limiting questions discussed below; or

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- Allow each party's advisor to ask any party or witness such questions, subject to the procedures for evaluating and limiting questions discussed below. Such questioning will never be conducted by a party personally. In the event advisor-conducted questioning is permitted for a hearing, Ross will provide any party without an advisor with an advisor of Ross's choice, without charge to the party, for the purpose of such questioning. In such instances, Ross will not appoint a confidential employee and may appoint, but is not required to appoint, an attorney to serve as an advisor.

The decision-makers will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed, and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decision-makers will give a party an opportunity to clarify or revise a question that the decision-maker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

The decision-makers may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decision-makers will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

Any additional hearing rules and procedures, including rules regarding hearing conduct and decorum, shall be applied equally to all parties and shall fully comply with Federal Title IX regulations. Hearing rules and procedures will be circulated to all parties at least ten business days prior to the commencement of the hearing.

Ross will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

### **XI. DETERMINATION**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, and following a live hearing conducted in accordance with Federal Title IX regulations, the appointed panel of decision-makers will, within ten business days of the conclusion of the hearing:

- Use the preponderance of the evidence standard of proof to determine whether sex-based harassment occurred. The standard of proof requires the decision-makers to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decision-makers are not persuaded under the applicable standard by the evidence that sex-based harassment occurred, whatever the quantity of the evidence is, the decision-makers will not determine that sex-based harassment occurred.
- Notify the parties simultaneously in writing of the determination as to whether sex-based harassment occurred under Title IX, with such written determination to include:
  - A description of the alleged sex-based harassment;
  - Information about the policies and procedures that Ross used to evaluate the allegations;
  - The decision-makers' evaluation of the relevant and not otherwise impermissible evidence, and determination as to whether sex-based harassment occurred, and the respondent's responsibility therefor;
  - If the decision-makers find that sex-based harassment occurred, any disciplinary sanctions recommended for imposition by Ross on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by Ross to the complainant, and, to the

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- extent appropriate, other students identified by Ross to be experiencing the effects of the sex-based harassment; and
- Ross's procedures and permissible bases for the parties to appeal.

Ross will not impose discipline on a respondent for sex-based harassment prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance process that the respondent engaged in prohibited sex-based harassment.

If there is a determination that sex-based harassment occurred, as appropriate, the Title IX Coordinator will:

- Coordinate the provision and implementation of remedies to a complainant and other individuals Ross identifies as having had equal access to Ross's education program or activity limited or denied by sex-based harassment;
- Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions;
- Take other appropriate prompt and effective steps to ensure that sex-based harassment does not continue or recur within Ross's education program or activity; and
- Ensure full compliance with and conclusion of the Title IX grievance process, including the appeals process, before the imposition of any disciplinary sanctions against a respondent.

Ross will not discipline a party, witness, or others participating in the Title IX grievance process for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex-based harassment occurred.

The determination regarding responsibility becomes final either on the date that the parties are provided with the written determination of the result of an appeal if an appeal is filed (at which point the Title IX grievance process is concluded) or, if an appeal is not filed, the date on which an appeal would no longer be considered timely (at which point the Title IX grievance process is concluded).

### **XII. APPEAL**

Ross will offer all parties with equal right and opportunity to appeal any dismissal of a complaint, or of any determination as to whether or not sex-based harassment occurred. Appeals may only be considered on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or any decision-makers 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.

If a party appeals a dismissal or determination as to whether sex-based harassment occurred, Ross will:

- Designate an appeal official, and ensure that such official did not take part in the investigation of the allegations or dismissal of the complaint, did not serve as a decision-maker in connection with the grievance process, and has been trained consistent with Federal Title IX regulations;

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- If the appeal was not submitted within five business days of receipt of the dismissal or determination in question, the appeal official shall promptly render a written determination as to the validity of the appeal;
- Notify the parties in writing of any appeal, including notice of the allegations, if notice thereof was not previously provided to the respondent;
- Communicate to the parties in writing that Ross will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

Any and all appeals procedures shall be implemented equally for all parties, and any additional procedures or bases for appeal Ross offers on a case-by-case basis will furthermore be made equally available to all parties.

To submit an appeal, a party must submit a written appeal statement to the Title IX Coordinator within five business days of receipt of the dismissal or determination. A late submission may be deemed reasonable only under extenuating circumstances, with the designated appeal official to have sole discretion as to what constitutes extenuating circumstances. The written appeal statement should outline the basis for the appeal, and identify any relevant information substantiating the appeal.

Any non-appealing parties will be provided with a copy of the written appeal statement, and may (but shall not be required to) submit a written response within five business days of receipt of the appeal statement. Any response statements received by the appeal official will be provided to the appealing party, and no further submissions from the parties shall be permitted.

The appeals process is limited in scope, and is not intended to initiate a review of substantive issues of fact or produce a new determination by the appeal official as to whether sex-based harassment occurred. In deciding an appeal, the appeal official may consider the original complaint and any responses, the investigative report and any responses, the hearing record, the written determination, and any written appeal(s) or statements by the parties. The appeal official also may consider any other materials Ross deems relevant and that have been shared with the parties.

The results of the appeals process may include the following outcomes:

- If the designated appeal official finds that the earlier decision should stand, the parties will be so informed and the Title IX grievance process is concluded.
- If the designated appeal official finds that there was a procedural irregularity that affected the outcome of the matter, the matter will be remanded to the Title IX Coordinator or, if necessary, the Ross Education President/CEO to determine appropriate further action.
- If the designated appeal official finds that new evidence is available which was not reasonably available at the time of the determination regarding responsibility or dismissal, and such evidence could alter the outcome of the matter, the matter will be remanded to the Title IX Coordinator for appropriate further action.
- If the designated appeal official finds that the Title IX Coordinator, investigator(s), or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter, the Title IX Coordinator or, if necessary, the Ross Education President/CEO will take appropriate measures to address and remediate the impact of the bias or conflict consistent with the general procedures of this policy.

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- If the designated appeal official finds that the sanctions (or recommended sanctions) are not commensurate with the violation, the matter will be remanded to the Title IX Coordinator for reconsideration.

The designated appeal official will seek to complete the appeal review within twenty business days of receipt of the appealing party's written statement.

### **XIII. INFORMAL RESOLUTION**

Ross, in its discretion, may choose to offer and facilitate informal resolution options in lieu of resolving a complaint through Ross's Title IX grievance process. An informal resolution process may only be initiated so long as all parties give voluntary, informed, written consent to attempt informal resolution, and only if a complaint has been filed. Informal resolution does not involve a full investigation and adjudication through live hearing.

Ross will inform the parties in writing of any informal resolution process it offers and determines is appropriate, if any. Before the initiation of an informal resolution process, Ross will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance process at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume a grievance process arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information Ross will maintain and whether and how Ross could disclose such information for use in Title IX grievance process if such procedures are initiated or resumed.

Ross will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Ross will furthermore not offer or facilitate an informal resolution process to resolve allegations that an employee engaged in sex-based harassment of a student.

### **XIV. SANCTIONS AND REMEDIES**

Following a determination that sex-based harassment occurred, Ross may impose disciplinary sanctions up to and including dismissal from an academic program or termination of employment, depending on the severity of the misconduct established in the decision-makers' determination and taking into account any previous disciplinary violations.

Sanctions which may be imposed on any student found responsible for sex-based harassment may include, without limitation, either singly or in combination:

- disciplinary educational program or training
- disciplinary warning
- disciplinary academic probation
- suspension

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- dismissal

If a student is dismissed in connection with a Title IX grievance process, that student will not be eligible for readmission to Ross at a future date.

Sanctions which may be imposed on any Ross employee found responsible for sex-based harassment may include, without limitation, either singly or in combination:

- disciplinary coaching or training
- written warning
- disciplinary probation
- investigative leave without pay
- demotion
- termination of employment

In the event of a finding of responsibility for sex-based harassment, the decision-makers' determination will recommend appropriate disciplinary sanctions and, as applicable, appropriate remedies available to the complainant or other affected parties. The Title IX Coordinator, along with the applicable administrative area, reserve the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the decision-makers nor any appeals officer(s) will deviate from the range of recommended sanctions unless compelling justification exists to do so.

### **XV. RECORDKEEPING**

Ross will maintain, for a period of seven years, records of the following:

- Each Title IX grievance process conducted under this policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript from a hearing, any disciplinary sanction imposed on the respondent, and remedies provided to the complainant designed to restore or preserve access to Ross educational programs;
- Any appeal and the result thereof;
- Any informal resolution and the result thereof;
- All materials used to train Title IX Coordinators, investigators, decision-makers, appeal officials, and any individual who facilitates the informal resolution process with regard to any Title IX grievance process; and
- Any actions, including any supportive measures, taken in response to a report or formal complaint of Title IX sex-based harassment. In each instance, Ross will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the Ross educational programs.

### **XVI. RETALIATION**

No individual may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this policy or because an individual has made a report or formal complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.



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Charging an individual with code of conduct violations that do not involve sex-based harassment, but arise out of the same facts or circumstances as a complaint of sex-based harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation.

Ross will keep the identity of complainants, respondents, and witnesses confidential, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.

Ross retains the right to take disciplinary action against an individual for making a materially false statement in bad faith during the course of an investigation, hearing, or other proceeding under this policy, but will not conclude that any individual has made a materially false statement in bad faith solely based on the determination regarding whether sex-based harassment has occurred.

Complaints alleging retaliation under this Title IX Sex-Based Harassment policy, including for the exercise of rights under this policy, must be filed in accordance with this policy and will be addressed promptly and equitably. Where the individual allegedly retaliating is not affiliated with Ross and not otherwise subject to its policies, Ross will process the complaint and take appropriate measures.

Notwithstanding the above, the exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this policy; and charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process under this policy does not constitute retaliation; provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.