

**Herzing University**  
**May 2024 Undergraduate Catalog**  
**Addenda**

- **ADDENDUM, effective August 1, 2024, Herzing University’s Title IX Policy, as found in the Student Resources section of the catalog, has been updated to the following.**

**Title IX Policy**

Title IX of the 1972 Education Amendments requires colleges and universities receiving federal funding to ensure that all students have equal access to education, specifically prohibiting discrimination on the basis of sex. Title IX (20 U.S.C. § 1681(a)) reads “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Herzing University maintains a zero-tolerance policy for harassment or discrimination of any kind.

**Title IX Nondiscrimination Notice**

Herzing University prohibits sex discrimination in any education program or activity it operates, in compliance with Title IX and its regulations. This includes discrimination in admission and employment. Sex discrimination encompasses discrimination based on sex, pregnancy, parental status, gender identity or expression, transgender identity, and sexual orientation. It also includes sexual harassment, sexual assault, sex-based stalking, sexual exploitation, and dating or domestic violence.

The Title IX Coordinator is responsible for implementing the policy prohibiting sex discrimination.

**Title IX Coordinator**

The ADA and Title IX Coordinator serves as the Title IX Coordinator and oversees implementation of the University’s policies on equal opportunity, harassment and nondiscrimination. The Title IX Coordinator acts with independence and authority free of conflicts of interest. To raise any concern involving a conflict of interest by the Title IX Coordinator, contact the Associate Vice President of Student Affairs, Danielle Laban at [dlaban@herzing.edu](mailto:dlaban@herzing.edu). To raise concerns regarding a potential conflict of interest with any other administrator involved in a resolution process, please contact the Title IX Coordinator.

Inquiries about and reports regarding this policy and procedure may be made internally to:

Emilie Thompson  
ADA and Title IX Coordinator  
275 W Wisconsin Ave Ste 210  
Milwaukee, WI 53203  
(414) 271-5622  
[emthompson@herzing.edu](mailto:emthompson@herzing.edu)

The Title IX coordinator is responsible for coordinating the dissemination of information and education and training programs to:

- assist members of the Herzing community in understanding that sex discrimination is prohibited by this policy;

- ensure that investigators are trained to respond to and investigate complaints of sex discrimination;
- ensure that faculty, staff, and students are aware of the procedures for reporting and addressing complaints of sex discrimination; and
- coordinating responses to all complaints involving sex discrimination.

**To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please go to:**

<https://secure.ethicspoint.com/domain/media/en/gui/44119/index.html>.

If the Title IX Coordinator determines that the alleged conduct does not reasonably constitute sex discrimination, inquiries or complaints, where appropriate, are referred to Human Resources or the Office of the Provost.

Inquiries may be made externally to:

[Office for Civil Rights \(OCR\)](#)

U.S. Department of Education  
 400 Maryland Avenue, SW  
 Washington, DC 20202-1100  
 Customer Service Hotline #: (800) 421-3481  
 Fax: (202) 453-6012  
 TDD#: (877) 521-2172  
 Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
 Web: <http://www.ed.gov/ocr>

[Equal Employment Opportunity Commission \(EEOC\)](#)

Contact: <http://www.eeoc.gov/contact/>

- **ADDENDUM, effective August 1, 2024, Herzing University’s Pregnant and Parenting Student Policy, as found in the Student Resources section of the catalog, has been updated to the following.**

**[Pregnant and Parenting Student Policy](#)**

Herzing University is committed to creating and maintaining a community where all individuals enjoy freedom from discrimination, including discrimination on the basis of sex, as mandated by Title IX of the Education Amendments of 1972 (Title IX). Sex discrimination, which can include discrimination based on pregnancy, marital status, or parental status, is prohibited and illegal in admissions, educational programs and activities, hiring, leave policies, employment policies, and health insurance coverage. Herzing University hereby establishes a policy and associated procedures for ensuring the protection and equal treatment of pregnant individuals, persons with pregnancy-related conditions, and new parents.

Under the Department of Education’s (ED) Title IX regulations, an institution that receives federal funding “shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student’s pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.” According to ED, appropriate treatment of a pregnant student includes granting the student leave “for so long a period of

time as deemed medically necessary by the student's physician," and then effectively reinstating the student to the same status as was held when the leave began.

This generally means that pregnant students should be treated by Herzing University the same way as someone who has a temporary disability and will be given an opportunity to make up missed work wherever possible. Extended deadlines, make-up assignments (e.g. papers, quizzes, tests, and presentations), tutoring, independent study, online course completion options (where possible given state and accreditor restrictions on distance learning hours), and incomplete grades that can be completed at a later date should all be employed in addition to any other ergonomic and assistive supports typically provided by Disability Services. To the extent possible, Herzing University will take reasonable steps to ensure that pregnant students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same course catalog that was in place when the leave began. The Title IX Coordinator has the authority to determine that such modifications are necessary and appropriate, and to inform faculty members of the need to adjust academic parameters accordingly.

Information about pregnant students' requests for academic modifications will be shared with faculty and staff only to the extent necessary to provide the modification. Faculty and staff will regard all information associated with such requests as private and will not disclose the information unless necessary. Administrative responsibility for academic modifications lies with the Title IX Coordinator, who will maintain all appropriate documentation related to modifications and requests.

In situations such as clinical rotations, labs, and group work, the University will work with the student to devise an alternative path to completion, where possible. In progressive curricular and/or cohort-model programs, medically necessary leaves are sufficient cause to permit the student to shift course order, substitute available similar courses, or join a subsequent cohort when returning from leave. Students are encouraged to work with faculty members and Herzing University's support services to devise a plan for how to best address the conditions as pregnancy progresses, anticipate the need for leaves, minimize the academic impact of their absence, and get back on track as efficiently and comfortably as possible. The Title IX Coordinator may assist with plan development and implementation as needed.

### **Scope**

This policy applies to all aspects of Herzing University's program, including, but not limited to, admissions, educational programs and activities, extracurricular activities, hiring, leave policies, employment policies, and health insurance coverage.

### **Duty to Notify Students of Rights**

When a student notifies and Herzing University employee of their pregnancy, or related condition, the employee provide the student the contact information for the Title IX Coordinator and inform the student that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to Herzing University's education program and activities.

The notified employee must also notify the Title IX Coordinator of the student's pregnancy or related condition.

Upon that notice, the Title IX Coordinator will:

- Inform the student of the University's obligations to students who are pregnant or who are experiencing pregnancy-related conditions and restrictions on the University's disclosure of that information;
- Provide the student with a copy of the University's Title IX Nondiscrimination Notice;
- Provide the student with the option of individualized academic modifications as needed to prevent discrimination and ensure the student's equal access to the University's education program and activities;

- Allow the student to take a voluntary approved break for at minimum the medically necessary time period, and provide full reinstatement upon return; and
- Ensure the student's access to a clean, private space for lactation.

## Definitions

*Caretaking*: caring for and providing for the needs of a child

*Medical Necessity*: a determination made by a health care provider (of the student's choice) that a certain course of action is in the patient's best health interests.

*Parenting*: the raising of a child by the child's parents in the reasonably immediate post-partum period.

*Pregnancy and Pregnancy-Related Conditions*: include, but are not limited to, pregnancy, childbirth, infertility, false pregnancy, miscarriage, ectopic pregnancy, elective termination of pregnancy, conditions arising in connections with pregnancy, and recovery from any of these conditions.

*Pregnancy Discrimination*: includes treating an individual affected by pregnancy of a pregnancy-related condition less favorably than similar individuals not so affected and includes a failure to provide legally mandated leave or academic modifications.

*Pregnant Student/Birth-Parent*: refers to the student who is or was pregnant. This policy and its pregnancy-related protections apply to all pregnant persons, regardless of gender identity or expression.

*Reasonable Modifications (for the purposes of this policy only)*: changes in the academic environment or typical operations that enables pregnant students or students with pregnancy-related conditions to continue to pursue their studies and enjoy the equal benefits of Herzing University.

## Reasonable Modifications for Students Affected by Pregnancy, Childbirth, or Related Conditions

- Herzing University and its faculty, staff, and other employees will not require students to limit their studies as the result of pregnancy or pregnancy-related conditions.
- The benefits and services provided to students affected by pregnancy will be no less than those provided to students with other temporary medical conditions.
- Students with pregnancy-related disabilities, like any student with a short-term or temporary disability, are entitled to reasonable academic modifications so that they will not be disadvantaged in their courses of study and may seek assistance from the Title IX office.
- No artificial deadlines or time limitations will be imposed on requests for modifications, but Herzing University is limited in its ability to enact or implement modifications retroactively.
- Reasonable modifications may include, but are not limited to:
  - Providing modifications requested by a pregnant student to protect the health and safety of the student and/or the pregnancy (such as allowing the student to maintain a safe distance from hazardous substances);
  - Making modifications to the physical environment (such as accessible seating);
  - Providing mobility support;
  - Extending deadlines and/or allowing the student to make up tests or assignments missed for pregnancy-related absences;
  - Offering remote learning options, where available;
  - Excusing medically necessary absences (granted irrespective of classroom attendance policies set by individual faculty members, departments or divisions);
  - Granting leave per Herzing University's medical leave policy or implementing incomplete grades for classes that will be resumed at a future date; or
  - Allowing breastfeeding students reasonable time and space to pump breast milk in a location that is private, clean, and reasonably accessible. Bathroom stalls do not satisfy this requirement.
  - Nothing in this policy requires modification to the essential elements of any academic program. Pregnant students cannot be channeled into an alternative program or school against their wishes.

### **Modified Academic Responsibilities Policy for Parenting Students**

- a. Students with child caretaking/parenting responsibilities who wish to remain engaged in their coursework while adjusting their academic responsibilities because of the birth or adoption of a child or placement of a foster child may request an academic modification period during the first three (3) months from the time the child entered the home. Extensions may be granted when additional time is required by medical necessity or extraordinary caretaking/parenting responsibilities.
- b. During the modification period, the student's academic requirements will be adjusted, and deadlines postponed as appropriate, in collaboration among the Title IX office, the student's student services specialist, and the appropriate academic department.
- c. Student seeking a period of modified academic responsibilities may consult with their academic advisor or with the Title IX office to determine appropriate academic modifications. The Title IX office will communicate all requests under this policy to students' student services specialists and coordinate modification-related efforts with the specialists. Students are encouraged to work with their student services specialist and faculty members to reschedule course assignments, lab hours, examinations, or other requirements and/or to reduce their overall course load as appropriate, once authorization is received from the Title IX office. If for any reason, caretaking/parenting students are not able to work with their student services specialist or faculty members to obtain appropriate and necessary modifications, students should alert the Title IX Coordinator as soon as possible, and the Coordinator will help facilitate any modifications.
- d. Students can request modified academic responsibilities under this policy regardless of whether they elect to take a leave of absence.
- e. While receiving academic modifications, students will remain registered and retain benefits accordingly.

### **Approved Break**

- a. As long as students can maintain appropriate academic progress, faculty, staff, or other Herzing University employees will not require them to take an approved or withdraw from or limit their studies as the result of pregnancy, childbirth, or related conditions, but nothing in this policy requires modification of the essential elements of any academic program.
- b. Enrolled students may elect to take an approved break for up to one full semester because of pregnancy and/or the birth, adoption, or placement of a child.
- c. Students taking an approved break under this policy will provide notice of the intent to take a break 30 calendar days prior to the initiation of the break, or as soon as practicable.
- d. To the extent possible, Herzing University will take reasonable steps to ensure that upon return from break, students will be reinstated to their program in the same status as when the leave began, with no tuition penalty.
- e. Continuation of students' scholarship or similar university-sponsored funding during the approved break will depend on the students' registration status and the policies of that funding program regarding registration status. Students will not be negatively impacted by or forfeit their future eligibility for scholarships or similar university-sponsored funding by exercising their rights under this policy.
- f. The Title IX office can and will advocate for students with respect to financial aid agencies and external scholarship providers in the event that an approved break places eligibility into question.

### **Student-Employee Leave**

- a. All student-employees will be entitled to the protections of the Family and Medical Leave Act.
- b. Pregnancy and related conditions will be treated as any other temporary disability for job purposes, including leave and any benefits, where applicable.
- c. Pregnancy and related conditions will be regarded as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which employees will be

reinstated to the status they held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

### **Retaliation and Harassment**

- a. Harassment of any member of the Herzing University based on sex, gender identity, gender expression, pregnancy, or parental status is prohibited.
- b. Faculty, staff, and other Herzing University employees are prohibited from interfering with students' right to take leave, seek reasonable academic modifications, or otherwise exercise their rights under this policy.
- c. Faculty, staff, and other Herzing University employees are prohibited from retaliating against students for exercising the rights articulated by this policy, including imposing or threatening to impose negative educational outcomes because students request leave or academic modification, file a complaint, or otherwise exercise their rights under this policy.

### **Dissemination of the Policy and Training**

A copy of this policy will be made available to faculty, staff, and employees in annually required training and posted on the Herzing University website. Herzing University will alert all new students about this policy and the location of this policy as part of orientation. The Title IX Coordinator will make educational materials available to all members of the Herzing University community to promote compliance with this policy and familiarity with its procedures.

- **ADDENDUM, effective August 1, 2024, Herzing University's Civil Rights Resolution Process, as found in the Student Resources section of the catalog, is being replaced with the following Resolution Process for Allegations of Discrimination and Resolution Process for Allegations of Harassment or Sexual Misconduct.**

### **Resolution Process for Allegations of Discrimination**

Allegations of discrimination on the basis of a protected status, including sex discrimination are investigated and adjudicated under a process that is substantially similar to the process for sexual harassment.

Herzing University may consolidate complaints of discrimination 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 discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

#### **Overview**

Upon notice to the Title IX Coordinator, the Title IX Coordinator will implement any interim supportive measures deemed reasonable and necessary to both the reporting party and responding party. The Title IX Coordinator will advise the reporting party of their options for resolution. Herzing University presumes that the respondent is not responsible for the alleged policy violation until a determination is made at the conclusion of its resolution procedures.

The University will initiate a confidential investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determine whether the University's policies have been violated. If so, the University will promptly implement effective remedies designed to end the discrimination, prevent its recurrence and address its effects.

#### **Investigative Process**

Allegations under the nondiscrimination policy are investigated by a trained investigator. Investigators are announced in an annual distribution of this policy to the University community, prospective students, and prospective employees. The list of Investigators and a description of the applicable Review Board can be found in the Annual Security Reports. Investigators are trained in all aspects of the

resolution process, and can serve in any of the following roles, at the direction of the Title IX Coordinator:

- To provide sensitive intake for and initial advice pertaining to allegations
- To investigate allegations
- To act as process advisors to those involved in the investigative process

Investigators and members of the Discrimination Review Board receive annual training organized by the Title IX Coordinator, including a review of University policies and procedures as well as applicable federal and state laws and regulations so that they can appropriately address allegations, provide accurate information to members of the community, protect safety and promote accountability. Training includes but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to allegations of discrimination; the University's policies and procedures regarding nondiscrimination; confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance. All investigators and Review Board members are required to attend this annual training to be eligible to serve.

The investigator pool includes:

- Chair: The Title IX Coordinator
- At least one representative from Human Resources

Appointments to the pool of investigators should be made with attention to representation of groups protected by the harassment and non-discrimination policies. Individuals who are interested in serving as an investigator are encouraged to contact the Title IX Coordinator.

### **Reporting Policy Violations**

Any member of the community, guest or visitor who believes that the University's nondiscrimination policies have been violated should contact the Title IX Coordinator.

It is also possible for employees to notify a supervisor, or for students to notify an administrative advisor or faculty member. These individuals must in turn notify the Title IX Coordinator. The reporting form at <https://secure.ethicspoint.com/domain/media/en/gui/44119/index.html> may also serve to initiate the resolution process.

All employees receiving reports of a potential violation of the University's nondiscrimination policies are expected to promptly contact the Title IX Coordinator, within 24 hours of becoming aware of a report or incident.

### **Preliminary Inquiry**

Following receipt of notice or a report of discrimination, the Title IX Coordinator engages in a preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. The preliminary inquiry is typically 2-3 days in duration.

In cases where the reporting party wishes to proceed, the Title IX Coordinator will direct an investigation to commence, and the allegation will be resolved through one of the processes discussed briefly here and in detail below:

- Informal Resolution – mediation and/or restorative justice may take the place of formal resolution if deemed reasonable by the Title IX Coordinator and agreed to by all parties.
- Formal Resolution – a resolution of contested allegations with formal investigation and adjudication by the applicable Review Board.

### **Written Notice of Allegations**

Once a formal investigation is commenced, the Title IX Coordinator will provide written notification of the allegations to the parties at an appropriate time during the investigation. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University-issued email account. Once mailed, emailed and/or received in-person, parties will be given

five (5) days to respond before any initial interview. Written notices of allegation will include the following:

- Herzing University's resolution procedures, including information on informal resolution;
- 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 discrimination, and the date(s) and location(s) of the alleged incident(s);
- Notice that retaliation is prohibited;
- A statement that the responding party is presumed not responsible for the alleged policy violation until a determination is made at the conclusion of the resolution process;
- Prior to such a determination the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial investigator;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence. If provided with access to an investigative report, the parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any party; and
- Herzing University's Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during resolution procedures.

If, in the course of an investigation, the Title IX Coordinator decides to investigate additional allegations by the responding party toward the reporting party that are not included in the written notice or that are included in a consolidated complaint, the University will provide written notice of the additional allegations to the parties.

The University aims to complete all investigations within a sixty (60) calendar daytime period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties as appropriate.

#### **Dismissal of a Complaint**

If, during the preliminary inquiry or at any point during the formal investigation, the Title IX Coordinator may dismiss a reported complaint for the following reasons:

- The Title IX Coordinator is unable to identify the responding party after taking reasonable steps to do so;
- The responding party is not participating in Herzing University's academic program or activities and is not employed by Herzing University;
- The Title IX Coordinator obtains the reporting party's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the reporting party's withdrawn allegations, the conduct remaining alleged in the complaint, if any, would not constitute a policy violation even if proven; or
- The Title IX Coordinator determines that the conduct alleged in the complaint, even if proven, would not constitute a policy violation. Before dismissing the complaint, the Title IX Coordinator will attempt to clarify the allegations with the reporting party.

Upon dismissal, the Title IX Coordinator will notify the reporting party in writing of the basis for dismissal. If dismissal occurs after the responding party has been notified of the allegations, then written notice of the dismissal will be sent to the parties simultaneously.

The Title IX Coordinator will notify the complainant that a dismissal may be appealed on the bases outlined in the Appeals section. If dismissal occurs after the respondent has been notified of the



allegations, then the Title IX Coordinator will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, the University will follow the procedures outlined in the Appeals section.

When a complaint is dismissed, Herzing University 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 discrimination does not continue or recur within Herzing University's education program or activities.

### **Interim Remedies/Actions**

The Associate Vice President of Student Affairs or the Vice President of Human Resources may provide interim remedies intended to address the needs of the reporting party, responding party, and the University community.

These remedies may include, but are not limited to:

- Referral to community counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Altering work arrangements for employees or work study students
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, work schedules, etc.

The institution will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the institution's ability to provide the interim actions or protective measures.

### **Informal Resolution**

After an initial assessment of the alleged facts, the Title IX Coordinator may—if both parties agree—begin an Informal Resolution process. Informal Resolution is not available for incidents in which an employee is accused of sexually harassing a student. Herzing University will not offer Informal Resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Informal Resolution may include, among other responses:

- Referral for disciplinary action;
- An agreement between the parties;
- Referring the Respondent to targeted preventive educational and training programs; and
- Conducting a follow-up review to ensure that the resolution has been carried out effectively.

Except for the limitations stated above, the Title IX Coordinator has sole discretion to determine whether the complaint is appropriate for Informal Resolution, to determine the type of resolution to pursue, and to stop the process at any time before its conclusion and move to a Formal Investigation. Participation in Informal Resolution is voluntary, meaning both the Reporting and the Responding Parties must mutually agree, in writing, to participate. If Informal Resolution is selected, the Title IX Coordinator will provide timely written notice to both parties that that discloses the allegations and that:

- The Title IX Coordinator has begun the process;
- The process is voluntary and will end upon either party's request;

- Termination of Informal Resolution may result in Formal Investigation;
- They may be accompanied by an advisor throughout the process; and
- The Title IX Coordinator will notify both parties of the process's outcome.
- Conclusion of the Informal Resolution process will preclude the parties from resuming a formal complaint arising from the same allegations unless the parties failed to satisfy the terms of the agreement; and
- How records of the process will be maintained and shared

The Title IX Coordinator will coordinate the Informal Resolution process unless good cause requires another individual. Any direct mediation between parties will be conducted by the University's wellness counseling staff. A report summarizing any mediation session will be sent to the Title IX Coordinator. The Title IX Coordinator will endeavor to complete the Informal Resolution process promptly, typically within 30 to 60 business days of notifying the parties in writing of starting the process. However, the Title IX Coordinator may extend the Informal Resolution process past 60 days for good cause. The Title IX Coordinator will notify the parties in writing of the reason for any extension and the projected new timeline. The actual time required will depend on the specific circumstances, including the complexity of the allegations and the nature of the alleged conduct.

Once the parties have agreed to the terms of an Informal Resolution, the University will not conduct a formal investigation unless the Title IX Coordinator determines that the responding party failed to satisfy the terms of the Informal Resolution.

The Title IX Coordinator will keep records of all reports and conduct addressed through Informal Resolution indefinitely.

### **Investigation**

Once the decision is made to commence a formal investigation, the Title IX Coordinator appoints an investigator to conduct the investigation, usually within two (2) days of determining that an investigation should proceed. Investigations are completed expeditiously, normally within fourteen (14) days, though some investigations take several weeks or even months, depending on the nature, extent and complexity of the allegations, availability of parties and witnesses, police involvement, etc. All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary. The burden is on the University and not any party to conduct an investigation that collects sufficient evidence to determine whether the allegation(s) occurred.

The investigator(s) will typically take the following steps, if not already completed (not necessarily in order):

- In coordination with University partners, initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated;
- Meet with the reporting party to finalize their statement, if necessary;
- Prepare the written notice of allegations based on the preliminary inquiry;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party;
- Provide written notification to the parties prior to their interviews that they may have the assistance of an advisor of their choosing present for all meetings attended by the advisee;

- Provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;
- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses;
- Provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible;
- Review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance;
- Provide the parties with all relevant evidence to be made available to the Review Board and provide each with a full and fair opportunity to address that evidence prior to review by the Review Board;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party and responding party throughout the investigation;
- Finalize and present the investigation report to both parties prior to review by the Review Board.

At any point during the investigation, if it is determined there is no reasonable cause to believe that University policy has been violated; the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings with written notice to both parties.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the University's investigation. Any witness who declines to participate in or cooperate with an investigation will not be permitted to offer evidence or testimony at a later date. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation will not have the opportunity to offer evidence during the review or appeal stages of the process if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal based on new evidence.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other proceedings.

### **Advisors**

Each party is allowed to have an advisor of their choice present with them for all meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and usually not otherwise involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the community. The parties may proceed without an advisor.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The University cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not have, or cannot afford an attorney, the University is not obligated to provide one.

Additionally, responding parties may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or the
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.

All advisors are subject to the same rules, whether they are attorneys or not. Advisors may not address university officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigator. The parties are expected to respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, if they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have and allows the University an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated or may be replaced by a different advisor.

The University expects that the parties will wish to share documentation related to the allegations with their advisors. The University provides a consent form that authorizes such sharing. The parties must complete this form before the University is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

The University expects an advisor to adjust their schedule to allow them to attend University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an advisor's inability to attend. However, the University will make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process and is not locked into using the same advisor throughout.

The parties must advise the investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

### **Resolution**

The investigator has the authority to address all collateral misconduct, meaning that they investigate all allegations of discrimination, harassment and retaliation, but also may address any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within the nondiscrimination policies.

Accordingly, investigations will be conducted with as wide a scope as necessary and any other policy violations outside of those policies will be forwarded to the appropriate process. Any evidence that the investigator believes is relevant and credible may be considered, including history and pattern evidence. The investigator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the investigator determines it is appropriate, the investigation and the hearing will not consider incidents not directly related to the possible violation, unless they show a pattern. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators may consider information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

The investigator(s) will not meet with character witnesses but will accept up to two (2) letters supporting the character of each of the parties.

### **Judgment and Disciplinary Policy and Procedures**

#### **Review Board**

Typically, within five (5) days of the conclusion of an investigation, the investigator will forward an investigation report, which includes determinations on each policy violation, all recorded interviews, and all submitted evidence to the Review Board for final adjudication and possible sanction.

A review will usually be convened within ten (10) days of the completion of the investigation and will be conducted in a private session. The investigator will present the investigation report and relay their impressions of the credibility of each party and any witnesses.

#### **Deliberation and Decisions**

Upon conclusion of the review, three (3) members of the Review Board will deliberate in closed session to determine whether the responding party is responsible or not responsible for the policy violation(s) in question. The board will base its determination(s) on a preponderance of the evidence standard (i.e., that it is more likely than not that the responding party committed each alleged violation). If a majority of the board finds a responding party or organization responsible, the board will recommend appropriate sanctions.

The Chair will prepare a written deliberation report and deliver it to the Title IX Coordinator, detailing the recommended finding, the information cited by the panel in support of its recommendation and any information the board excluded from its consideration and why. The decision should conclude with any recommended sanctions. This decision should not exceed two (2) pages in length and must be submitted to the Title IX Coordinator within two (2) days of the end of deliberations, unless the Title IX Coordinator grants an extension.

The Title IX Coordinator will finalize the recommendations and will inform the parties of the final determination – both the finding(s) and applicable sanction(s) within three (3) days of the Review, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University -issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. The notice will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization and any appeals options that are available.

#### **Possible Sanctions**

The Review Board will recommend sanctions or responsive actions to the Title IX Coordinator. Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history

- Previous allegations or allegations involving similar conduct
- Any other information deemed relevant by the hearing board
- The need for sanctions/responsive actions to bring an end to the discrimination
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination
- The need to remedy the effects of the discrimination on the reporting party and the community

#### Student Sanctions

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

- *Probation*: A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions if the student or organization is found in violation of any University policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.
- *Suspension*: Termination of student status for a definite period not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at University.
- *Dismissal*: Permanent termination of student status, revocation of rights to be on site for any reason or attend University-sponsored events. This sanction may be noted as a Conduct Dismissal on the student's official transcript.
- *Withholding Diploma*: The University may withhold a student's diploma for a specified period and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The University reserves the right to revoke a degree awarded from the University for fraud, misrepresentation or other violation of University policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

#### Employee Sanctions

Responsive actions for an employee who has engaged in sexual harassment, and/or retaliation include

- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

### Withdrawal or Resignation While Charges Pending

**Students:** Should a student decide to leave and/or not participate, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to the University unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

**Employees:** Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator will reflect that status, and any University responses to future inquiries regarding employment references for that individual may indicate the former employee is ineligible for rehire.

### Appeals

All requests for appeal consideration must be submitted in writing to the Chair of the Review Board within three (3) days of the delivery of the written finding of the hearing panel. Any party may appeal the findings and/or sanctions only under the grounds described, below.

Any party may appeal, but appeals are limited to the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original hearing or investigation, which could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The Review Board, Title IX Coordinator, or investigator 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.

The University's Chief Operating Officer will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately. When any party requests an appeal, the Title IX Coordinator will share the appeal request with the other party(ies), who may file a response within three (3) days and/or bring their own appeal on separate grounds within the original timeframe. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within three (3) days. Any response or appeal request will be shared with each party.

Where the Chief Operating Officer finds that at least one of the grounds is met by at least one party, additional principles governing the hearing of appeals will include the following:

- Decisions by the Chief Operating Officer are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full re-investigations (de novo) of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the original investigation, and pertinent documentation regarding the grounds for appeal.
- Sanctions imposed as the result of the Resolution process are implemented immediately unless the Title IX Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
  - For students: Graduation, internships/ externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- The Title IX Coordinator will confer with the Chief Operating Officer incorporate the results of any remanded grounds and render a written decision on the appeal to all parties within three

(3) days from review of the appeal or remand.

- All parties should be informed of whether the grounds for an appeal are accepted and the results of the appeal decision or remand.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). Where appeals result in no change to the finding or sanction, that decision is final. Where an appeal results in a new finding or sanction, that finding, or sanction can be appealed one final time on the grounds listed above, and in accordance with these procedures.
- All parties will be informed in writing within three (3) days of the outcome of the Chief Operating Officer, without significant time delay between notifications, and in accordance with the standards for notice of outcome as defined above.
- In cases where the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### **Long-Term Remedies/Actions**

Following the conclusion of the Discrimination Investigation Process and in addition to any sanctions implemented, the Title IX Coordinator may utilize long-term remedies or actions stop the harassment or discrimination, remedy its effects and prevent their reoccurrence. These remedies/actions may include, but are not limited to:

- Referral to community counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Permanently altering work arrangements for employees
- Providing on site escorts
- Climate surveys
- Policy modification
- Implementing long-term contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, long-term remedies may also be provided even when the responding party is found not responsible.

The institution will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution's ability to provide the actions or protective measures.

### **Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions**

All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Title IX Coordinator. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from the University and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

### **Records**

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator indefinitely.



## **Resolution Process for Allegations of Harassment or Sexual Misconduct**

Herzing University will act in some way on any formal or informal allegation or notice of violation of the University policy on Title IX, that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee.

The procedures described below apply only to allegations of Quid Pro Quo sexual harassment, sexual harassment that is so severe or pervasive that it creates a Hostile Environment, or specific allegations of Sexual Misconduct (sexual assault, domestic violence, dating violence, and/or stalking). All other allegations of discrimination will be addressed through the other procedures outlined in this document.

Herzing University may consolidate complaints of harassment or sexual misconduct 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 discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

### **Overview**

Upon notice to the Title IX Coordinator, the Title IX Coordinator will implement any interim supportive measures deemed reasonable and necessary to both the reporting party and responding party. The Title IX Coordinator will advise the reporting party of their options for resolution. Herzing University presumes that the respondent is not responsible for the alleged policy violation until a determination is made at the conclusion of its resolution procedures.

The University will initiate a confidential investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determine whether the Title IX policy has been violated. If so, the University will promptly implement effective remedies designed to end the discrimination, prevent its recurrence and address its effects.

### **Title IX Investigative Process**

Allegations under the Title IX Policy are investigated by a trained Title IX investigator. Investigators are announced in an annual distribution of this policy to the University community, prospective students, and prospective employees. The list of Investigators and a description of the Title IX Hearing Board can be found in the Annual Security Reports. Title IX Investigators are trained in all aspects of the resolution process, and can serve in any of the following roles, at the direction of the Title IX Coordinator:

- To provide sensitive intake for and initial advice pertaining to allegations
- To investigate allegations
- To act as process advisors to those involved in the Title IX process

Title IX Investigators and members of the Title IX Hearing Board receive annual training organized by the Title IX Coordinator, including a review of University policies and procedures as well as applicable federal and state laws and regulations so that they can appropriately address allegations, provide accurate information to members of the community, protect safety and promote accountability. Training includes but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to allegations of sexual harassment and sexual misconduct; the University's Title IX policies and procedures; confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance. All investigators and Title IX Hearing Board members are required to attend this annual training to be eligible to serve.

The Title IX Investigator pool includes:

- Chair: The Title IX Coordinator
- At least one representative from Human Resources

Appointments to the pool of investigators should be made with attention to representation of groups protected by the harassment and non-discrimination policy. Individuals who are interested in serving as an investigator are encouraged to contact the Title IX Coordinator.

### **Reporting Title IX Violations**

Any member of the community, guest or visitor who believes that the Title IX Policy has been violated should contact the Title IX Coordinator.

It is also possible for employees to notify a supervisor, or for students to notify an administrative advisor or faculty member. These individuals must in turn notify the Title IX Coordinator. The reporting form at <https://secure.ethicspoint.com/domain/media/en/gui/44119/index.html> may also serve to initiate the resolution process.

All employees receiving reports of a potential violation of the University's Title IX policy are expected to promptly contact the Title IX Coordinator, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with privacy: specific information on any allegations received by any party will be reported to the Title IX Coordinator, but, subject to the University's obligation to redress severe violations, every effort will be made to maintain the privacy of those initiating an allegation. In all cases, University will consider the wishes of the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

### **Attempted Violations**

In most circumstances, Herzing University will treat attempts to commit any of the violations listed in the Title IX Policy as if those attempts had been completed.

### **Preliminary Inquiry**

Following receipt of notice or a report of misconduct, the Title IX Coordinator engages in a preliminary inquiry to determine if there is reasonable cause to believe the Title IX policy has been violated. The preliminary inquiry is typically 2-3 days in duration. This inquiry may also serve to help the Title IX Coordinator to determine if the allegations evidence violence, threat, pattern, predation and/or weapon, if the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapon is not evidenced, the Title IX Coordinator may respect a reporting party's request for no action and will investigate only so far as necessary to determine appropriate remedies. As necessary, the University reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party in cases where there is a significant and articulable risk to the community.

In cases where the reporting party wishes to proceed, or the University determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX Coordinator will direct an investigation to commence and the allegation will be resolved through one of the processes discussed briefly here and in detail below:

- Informal Resolution – mediation and/or restorative justice may take the place of formal resolution if deemed reasonable by the Title IX Coordinator and agreed to by all parties.
- Formal Resolution – a resolution of contested allegations with formal investigation and a hearing.

### **Written Notice of Allegations**

Once a formal investigation is commenced, the Title IX Coordinator will provide written notification of the allegations to the parties at an appropriate time during the investigation. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University-issued email account. Once mailed, emailed and/or received in-person, parties will be given five (5) days to respond before any initial interview. Written notices of allegation will include the following:

- Herzing University’s resolution procedures, including information on informal resolution;
- 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 sexual harassment, and the date(s) and location(s) of the alleged incident(s);
- Notice that retaliation is prohibited;
- A statement that the responding party is presumed not responsible for the alleged policy violation until a determination is made at the conclusion of the resolution process;
- Prior to such a determination the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence. If provided with access to an investigative report, the parties are entitled an equal opportunity to access the relevant and not impermissible evidence upon the request of any party; and
- Herzing University’s Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during resolution procedures.

If, in the course of an investigation, the Title IX Coordinator decides to investigate additional allegations of harassment by the responding party toward the reporting party that are not included in the written notice or that are included in a consolidated complaint, the University will provide written notice of the additional allegations to the parties.

The University aims to complete all investigations within a sixty (60) calendar daytime period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties as appropriate.

### **Dismissal of a Complaint**

If, during the preliminary inquiry or at any point during the formal investigation, the Title IX Coordinator may dismiss a reported complaint for the following reasons:

- The Title IX Coordinator is unable to identify the respondent after taking reasonable steps to do so;
- The responding party is not participating in Herzing University’s academic program or activities and is not employed by Herzing University;
- The Title IX Coordinator obtains the reporting party’s voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the reporting party’s withdrawn allegations, the conduct remaining alleged in the complaint, if any, would not constitute a policy violation even if proven; or
- The Title IX Coordinator determines that the conduct alleged in the complaint, even if proven, would not constitute a policy violation. Before dismissing the complaint, the Title IX Coordinator will attempt to clarify the allegations with the reporting party.

Upon dismissal, the Title IX Coordinator will notify the reporting party in writing of the basis for dismissal. If dismissal occurs after the responding party has been notified of the allegations, then written notice of the dismissal will be sent to the parties simultaneously.

The Title IX Coordinator will notify the complainant that a dismissal may be appealed on the bases outlined in the Appeals section. If dismissal occurs after the respondent has been notified of the allegations, then the Title IX Coordinator will also notify the respondent that the dismissal may be

appealed on the same bases. If a dismissal is appealed, the University will follow the procedures outlined in the Appeals section.

When a complaint is dismissed, Herzing University 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 discrimination does not continue or recur within Herzing University's education program or activities.

### **Interim Remedies/Actions**

The Associate Vice President of Student Affairs or the Vice President of Human Resources may provide interim remedies intended to address the needs of the reporting party, responding party, and the University community.

These remedies may include, but are not limited to:

- Referral to community counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Altering work arrangements for employees or work study students
- Providing on-site escorts
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, work schedules, etc.

The institution will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the institution's ability to provide the interim actions or protective measures.

### **Informal Resolution Process**

After an initial assessment of the alleged facts, the Title IX Coordinator may—if both parties agree—begin an Informal Resolution process. Informal Resolution may not be appropriate when, among other reasons, Herzing determines that the alleged conduct would present a future risk of harm to others. Herzing University will not offer Informal Resolution to resolve a complaint when such a process would conflict with Federal, State, or local law.

Informal Resolution may include, among other responses:

- Referral for disciplinary action;
- An agreement between the parties;
- Referring the Respondent to targeted preventive educational and training programs; and
- Conducting a follow-up review to ensure that the resolution has been carried out effectively.

Except for the limitations stated above, the Title IX Coordinator has sole discretion to determine whether the complaint is appropriate for Informal Resolution, to determine the type of resolution to pursue, and to stop the process at any time before its conclusion and move to a Formal Investigation. Participation in Informal Resolution is voluntary, meaning both the Reporting and the Responding Parties must mutually agree, in writing, to participate. If Informal Resolution is selected, the Title IX Coordinator will provide timely written notice to both parties that that discloses the allegations and that:

- The Title IX Coordinator has begun the process;
- The process is voluntary and will end upon either party's request;
- Termination of Alternative Resolution may result in Formal Investigation;
- They may be accompanied by an advisor throughout the process; and
- The Title IX Coordinator will notify both parties of the process's outcome
- Conclusion of the Alternative Resolution process will preclude the parties from resuming a formal complaint arising from the same allegations unless the parties failed to satisfy the terms of the agreement; and
- How records of the process will be maintained and shared

The Title IX Coordinator will coordinate the Informal Resolution process unless good cause requires another individual. Any direct mediation between parties will be conducted by the University's wellness counseling staff. A report summarizing any mediation session will be sent to the Title IX Coordinator. The Title IX Coordinator will endeavor to complete the Informal Resolution process promptly, typically within 30 to 60 business days of notifying the parties in writing of starting the process. However, the Title IX Coordinator may extend the Informal Resolution process past 60 days for good cause. The Title IX Coordinator will notify the parties in writing of the reason for any extension and the projected new timeline. The actual time required will depend on the specific circumstances, including the complexity of the allegations and the nature of the alleged conduct.

Once the parties have agreed to the terms of an Informal Resolution, the University will not conduct a formal investigation unless the Title IX Coordinator determines that the Responding party failed to satisfy the terms of the Informal Resolution.

The Title IX Coordinator will keep records of all reports and conduct addressed through Informal Resolution indefinitely.

### **Investigation**

Once the decision is made to commence a formal investigation, the Title IX Coordinator appoints an investigator to conduct the investigation, usually within two (2) days of determining that an investigation should proceed. Investigations are completed expeditiously, normally within fourteen (14) days, though some investigations take several weeks or even months, depending on the nature, extent and complexity of the allegations, availability of parties and witnesses, police involvement, etc.

The University may undertake a short delay its investigation (several days to weeks, to allow evidence collection) when criminal charges based on the same behaviors that invoke this process are being investigated. The University will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. University action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary. The burden is on the University and not any party to conduct an investigation that collects sufficient evidence to determine whether the allegation(s) occurred.

The investigator(s) will typically take the following steps, if not already completed (not necessarily in order):

- In coordination with University partners, initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated;

- Meet with the reporting party to finalize their statement, if necessary;
- Prepare the written notice of allegations based on the preliminary inquiry;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party;
- Provide written notification to the parties prior to their interviews that they may have the assistance of an advisor of their choosing present for all meetings attended by the advisee;
- Provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;
- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses;
- Provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible;
- Review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance;
- Provide the parties with all relevant evidence to be made available at the live hearing and provide each with a full and fair opportunity to address that evidence prior to the live hearing;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party and responding party throughout the investigation;
- Finalize and present the investigation report to both parties prior to the live hearing.

At any point during the investigation, if it is determined there is no reasonable cause to believe that University policy has been violated; the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings with written notice to both parties.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the University's investigation and the Title IX process. Any witness who declines to participate in or cooperate with an investigation will not be permitted to offer evidence or testimony later in a hearing (if a hearing is held). Failure of a witness to cooperate with and/or participate in the investigation hearing constitutes a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation will not have the opportunity to offer evidence during the hearing and/or appeal stages of the process if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal based on new evidence.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Title IX proceedings.

### **Advisors**

Each party is allowed to have an advisor of their choice present with them for all meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and usually not otherwise involved

in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the community. If a party does not have an advisor, the University will appoint one. The parties may proceed without an advisor if the option to have an advisor is declined in writing.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The University cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not have, or cannot afford an attorney, the University is not obligated to provide one.

Additionally, responding parties may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or the
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.

All advisors are subject to the same rules, whether they are attorneys or not. Advisors may not address university officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigator or hearing panelists. The parties are expected to respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, if they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have and allows the University an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated or may be replaced by a different advisor.

The University expects that the parties will wish to share documentation related to the allegations with their advisors. The University provides a consent form that authorizes such sharing. The parties must complete this form before the University is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

The University expects an advisor to adjust their schedule to allow them to attend University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an advisor's inability to attend. However, the University will make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process and is not locked into using the same advisor throughout.

The parties must advise the investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

### **Resolution**

The investigator has the authority to address all collateral misconduct, meaning that they investigate all allegations of discrimination, harassment and retaliation, but also may address any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within the Title IX Policy. Accordingly, investigations will be conducted with as wide a scope as necessary and any other policy violations outside of Title IX will be forwarded to the appropriate process.

Any evidence that the investigator believes is relevant and credible may be considered, including history and pattern evidence. The investigator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the investigator determines it is appropriate, the investigation and the hearing will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, or (2) the sexual history of the reporting party (though there may be a limited exception made regarding the sexual history between the parties). While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators may consider information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

The investigator(s) will not meet with character witnesses but will accept up to two (2) letters supporting the character of each of the parties.

### **Judgment and Disciplinary Policy and Procedures**

#### **Title IX Hearing**

Typically, within five (5) days of the conclusion of an investigation, the investigator will forward an investigation report, which includes determinations on each policy violation, all recorded interviews, and all submitted evidence to the Title IX Hearing Board for final adjudication and possible sanction.

A hearing will usually be convened within ten (10) days of the completion of the investigation and will be conducted in a private session. Herzing University will conduct the live hearing with the parties physically present in the same geographic location or, at Herzing University'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 decisionmaker and parties to simultaneously see and hear the party or witness while that person is speaking. Herzing University will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

The investigator will present the Title IX investigation report and testify to their impressions of the credibility of each party and any witnesses. Each party will have the opportunity to testify on their own behalf and will have the opportunity to cross-examine the other party via the Hearing Chair. The Hearing Board will have the opportunity to directly question the parties and any witnesses to adequately assess the party or witness' credibility to the extent that credibility is in dispute and relevant to one or more allegations.

Herzing University'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 Hearing Chair to ask such questions, and will allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the Hearing Chair, subject to the procedures for evaluating and limiting questions discussed below.

The Hearing Chair 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 Hearing Chair will give a party an opportunity to clarify or revise a question that the Hearing Chair determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

The Hearing Board 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 Hearing Board 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.

### Deliberation and Decisions

Upon conclusion of the hearing, three (3) members of the Title IX Hearing Board will deliberate in closed session to determine whether the responding party is responsible or not responsible for the policy violation(s) in question. The board will base its determination(s) on a preponderance evidentiary standard (i.e., that it is more likely than not that the responding party committed each alleged violation). The standard of proof requires the Hearing Board to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If a majority of the Hearing Board is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the Hearing Board will not determine that sex discrimination occurred. If a majority of the board finds a responding party responsible, the board will recommend appropriate sanctions.

The Hearing Chair will prepare a written deliberation report and deliver it to the Title IX Coordinator, detailing the recommended finding, the information cited by the panel in support of its recommendation and any information the board excluded from its consideration and why. The report should conclude with any recommended sanctions. This report should not exceed two (2) pages in length and must be submitted to the Title IX Coordinator within two (2) days of the end of deliberations, unless the Title IX Coordinator grants an extension.

The Title IX Coordinator will finalize the recommendations and will inform the parties of the final determination – both the finding(s) and applicable sanction(s) within three (3) days of the Title IX Hearing, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University - issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. The notice will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization and any appeals options that are available.

### Possible Sanctions

The Title IX Hearing Board will recommend sanctions or responsive actions to the Title IX Coordinator. Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- Any other information deemed relevant by the hearing board
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the

reporting party and the community

### Student Sanctions

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

- **Probation:** A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions if the student or organization is found in violation of any University policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.
- **Suspension:** Termination of student status for a definite period not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at University. This sanction may be noted as a Conduct Suspension on the student's official transcript, at the discretion of the Title IX Coordinator.
- **Dismissal:** Permanent termination of student status, revocation of rights to be on site for any reason or attend University-sponsored events. This sanction may be noted as a Conduct Dismissal on the student's official transcript.
- **Withholding Diploma:** The University may withhold a student's diploma for a specified period and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
- **Revocation of Degree:** The University reserves the right to revoke a degree awarded from the University for fraud, misrepresentation or other violation of University policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- **Other Actions:** In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

### Employee Sanctions

Responsive actions for an employee who has engaged in sexual harassment, and/or retaliation include

- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.*

### Withdrawal or Resignation While Charges Pending

Students: The University does not permit a student to withdraw if that student has an allegation pending for violation of the Title IX. Should a student decide to leave and/or not participate, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not

be permitted to return to the University unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

**Employees:** Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator will reflect that status, and any University responses to future inquiries regarding employment references for that individual may indicate the former employee is ineligible for rehire.

### Appeals

All requests for appeal consideration must be submitted in writing to the Chair of the Title IX Hearing Board within three (3) days of the delivery of the written finding of the hearing panel. Any party may appeal the findings and/or sanctions only under the grounds described, below

Any party may appeal, but appeals are limited to the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original hearing or investigation, which could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The Title IX Coordinator, investigator, or a decisionmaker 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.

The University's Chief Operating Officer will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately. When any party requests an appeal, the Title IX Coordinator will share the appeal request with the other party(ies), who may file a response within three (3) days and/or bring their own appeal on separate grounds within the original timeframe. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within three (3) days. Any response or appeal request will be shared with each party.

Where the Chief Operating Officer finds that at least one of the grounds is met by at least one party, additional principles governing the hearing of appeals will include the following:

- Decisions by the Chief Operating Officer are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full re-investigations (de novo) of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the original investigation, and pertinent documentation regarding the grounds for appeal.
- Sanctions imposed as the result of the Resolution process are implemented immediately unless the Title IX Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
  - For students: Graduation, internships/ externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- The Title IX Coordinator will confer with the Chief Operating Officer incorporate the results of any remanded grounds and render a written decision on the appeal to all parties within three (3) days from review of the appeal or remand.
- All parties should be informed of whether the grounds for an appeal are accepted and the

results of the appeal decision or remand.

- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). Where appeals result in no change to the finding or sanction, that decision is final. Where an appeal results in a new finding or sanction, that finding, or sanction can be appealed one final time on the grounds listed above, and in accordance with these procedures.
- All parties will be informed in writing within three (3) days of the outcome of the Chief Operating Officer, without significant time delay between notifications, and in accordance with the standards for notice of outcome as defined above.
- In cases where the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### **Long-Term Remedies/Actions**

Following the conclusion of the Title IX Process and in addition to any sanctions implemented, the Title IX Coordinator may utilize long-term remedies or actions stop the harassment or discrimination, remedy its effects and prevent their reoccurrence. These remedies/actions may include, but are not limited to:

- Referral to community counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Permanently altering work arrangements for employees
- Providing on site escorts
- Climate surveys
- Policy modification
- Implementing long-term contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, long-term remedies may also be provided even when the responding party is found not responsible.

The institution will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution's ability to provide the actions or protective measures.

### **Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions**

All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Title IX Coordinator. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from the University and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

### **Records**

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator indefinitely.

- **ADDENDUM, effective August 1, 2024, Herzing University’s Sexual Misconduct Policy, as found in the Student Conduct section of the catalog, has been updated to the following.**

### Sexual Misconduct Policy

Herzing University prohibits all forms of sexual misconduct, including, but not limited to, sexual assault, sexual harassment, domestic violence, dating violence, and stalking.

No employee or student will be subject to any form of retaliation, intimidation, or discipline for pursuing a sexual misconduct complaint.

State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, Herzing University has defined categories of sex/gender discrimination as sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, the University considers Non-Consensual Sexual Intercourse violations to be the most serious of these offenses, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, the University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other sex/gender-based offenses, including intimate partner (dating and/or domestic) violence, non-consensual sexual contact and/or stalking based on the facts and circumstances of the particular allegation. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation and/or gender identity of those involved.

#### **Definitions**

**Reporting Party – Sexual Harassment:** a student or employee of Herzing University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or a person other than a student or employee of Herzing University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in Herzing University’s education program or activity. Reports of sexual misconduct may also be made by a parent, guardian, or other authorized legal representative of a reporting party, or the Title IX Coordinator.

**Reporting Party – Sex Based Discrimination not including Harassment:** any student or employee of Herzing University; or any person other than a student or employee who was participating or attempting to participate in Herzing University’s education program or activity at the time of the alleged sex-based discrimination.

**Responding Party:** is a University student, employee, or participant in a University program who reportedly engaged in sexual misconduct. This term also includes individuals whose identities are unknown if there is reason to believe that they may be a University student, employee, or participant in a University program or if the Reporting party or Reporter is a student.

**Consent:** is a positive, unambiguous agreement, expressed in mutually understandable words or actions, to engage in specific sexual activity throughout the duration of a sexual encounter. Silence or lack of resistance does not constitute consent. Either party at any point can withdraw consent. Consent must be voluntarily given and may not be valid if a person is subject to real or perceived coercion, force, or threats. Consent to engage in one sexual activity does not indicate consent to another sexual activity, and past agreement to engage in a particular sexual activity cannot be presumed to constitute consent to engage in future sexual activity. Similarly, consent to sexual activity with one partner does not constitute consent to engage in sexual activity with any other partner. A person who is known, or reasonably known to be incapacitated or anyone under the age designated by each state (see Age of Consent) cannot give valid consent.

**Incapacitation:** is defined as a state where someone lacks the physical and/or mental ability to make informed, rational judgments and to act on those judgments (e.g. to understand the “who, what, when, where, why, or how” of their sexual interaction). Causes may include, but are not limited to, an intellectual or other disability, being in an unconscious state, having

consumed alcohol or taken drugs, or being in an altered psychological state. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party.

Age of Consent: Age of consent varies by state. Federal age of consent is 18. Sexual contact by an adult with a person younger than the age of consent may be a crime and a potential violation of this policy even if the minor wanted to engage in the act.

NOTE: Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual activity is not by definition forced.

**Force:** is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcome resistance or produce consent. (e.g. "Have sex with me or I'll hit you." "Okay, don't hit me; I'll do what you want.").

**Coercion:** is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Intimate Partner Violence (including Dating Violence and Domestic Violence):** describes actual or threatened physical or sexual violence by a current or former intimate partner. It may also include emotional and psychological abuse, usually by words or actions that seek to establish power and control and cause fear of physical or sexual violence. Intimate partner violence may also include stalking behaviors.

**Sexual Assault:**

#### Non-Consensual Sexual Intercourse

Defined as:

- Any sexual intercourse
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual intercourse includes:

- Vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

Non-Consensual Sexual Contact:

Defined as:

- Any intentional sexual touching
- however slight
- by a person upon another person
- that is without consent and/or by force

Sexual touching includes:

- Intentional contact with the breasts, groin, or genitals, or mouth or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or

- Any other bodily contact made in a sexual manner.

**Sexual Exploitation:** refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and that behavior does not otherwise fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse, or Non-Consensual Sexual Contact.

**Stalking:** is obsessive or repeated unwanted attention directed to either an individual or a group that is likely to cause a reasonable person alarm, fear, or significant emotional distress. Some examples of behavior that could be considered stalking are: following, unwanted phone calls, text messages, emails, letters or voicemails, leaving unwanted gifts or flowers, lying in wait. Stalking usually is a pattern of behavior over an extended period of time, however, depending on the severity of the circumstances, even two instances of such behavior could be sufficient to constitute stalking.

**Retaliation:** as it relates to this sexual misconduct policy, is taking adverse action against an individual or individuals for reporting an incident of sexual misconduct, for supporting a party bringing an allegation forward, or for participating in a sexual misconduct investigation or proceeding. Retaliation is a serious violation of University policy and will be treated as another possible instance of harassment or discrimination.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Herzing University is prepared to take appropriate steps to protect individuals who fear that they may be subject to retaliation.

**Intimidation:** is an attempt to compel someone to or deter someone from action by real or perceived threats or acts that cause an unreasonable fear of harm.

## Prevention and Education

### Risk Reduction Tips

Risk reduction tips can often take a victim-blaming tone, even unintentionally. Only those who commit sexual violence are responsible for those actions. We offer the tips below with no intention to victim-blame, with recognition that these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act or other assault.

- **If you have limits, make them known as early as possible.**
- **Tell a sexual aggressor “NO” clearly and firmly.**
- **Try to remove yourself from the physical presence of a sexual aggressor.** If there is someone nearby, ask for help.
- **Take affirmative responsibility for your alcohol intake or drug use.** Acknowledge that alcohol and drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- **Give thought to sharing intimate content with others (pictures, images, videos, etc.)** If you do choose to share, clarify your expectations as to how or if those images may be used, shared, or disseminated.
- **Be aware of your surroundings and trust your instincts.** If you feel unsafe on campus, seek assistance from a campus administrator immediately.
- **Avoid isolated areas,** especially in the dark.
- **Walk with purpose.** Even if you do not know where you are going, act as though you do.
- **Make sure your cell phone is with you,** and charged and that you have money for cab fare or public transportation, if needed. *Please note that even if a cell phone is not activated with a plan or prepaid minutes, it is able to make emergency calls to 911.*
- **Park your car in a well-lit area** if you are on campus in the evenings.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your

potential partner. The following suggestions may help you to reduce your risk for being accused of sexual misconduct:

- **Clearly communicate your intentions to your potential sexual partner.** Give them a chance to clearly relate their intentions to you.
- **Understand and respect personal boundaries.**
- **Never make assumptions about consent.** Do not assume someone's sexual availability, whether they are attracted to you, how far you can go, or whether they are physically and/or mentally able to consent. Your partner's consent should be affirmative and continuous. **If there are any questions or ambiguity, you do not have consent.**
- **Mixed messages from your partner are a clear indication that you should stop, diffuse sexual tension, and communicate better.** You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- **Do not take advantage of someone's drunkenness or altered state, even if they willingly consumed alcohol or other substances.**
- **Realize that your potential partner could feel intimidated or coerced by you.** You may have a power advantage simply because of your gender or physical presence. Take care not to abuse that power.
- **Do not share intimate pictures, images, videos, or other content that are shared with you.**
- **Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.**
- **Silence, passivity, or non-responsiveness cannot be interpreted as an indication of consent.** Read your partner carefully. Pay attention to verbal and non-verbal communication and body language.

### **Safe and Positive Options for Bystander Intervention**

Whenever you attempt to intervene in a situation that you think could constitute or lead to intimate partner violence, sexual assault, or stalking, always make sure that you keep yourself safe. If things get out of hand or too serious, you should contact law enforcement immediately.

#### General Tips for Intervention

- Approach the situation in a friendly way, do not be antagonistic
- Avoid using violence
- Be honest and direct when possible
- Get others to join you in intervening if possible

#### Intervention Strategies

- **Interruption** – step in and directly ask an individual to stop what they are doing or saying and tell them why you feel it is wrong
- **Separation** – separate the two parties directly, let them know why you are separating them, and make sure everyone gets home safely if alcohol is involved.
- **Distraction** – create a disturbance or a reason for one of the involved parties to engage in conversation or leave the situation
- **Education** – challenge attitudes and opinions you hear from others that promote negative ideas about women or support sexual violence; stand up for others

### **Immediately Following an Incident**

If any individual (student or employee) is a victim of sexual misconduct (including sexual assault,



domestic violence, dating violence, or stalking), their first priority should be to get to safety. They should next seek any necessary medical treatment. If you have been a victim of sexual assault, do not wash or change clothes, as valuable evidence could be lost.

### **Reporting Policy and Procedures for Harassment and Discrimination Complaints**

Reports of discrimination, harassment and/or retaliation may be made using any of the following options. There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to the University's jurisdiction, the ability to investigate, respond and provide remedies may be more limited:

- 1) Report directly to the Title IX Coordinator:

Emilie Thompson  
ADA and Title IX Coordinator  
275 W Wisconsin Ave Ste 210  
Milwaukee, WI 53203  
(414) 271-5622  
[emthompson@herzing.edu](mailto:emthompson@herzing.edu)

- 2) Report online, using the reporting form posted at:

<https://secure.ethicspoint.com/domain/media/en/gui/44119/index.html>

All reports are acted upon promptly while every effort is made by the University to preserve the privacy of reports. Such reports may also be anonymous. Anonymous reports will be investigated to determine if remedies can be provided. Additionally, all employees of the University apart from dedicated counseling staff are designated as responsible employees and will share a report with the Title IX Coordinator promptly. Confidentiality and mandated reporting are addressed more specifically below. Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the Associate Vice President of Student Affairs.

### **Sexual Misconduct Reports**

Any student or employee who reports to the University that they have been a victim of sexual assault, intimate partner violence, or stalking, regardless of where the incident took place, shall be provided with a copy of the Annual Security Report and documentation detailing the following:

- The individual's option to notify proper law enforcement authorities.
- The option to be assisted by campus authorities in notifying law enforcement authorities if they so choose.
- Their option to decline to notify such authorities.
- The individual's options for (and any available assistance in) changing academic, living, transportation, and/or working situations if so requested and reasonably available, regardless of their choice whether or not to report the crime to the authorities.
- Where applicable, their rights, and the University's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil or tribal court.
- The student's option to request that the University issue a No Contact Order.
- The link to the United States Department of Justice's Violence Against Women Office website, <http://www.justice.gov/ovw>, which contains information regarding victim's rights and available assistance.
- A list of other local resources available.

Herzing University maintains no housing for either employees or students. Consequently, any change in living arrangements that would be desired by a reporting party must be the responsibility of that individual. However, the University will assist students who are seeking alternate housing by providing recommendations or a source of appropriate housing recommendations.

The reporting party will have an opportunity to request assistance in changing their academic situation. Possible alternatives include:

- Changing Instructors
- Changing Course Schedule
- Temporary Withdrawal

The University will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor upon a finding that they have engaged in harassing or discriminatory behavior or retaliation.

The University will maintain as confidential any modifications or protective measures, provided confidentiality does not impair the University's ability to provide the modifications or protective measures.

### **False Reports**

Herzing University will not tolerate intentional false reporting of incidents. It is considered a violation of the Student Code of Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

### **Confidentiality and Reporting of Offenses under This Policy**

Certain University employees (faculty, staff, and administrators) are expected to report when they have information about conduct that reasonably may constitute sex discrimination or sex-based harassment to the Title IX Coordinator immediately, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting University resources. The following describes the reporting options at Herzing University:

#### **Confidential Reporting**

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with the following employees:

- Licensed counseling staff in their counseling capacity

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with the following non-employees:

- Licensed professional counselors
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains

All of the above-listed individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor.

#### **Formal Reporting Options**

All University employees have a duty to report. Reporting parties may want to consider carefully whether they share personally identifiable details with employees, as those details must be shared with the Title IX Coordinator. Employees must promptly share all details of the reports they receive. Generally, climate surveys, classroom writing assignments or discussions, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the reporting party clearly indicates that they wish a report to be made. Remedial actions may result from such disclosures without formal University action.

If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request

to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. Note that the University's ability to remedy and respond to a reported incident may be limited if the reporting party does not want the institution to proceed with an investigation and/or the appropriate Resolution Process.

In cases indicating pattern, predation, threat, weapons and/or violence, the University will likely be unable to honor a request for confidentiality. In cases where the reporting party requests confidentiality and the circumstances allow the University to honor that request, the University will offer supportive measures and remedies to the reporting party and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have allegations taken seriously by Herzing University when reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to: Human Resources, Student Affairs, and the University Provost. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy. Additionally, victims and/or third parties may make anonymous reports using the online reporting form posted at <https://secure.ethicspoint.com/domain/media/en/gui/44119/index.html>.

Note that these anonymous reports may prompt a need for the institution to investigate.

Failure of any employee to report an incident or incidents of sex/gender harassment or discrimination of which they become aware is a violation of University policy and can be subject to disciplinary action for failure to comply.

#### **Amnesty for Violations of Drug and Alcohol Policy**

Any witness or victim of an incident of sexual assault who reports the incident in good faith will not be sanctioned by the institution for admitting in the report to a violation of Herzing University's policy regarding the personal use of drugs or alcohol.

#### **Emergency Contact Notification**

Herzing University reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status, or conduct situation, particularly drug or alcohol violations. Where a student is non-dependent, the University will contact parents/guardians, or a designated emergency contact to inform them of situations in which there is a significant and articulable health and/or safety risk. The University also reserves the right to designate which university officials have a need to know about individual conduct reports pursuant to the Family Educational Rights and Privacy Act.

#### **▪ ADDENDUM, effective July 1, 2024, Herzing University has implemented the following Nursing Clinical Policy.**

Clinical Placement= Internship, Externship, Practicum, Field Placement

#### **Herzing University Experiential Learning Clinical Policy**

Herzing University recognizes the importance of providing students with meaningful clinical experiences as part of their education. In order to facilitate these experiences, the University has established guidelines regarding reasonable travel distances to clinical sites.

**Purpose:** This policy outlines requirements and procedures established to ensure that students are prepared for and successfully placed in clinical experiences that contribute to the achievement of their program learning outcomes. Requirements include student fulfillment of competency, professionalism, and safety standards prior to clinical placement.

**Scope:** This policy applies to all students enrolled in programs requiring experiential learning.

**Policy Statement:** The University is committed to providing clinical education experiences that are integral to the development of students in health-related programs. To ensure clinical readiness and appropriate placement, compliance with the following policies is required.

### **1. Pre-requisite Coursework**

- Students must complete and pass all required pre-requisite coursework and requisite clinical compliance activities, including successful completion of a clinical readiness course, as required.

### **2. Health and Safety**

- Students must complete a health assessment, including physical examination, tuberculosis screening, immunization documentation, and any other tests required by the clinical site.
- Students must provide proof of current Basic Life Support (BLS) certification for healthcare providers, if required by the site.

### **3. Background Check and Drug Screening**

- Students must undergo a criminal background check and drug screening per site requirements prior to clinical placement. The results must meet the standards required by the clinical site and the program.

Any adverse findings may impact student eligibility for clinical placement and may delay or prevent completion of the program unless cleared by the student.

- Failure to meet the standards of the criminal background check and drug screening may result in additional checks or screenings being conducted to ensure compliance. Students are responsible for costs associated with additional checks or screenings due to the initial screen or check not meeting standards.

### **4. Professionalism and Conduct**

- Students must adhere to the professional standards and code of conduct as defined by the program, the University catalog, and the clinical site.
- Incidents of unprofessional behavior or academic dishonesty, identified by either Herzing University and/or staff employed by clinical partner may result in disciplinary action in accordance with University policy including, but not limited to, dismissal from the clinical assignment, the program of study, and/or the University.

### **5. Clinical Placement Process**

- The University will coordinate clinical placements in collaboration with students and affiliated clinical sites.
- Students must submit required documentation and clinical related requests by the specified deadlines.

Placements are assigned based on availability, student needs, program requirements, and site requirements. While the University will make every reasonable effort to accommodate student requests for specific placements, it cannot guarantee that students will receive their specific placements requests.

## **6. Reasonable Distance for Travel**

- Herzing University is committed to clinical placement at clinical sites that are **geographically accessible from either the Herzing University campus the student attends, or from the residence they disclosed at enrollment**, depending upon clinical availability.
- Level of the program, specificity of the clinical experience needed, required experience and hours, and location (rural versus urban) may impact reasonable distance to travel to a clinical site.
- If the student's residence information changes after enrollment, it is the student's responsibility to disclose the change in address by updating their records with the University. The updated residence will be used for determining travel distance. Untimely updating of records may result in students being required to maintain travel distances from the most current address on file.
- Students residing in rural areas where healthcare providers are less prevalent may be required to travel further than the established reasonable distance guidelines to fulfill clinical requirements.
- The University has approval to enroll students only in certain states. Expectations for distances to clinical experiences are established for students residing in approved states at the time of enrollment. Students who move to non-approved states will not receive clinical assignments and may be unable to continue enrollment.

## **7. Student Option for Extended Travel**

- Students may elect to travel a distance greater than that defined by the University as a reasonable distance to facilitate a desired clinical placement request. Approval of such requests is at the discretion of the University.
- Any additional costs associated with extended travel, such as transportation and lodging, will be the responsibility of the student.
- Prior to committing to an extended travel distance for a clinical experience, students must obtain approval from the appropriate academic administrator.
- Approval will be granted based on factors such as the educational value of the clinical experience and alignment with course requirements, safety considerations, availability of resources, and the University's ability to provide clinical oversight.

## **8. Accessibility Considerations**

- Herzing University is committed to ensuring that all students have equitable access to clinical experiences. Students with accessibility concerns related to travel distances, or clinical placement, should contact the University Title IX/ADA Coordinator to submit a formal request for accommodations as outlined in the catalog.

## 9. Orientation and Training

- Students must attend all mandatory pre-clinical orientation sessions and training programs as required by the program and the clinical site, including clinical site security, technology and other administrative requirements. Failure to complete pre-clinical orientation sessions or clinical requirements may result in delays or forfeiture of clinical placement opportunities.
- Students must complete all site-specific training modules and orientation, including electronic medical records (EMR) training, infection control protocols, and confidentiality agreements.

## 10. Evaluation

- Students are evaluated regularly during their clinical placements. Evaluations are program specific and will include assessments of clinical skills, professionalism, and adherence to site and University policy and procedures.
- Students must receive satisfactory evaluations to continue in their clinical placements and progress in their programs.

**Students must complete the minimum number of hours required by the program to pass the clinical placement.**

### Responsibilities

- **Students:** Comply with all requirements outlined in this and all related policies, including attendance, attire, and professional behavior expectations, meet all deadlines, and maintain communication with program, clinical site, preceptor and the University.
- **University:** Provide guidance and support to students. Ensures that students have met all pre-requisite coursework and requirements are met. Facilitate placement process.
- **Clinical Sites:** Collaborate with the University to provide appropriate learning experiences that support student achievement of course learning objectives and program learning outcomes.

### Approved Breaks

#### Clinical Guidance Process/Approved Breaks

Students have a critical responsibility to engage in and follow the clinical placement process. This is vital for maintaining academic and clinical schedules.

Failure to follow established steps or supply missing information in a timely manner can lead to disruptions, such as changes to the student's academic schedule or the necessity of taking an Approved Break.

An Approved Break is a temporary period of non-enrollment for which a student may apply to take for up to 16 weeks within a 12-month period. Students will not need to apply to re-enter upon returning if all conditions are met (see the Approved Break Policy under Academic Information in the catalog).

The Clinical Guidance Process highlights the importance of compliance to prevent delays in educational progress and ensure a smooth and continuous clinical experience.

## Appeal Process

Students who are denied placement or face removal from a clinical placement may appeal the decision in writing in accordance with standard University appeals policy as stated in the catalog. Herzing University cannot overturn the decision of a clinical site to dismiss a student from that site.

### Academic Appeal

If mitigating or extenuating circumstances exist, a student may appeal an academic dismissal from the University by submitting an Academic Appeal Form to the appropriate academic administrator prior to the deadline stated in the dismissal notification. Valid circumstances include a serious injury or illness, death of a relative or other special circumstance. The appeal must be submitted in writing and provide an explanation of the circumstance that caused the unsatisfactory academic performance and how the student has overcome the circumstance.

The campus Director of Campus Operations/Academic Dean for Online Learning will be the chairperson of the Satisfactory Academic Progress Committee and is responsible for appointing other campus administrators to the committee. The Committee will consider all the facts of the appeal and will provide a decision. All decisions on academic appeals are final.

If the appeal is approved, the student will be reinstated and placed on probation, and provisions of the University's probation policy will apply. An approved academic appeal is valid for reinstatement for two semesters following the approval date, unless otherwise stated by the Director of Campus Operations/Academic Dean for Online Learning. A student who attempts to return more than two semesters after the appeal was approved, may be required to re-appeal.

The dismissal of a student whose appeal has been denied is final. In rare cases, a dismissed student whose appeal has been denied can at a later date request reinstatement to the University if there has been a significant change in the student's situation since the dismissal that in the sole discretion of the University would strongly indicate the student could be successful if allowed to return to the University. If the petition is approved, the student will be reinstated on probation, and provisions of the University's probation policy will apply. In addition to the grade received, the length of time since the course was taken may be considered in certain course areas, to ensure that the content is still applicable.

### **Policy Review**

This policy will be reviewed periodically to ensure its effectiveness and relevance to the needs of students and clinical education programs. The University in its academic discretion can change this policy at any time and without notice.

By enrolling in clinical education programs at Herzing University, students agree to adhere to the guidelines outlined in this policy, as the University in its academic discretion may from time-to-time change, and all related policies.

- **ADDENDUM, effective June 21, 2024, Herzing University has updated the combined SAT score within the General Admissions Criteria for Undergraduate Programs – Entrance Testing methods.**
  - Submission of an ACT score of 17 or better or a combined SAT score of 930 or better in place of the college entrance evaluation. (The college placement evaluation is required for math and English placement.)