

# **Title IX**

**Sex Discrimination/  
Misconduct Policy**

**and**

**Complaint Resolution Procedures**

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## **I. NON-DISCRIMINATION STATEMENT**

Erikson Institute prohibits discrimination on the basis of sex, sexual orientation, gender, and/or gender identity in any Institute program or activity consistent with Title IX of the Educational Amendments of 1972 and other applicable state and federal laws. Sexual misconduct, including sexual harassment, non-consensual sexual intercourse and/or contact, exploitation, and interpersonal violence such as stalking, dating violence and/or domestic violence are forms of sex discrimination that deny or limit a community member's ability to participate in Erikson Institute's programs or activities.

Erikson Institute provides educational, preventative and training programs regarding sex, sexual orientation, gender and gender identity-based discrimination; encourages the reporting of any incident that might violate this policy; provides timely services to those who have been affected by discrimination; and utilizes prompt and equitable methods of investigation and resolution to stop discrimination, remedy any harm, and prevent recurrence. Violations of this Policy may result in the imposition of sanctions including, but not limited to termination, dismissal, or expulsion.

This Policy applies to all members of Erikson Institute community, including students, faculty, staff, administrators, board members, contractors, vendors, and visitors, regardless of their sex, sexual orientation, gender or gender identity. The Policy applies to on-campus and off campus conduct, including online or electronic conduct, when the off campus conduct: (i) occurs during an Institute sponsored employment or education activity or program; (ii) adversely impacts the education or employment of a member of the Erikson Institute community; or (iii) otherwise threatens the health and/or safety of a member of the Erikson Institute community.

Students and employees continue to be subject to city, state, and federal laws while at Erikson Institute, and violations of those laws may also constitute violations of this Policy. In such instances, Erikson Institute may proceed with an investigation under this Policy independently of any criminal proceeding involving the same conduct and may impose sanctions for violation of this Policy even if such criminal proceeding is not yet resolved or is resolved in the Respondent's favor.

For students and Institute employees, this Policy applies to conduct that takes place from the time a person accepts enrollment as a student or accepts employment and continues until the student graduates or otherwise separates from Erikson Institute or the employee ceases employment.

Further information about Title IX and sex discrimination in education is available from the Office of Civil Rights (U.S. Department of Education, Citigroup Center, 500 Madison St., Suite 1475, Chicago, IL 60661-4544, 312-730-1560, OCRChicago@ed.gov, ed.gov.ocr), or Erikson Institute's Title IX Coordinator as set forth directly below.

## **II. ROLE OF TITLE IX COORDINATOR**

Erikson Institute has a designated Title IX Coordinator trained in Erikson Institute's policies and procedures, state and federal law and other issues related to sexual discrimination and misconduct, to manage Erikson Institute's compliance with Title IX. Specifically, the Title IX Coordinator:

- Oversees the investigation and resolution of all reports of prohibited conduct under this Policy;
- Advises any individual, including a Complainant, a Respondent or a third party, about the courses of action available at Erikson Institute and in the community for resolving cases of sexual discrimination/misconduct;
- Provides assistance to any “responsible employee” regarding how to appropriately respond to a report of prohibited conduct under this Policy;
- Conducts and/or reviews on-going climate checks, tracking, and monitoring of sexual misconduct allegations on campus;
- Oversees training, education, and prevention efforts; and
- Provides and participates in on-going training designed to assist in implementing these policies and procedures.

The Title IX Coordinator can be reached during regular business hours at:

Patricia Lawson  
 Title IX Coordinator  
 Erikson Institute  
 451 LaSalle Street  
 Chicago, IL 60654  
 312-893-7120  
[plawson@erikson.edu](mailto:plawson@erikson.edu)

### III. PROHIBITED MISCONDUCT

In determining whether alleged conduct constitutes a violation of this Policy, Erikson Institute will consider the totality of the facts and circumstances of the incident from both an objective and subjective perspective, including the nature of the alleged conduct and the context in which it occurred. Any of the prohibited conduct set forth in this Policy can occur between strangers or acquaintances, individuals involved in intimate or sexual relationships, individuals of any sex or gender identity, and/or individuals of the same or different sexes or gender identities. In addition, some of the prohibited misconduct also violates the criminal laws of the State of Illinois.

- A. **“Sex Discrimination.”** Sex discrimination is adverse treatment of an individual based on sex or gender, rather than individual merit. Sex discrimination encompasses sexual misconduct, as defined below, but also includes other discriminatory behavior that does not constitute sexual misconduct.
- B. **“Sexual Misconduct.”** Sexual misconduct is a broad term that encompasses sexual harassment, non-consensual sexual intercourse or contact, sexual exploitation, domestic violence, dating violence, and stalking. The following offenses are considered “sexual misconduct” and prohibited by Erikson Institute.
  1. **“Sexual Harassment.”** Sexual harassment is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic or physical conduct of a sexual nature, without regard to whether the parties are of the same or different gender when:

- Submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment or status in a course, program or Institute-sponsored activity, or is used as the basis for employment or educational decisions affecting that individual (also referred to as "quid pro quo"); or
- Such conduct is sufficiently severe, pervasive, or persistent that it has the purpose or effect of unreasonably interfering with an individual's educational experience or working conditions (also referred to as "hostile environment").

In considering whether conduct constitutes sexual harassment, Erikson Institute considers the totality of the circumstances from both an objective and subjective perspective. Some examples of sexual harassment may include attempting to coerce an unwilling person into a sexual relationship, repeatedly subjecting a person to unwelcome sexual attention, innuendos or humor, punishing an individual for refusing to comply with a sexual based request, conditioning a benefit on submission to sexual advances, nonconsensual sexual contact or intercourse, bullying based on gender or sex.

2. **"Gender-Based Harassment."** Gender-based harassment includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender, sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. Use of the term "sexual harassment" throughout this policy includes gender-based harassment/misconduct.
3. **"Sexual Orientation-Based/Gender Identity-Based Harassment."** Sexual orientation-based harassment includes verbal, non-verbal and physical acts of aggression, intimidation, or hostility based on an individual's actual or perceived heterosexuality, homosexuality, bisexuality, or transsexuality/gender identity. Use of the term "sexual harassment" throughout this policy includes sexual orientation-based and gender identity-based harassment/misconduct.
4. **"Non-Consensual Sexual Intercourse (or attempts to commit the same)."** Non-consensual sexual intercourse is any penetration of the sex organs, anus, or mouth of another person when affirmative consent is not present or force is used. This includes penetration or intrusion, however slight, by an object or any part of the body, specifically including cunnilingus, fellatio, vaginal intercourse, and anal intercourse.
5. **"Non-Consensual Sexual Contact (or attempt to commit the same)."** Non-consensual sexual contact is the intentional touching or fondling a person's genitals, breasts, thighs, groin, or buttocks, or any other contact of a sexual nature (including by bodily fluids), when consent is not present or force is used. This includes contact done directly, through clothing, or with an object. It also includes causing or inducing a person, when consent is not present, to similarly touch, fondle, or contact oneself or someone.
6. **"Sexual Exploitation."** Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own benefit, or to benefit anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses in this policy. Examples of sexual exploitation include, but are not limited to, invasion of sexual privacy, prostituting another person, non-consensual photographing, video or audio-taping of sexual activity, non-consensual showing or sharing

of otherwise consensual images, engaging in voyeurism, knowingly transmitting a sexually transmitted infection (STI) to another without disclosing STI status, exposing one's genitals in non-consensual circumstances, and inducing another to expose their genitals. Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

7. **“Dating Violence.”** Dating violence is violence or the threat of violence by another person with whom the individual is or has been in a social relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence does not include acts covered under the definition of domestic violence below.
8. **“Domestic Violence.”** Domestic violence is violence committed or threatened to commit by a current or former spouse or intimate partner of the individual, by someone with whom the individual shares a child in common, by someone who is cohabitating with or has cohabitated with the individual as a spouse or intimate partner, by someone similarly situated to a spouse of the individual under the domestic or family violence laws of the jurisdiction in which the violence occurred, or any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the violence occurred.
9. **“Stalking.”** Stalking is a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety (or the safety of a third person) or suffer substantial emotional distress. For purposes of this definition, course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property. Examples of stalking include, but are not limited to:
  - following a person;
  - being or remaining in close proximity to a person;
  - entering or remaining on or near a person's property, residence, or place of employment;
  - monitoring, observing or conducting surveillance of a person;
  - threatening (directly or indirectly) a person;
  - communicating to or about a person;
  - giving gifts or objects to, or leaving items for, a person;
  - interfering with or damaging a person's property (including pets); or
  - engaging in other unwelcome contact.

#### IV. OTHER IMPORTANT DEFINITIONS

- A. **"Consent."** Consent is: expressed through affirmative, voluntary words or actions mutually understandable to all parties involved; is given for a specific sexual act at a specific time and can be withdrawn at any time; cannot be coerced or compelled by duress, threat, or force; cannot be given by someone who, for any reason, cannot understand the facts, nature, extent, or implications of the sexual situation occurring, including, but not limited to, those who are under the legal age of consent (17 years in Illinois<sup>1</sup>), asleep, unconscious, or mentally or physically incapacitated through the effects of drugs or alcohol, or mentally impaired due to an intellectual or other disability. Consent cannot be assumed based on: silence; the absence of verbal or physical resistance; an individual's manner of dress; the existence of a prior or current relationship; or consent to prior sexual activity. Consent for sexual acts cannot be given by a third party, and consent to sexual activity with one individual does not constitute consent to sexual activity with another individual.
- B. **"Coercion."** Coercion is the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to have sex. Means of coercion may include, but are not limited to, pressure, threats, emotional intimidation, or the use of physical force.
- C. **"Incapacitation."** Incapacitation means the physical and/or mental inability to make informed, rational judgments about whether or not to engage in sexual activity, or is otherwise unable to care for him or herself. States of incapacitation include, without limitation, sleep, blackouts, intellectual, or other disability. Where alcohol or other drugs are involved, one does not have to be intoxicated or drunk to be considered incapacitated. Rather, incapacitation is determined by how the alcohol consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. The question is whether the accused knew, or a sober, reasonable person in the position of the accused, knew or should have known, that the complainant was incapacitated. Because incapacitation may be difficult to discern, individuals are strongly encouraged to err on the side of caution; i.e., when in doubt, assume that another person is incapacitated and therefore unable to give consent. Being intoxicated or drunk is never a defense to a complaint of sexual misconduct under this policy.
- D. **"Responsible employee."** A responsible employee is someone who has been given the duty of reporting sexual violence incidents or any other incidents of misconduct. A responsible employee includes any employee who has the authority to take action to redress the harassment, who has the duty to report sexual harassment to appropriate officials or an individual who a student could reasonably believe has this authority or responsibility. Examples of responsible employees are Institute faculty and staff, Trustees, student employees in academic roles and field supervisors. Institute contractors are excluded as responsible employees, except for contracted security.

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<sup>1</sup> Except in cases of child sexual abuse under the Illinois Abused and Neglected Child Reporting Act, where the law requires that "mandated reporters" inform the Department of Children and Family Services when they have "reasonable cause to believe" that a child known to them in their professional or official capacity may be sexually abused. Sexual abuse occurs when a *person responsible for the child's welfare* commits sexual penetration, sexual molestation, or sexual exploitation as defined by State law. Under the Illinois Abused and Neglected Child Reporting Act, "child" includes any person under the age of 18. Employees of Erikson Institute are considered mandated reporters.



## V. RETALIATION

It is a violation of Institute policy to retaliate against any person engaging in protected activity under this Policy. Retaliation is defined as a materially adverse action taken or threat to act against an individual as a result of his or her participation in a protected activity under this Policy. Protected activity includes, but is not limited to, making a good-faith complaint of sexual discrimination/misconduct, cooperating in good faith in the investigation of a complaint of sexual discrimination/misconduct, and/or testifying as a witness to any report of sexual discrimination/misconduct.

Retaliation should be reported promptly to the Title IX Coordinator, the Dean of Students, the Dean of Faculty, or the Chief Human Resources Officer. Acts of retaliation will result in disciplinary action independent of the sanction or interim measures imposed in response to the underlying allegations of sexual discrimination/misconduct.

## VI. ACADEMIC FREEDOM

Erikson Institute is committed to the principles of academic freedom. Rigorous discussion and debate are fundamental to Erikson Institute's educational mission, and this policy is not intended to determine or restrict teaching methods, course content, or the processes of intellectual inquiry and debate. The fact that speech or a particular expression is offensive is not, standing alone, a sufficient basis to establish a violation of this policy. To constitute a violation of this policy, speech or expression taking place in the teaching context must be persistent, pervasive, and not germane to the subject matter in a way that impedes Erikson Institute's educational mission or is used to disguise, or as the vehicle for, prohibited conduct.

## VII. REPORTING OPTIONS AND AVAILABLE RESOURCES

There are various reporting options and resources available to Erikson Institute community. Erikson Institute encourages those who believe they may have experienced sexual discrimination/misconduct to talk to one or more of the below individuals or agencies.

- A. Confidential Sources.** The following resources are available to discuss incidents of misconduct in confidence, and will only report to Erikson Institute that an incident occurred without revealing any personally identifying information. Disclosures to these entities will not trigger an Institute investigation into an incident. Faculty, staff and students wishing to obtain confidential assistance without making a report to Erikson Institute may do so by speaking with one of the following confidential sources:

- **Employee EAP 1.800.386.7055**

The following off-campus organizations also provide confidential assistance and additional resources and will not make any report to Erikson Institute:

- **The Chicago Rape Crisis Hotline: 888-293-2080**
- **National Sexual Assault Telephone Hotline: 800-656-HOPE (4673)**
- **State of Illinois Domestic Violence Hotline: 877-863-6338**

All of the above resources employ professionals specifically trained to work with individuals who report sexual misconduct, and have knowledge about on-and off-campus resources, services, and options. Please note that limitations of confidentiality may exist for individuals under the age of 18.

- B. Reporting to Erikson Institute.** Erikson Institute strongly encourages individuals to report incidents of sexual discrimination/misconduct to the Title IX Coordinator or other Institute employee. With the exception of the confidential resources identified directly above, all other Institute employees, including student employees,<sup>2</sup> who receive a report of sexual discrimination/misconduct are required to report all the details of an incident (including the identities of both the complainant and alleged respondent) to the Title IX Coordinator.

The following resources may be contacted to initiate an investigation into an incident of sexual discrimination/misconduct:

- **The Title IX Coordinator**, Patricia Lawson: plawson@erikson.edu, 312-893-7120
- **Dean of Students**: Collette Davison, cdavison@erikson.edu 312-893-7173
- **Chief Human Resources Officer**, David Wilson, dwilson@erikson.edu 312-893-7200

If you are in immediate danger, **call 911 for the Chicago Police Department. The non-emergency number for the Chicago Police Department is 311.** See Section E for more information on reporting to law enforcement.

The privacy of all parties involved in a complaint made to Erikson Institute will be respected. Information related to a report of sexual misconduct will be shared only with those Institute employees who “need to know” to assist in the investigation and/or resolution of the complaint. All Institute employees who are involved in the review, investigation, or resolution of a report have been required to participate in specific training regarding the safeguarding of private information.

- C. Information Regarding the Rights of Complainants.** Consistent with applicable State and federal law, upon receiving notice of an alleged violation of this Policy, Erikson Institute shall provide the Complainant with a separate written document listing the Complainant’s available rights and options.
- D. Requests for Confidentiality.** If an individual discloses an incident of sexual discrimination/misconduct to a non-confidential source, but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, Erikson Institute must weigh that request against Erikson Institute’s obligation to provide a safe, non-discriminatory environment for all members of Erikson Institute community, including the individual who has experienced the alleged misconduct. Although rare, there are times when Erikson Institute may not be able to honor an individual’s request in order to provide a safe, non-discriminatory environment.

Erikson Institute has designated the Title IX Coordinator to evaluate requests for confidentiality. When weighing an individual’s request for confidentiality or that no investigation or discipline be

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<sup>2</sup> Student employees who receive reports of sexual discrimination/misconduct in the course of their employment or because of their employment status are considered “responsible employees” and therefore must notify the Title IX Coordinator of the report of sexual discrimination/misconduct.

pursued, the Title IX Coordinator will consider the following range of factors to determine whether there is an increased risk that the alleged perpetrator will commit additional acts of sexual discrimination/misconduct:

- whether there have been other sexual discrimination/misconduct complaints about the same alleged perpetrator;
- whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
- whether the alleged perpetrator threatened further sexual misconduct or other violence against the victim or others;
- whether the alleged sexual misconduct was committed by multiple perpetrators;
- whether the alleged sexual misconduct was perpetrated with a weapon or through violence;
- whether the alleged sexual misconduct was committed against a minor; and/or
- whether the Complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead Erikson Institute to investigate and, if appropriate, pursue disciplinary action pursuant to the formal resolution process set forth in this Policy. If Erikson Institute determines that it cannot maintain an individual's confidentiality, Erikson Institute will inform the individual prior to starting an investigation and will, to the extent possible, limit the information shared during the Complaint Resolution Process.

If none of the above factors is present, Erikson Institute will likely honor the individual's request for confidentiality. If Erikson Institute honors the request for confidentiality, Erikson Institute's ability to fully investigate the incident and pursue disciplinary action against the Respondent(s) may be limited.

**E. Reporting Incidents to Law Enforcement.** Institute officials encourage Complainants to report to the Police any allegation of sexual misconduct that could rise to the level of a crime, and Erikson Institute will assist individuals wishing to do so. A police report must be made before a criminal prosecution can be considered by the local State's Attorney's Office. The chances of successful prosecution are greater if the report to the police is timely.

Complainants have the right to request that law enforcement implement emergency protective restraining orders. Erikson Institute shall assist Complainants who wish to request such emergency protective restraining orders. Complainants who receive emergency or permanent protective or restraining orders through a criminal or civil process should, as soon as practicable, notify the Title IX Coordinator. Erikson Institute will work with the Complainant and the person who is the subject of the restraining order to manage compliance with the order on campus.

Whether or not criminal charges are filed, Erikson Institute will investigate and resolve complaints of sexual misconduct under this Policy where appropriate. Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy, criminal investigations or reports are not determinative of whether sexual misconduct, for purposes of this Policy, has occurred. In other words, conduct may constitute sexual misconduct under this Policy even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to investigate or prosecute.

Erikson Institute’s investigation of a complaint of sexual misconduct shall proceed simultaneously with any law enforcement investigation, except that Erikson Institute may, in some circumstances, be required to defer the fact-finding portion of its Title IX investigation for a limited time while the police gather evidence. In such cases, the Title IX Coordinator shall inform the parties of the need to defer its fact-finding, provide regular updates on the status of the investigation, and notify the parties when Erikson Institute’s fact-finding resumes. During this time period, Erikson Institute will take any additional interim measures necessary to protect the Complainant and Erikson Institute community.

- F. Medical Assistance.** Whether or not an individual who has experienced sexual misconduct decides to report an incident to Erikson Institute or Chicago Police Department, individuals are encouraged to seek immediate medical attention from one of the sources listed below in order to treat physical injuries, test for and treat sexually transmitted infections and pregnancy, and access emergency contraception (if requested).

Under Illinois law, medical personnel are required to alert police when it reasonably appears that the individual requesting the treatment has received an injury sustained as a victim of a criminal offense, including sexual violence. However, it is the individual’s choice as to whether he or she wants to speak to the police.

Local medical assistance can be obtained at:

- **Northwestern Memorial Hospital Emergency Room (nmh.org), 259 East Erie, Suite 100 Chicago, IL, 60611; 312-926-2000.** Northwestern employs specially trained SANE (Sexual Assault Nurse Examiners 312-926-4313) nurses to assist individuals and collect potentially critical physical evidence as set forth in Subsection E below.

- G. Evidence Collection.** Even if an individual has not been physically hurt, a timely medical examination is recommended so that forensic evidence can be collected and preserved. An individual may choose to allow the collection of evidence by medical personnel even if he or she chooses not to make a report to the police. In order to best preserve forensic evidence, it is suggested that an individual not shower, bathe, douche, smoke, or change clothes or bedding before seeking medical attention, and that medical attention be sought as soon as possible. If the individual decides to change clothes, he or she can bring them unwashed to the hospital or medical facility in a paper bag.

Under Illinois law, forensic medical examinations (i.e., evidence collection) sought subsequent to instances of sexual violence are free of charge to the patient.

Individuals who have experienced sexual misconduct are also encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents.

- H. Amnesty for Sexual Misconduct Complainants and Witnesses.** Erikson Institute encourages reporting sexual misconduct and seeks to remove any barriers to an individual making a report. Erikson Institute recognizes that a student who has been drinking or using drugs at the time of the incident may be hesitant to make a report because of the potential consequences of their own conduct. A student who reports sexual misconduct, either as a Complainant or third party witness, will not be subject to disciplinary action by Erikson Institute for his or her own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not or do not place the health or safety of any other person at risk.
- I. False Reporting or Testimony.** Reports of sexual misconduct that are later found to be intentionally false or made maliciously without regard for truth shall constitute a violation of this policy. This provision does not apply to reports made in good faith, even if the allegations in the report are not substantiated through an investigation. Likewise, a third party witness who intentionally provides false or misleading testimony may be subject to action under this policy.

## **VIII. INSTITUTIONAL CRIME REPORTING**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act"), requires institutions of higher education to compile and publish statistics on certain criminal offenses including, sexual assault (i.e., non-consensual sexual intercourse), domestic and dating violence and stalking that occur on or adjacent to school properties. Although Erikson Institute strongly encourages everyone to report any crime that occurs on or around campus, the Clery Act requires certain crimes reported to a Campus Security Authority (CSA) be included in those annual statistics. Specifically, the Act defines a Campus Security Authority as:

- A campus police or security department;
- Any individual or individuals who have responsibility for campus security but who do not constitute a campus police or security department...such as an individual who is responsible for monitoring entrance into institutional property;
- Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses; or
- An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings.

All crimes reported and documented under the Clery Act will be recorded in an anonymous manner that neither identifies the specifics of the crime or the identity of the Complainant.

Erikson Institute is also obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when the warning could potentially compromise law enforcement efforts or identify the victim/survivor). A Complainant under this Policy will never be identified by name in a timely warning.

## **IX. EDUCATIONAL PROGRAMMING**

Erikson Institute will provide the following educational programming designed to promote the awareness of sexual assault, domestic violence, dating violence and stalking.

**A. Officials with Responsibility for Investigating or Adjudicating Alleged Violations of this Policy Related to Sexual Assault (i.e., non-consensual sexual intercourse or contact), Domestic Violence, Dating Violence or Stalking.** Erikson Institute will provide officials responsible for the investigation or adjudication of misconduct under this policy with the following:

- Training on at least an annual basis on the issues related to sexual assault, domestic violence, dating violence and stalking; and
- Training on at least an annual basis on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

**B. Primary Prevention and Awareness Programs.** Erikson Institute will provide primary prevention and awareness programs for all incoming students and new employees that include the following:

- A statement that Erikson Institute prohibits the offenses of sexual assault, domestic violence, dating violence and stalking, and a description of Erikson Institute's policies that prohibit this conduct;
- The definition of consent, in reference to sexual activity, as defined in the applicable jurisdiction;
- The definition of sexual assault, domestic violence, dating violence, and stalking (or similar offenses) in this Policy and in the applicable jurisdiction;
- A description of safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of sexual assault, domestic violence, dating violence, or stalking against a person other than such individual;
- Information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;
- The procedures that a complainant should follow if sexual assault, domestic violence, dating violence, or stalking has occurred, as described in this Policy;
- The possible sanctions and protective measures that Erikson Institute may impose following a final determination of a violation of Institute policy regarding sexual assault, domestic violence, dating violence, or stalking;
- The procedures for Institute disciplinary action in cases of alleged sexual assault, domestic violence, dating violence, or stalking, as described in this Policy, including the standard of proof that is used;
- Information about how Erikson Institute will protect the confidentiality of complainants, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the complainant, to the extent permissible by law, and how Erikson Institute will maintain as confidential any accommodations or protective measures provided to the complainant, to the extent that maintaining such confidentiality would not impair the ability of Erikson Institute to provide the accommodations or protective measures;
- A statement that Erikson Institute will provide written notification about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for student and employee complainants both within Erikson Institute and in the community;
- A statement that Erikson Institute will provide written notification to complainants about options for, and available assistance in, changing academic, living, transportation, and working situations or protective measures, if so requested by the complainant and if such accommodations are reasonably available, regardless of whether the complainant chooses to report the crime to campus security or local law enforcement; and

- A statement that, when a complainant reports to Erikson Institute that the complainant has been a victim of sexual assault or relationship violence, whether the offense occurred on or off campus, Erikson Institute will provide the complainant a written explanation of the complainant's rights and options.

- C. Ongoing prevention and awareness campaigns.** Erikson Institute will also provide ongoing prevention and awareness campaigns for students and employees that include the information covered in the primary prevention and awareness programs.

## **X. COMPLAINT RESOLUTION PROCEDURES**

Erikson Institute provides a prompt, fair, and impartial institutional resolution to allegations of violations of this Policy. Erikson Institute's process is completely separate from the police and courts. Upon receipt of a report or complaint of a violation of this Policy, the Title IX Coordinator shall review the allegations and determine an appropriate course of action. Options include:

- Resolving the report or complaint through an alternate resolution process (if applicable);
  - Investigating and resolving the report or complaint through Erikson Institute's formal resolution process; or
  - Determining that the facts of the complaint or report, even if true, would not constitute a violation of Erikson Institute's Policy, and closing the case with no further action.
- A. Resolution Time Frame.** Erikson Institute aims to bring all allegations to a resolution, including the appeals process (where applicable), within a sixty (60) business day time period. This time period can be extended as necessary for good cause by the Title IX Coordinator, a Sanctioning Official, and/or the Appellate Officer with advance written notice to the parties of the extension and an explanation of the reason for the extension. The parties are regularly notified by the Title IX Coordinator of the status of the proceedings throughout their duration.
- B. Title IX Initial Review and Assessment.** Upon receipt of a complaint alleging a violation of this Policy, the Title IX Coordinator will assess the nature of the report, the safety of the involved individuals and of the campus community, the Complainant's expressed preference for resolution and/or request for confidentiality, and the necessity for any interim measures or modifications to maintain the safety of the Complainant or the community. If, during this assessment, it is determined that the alleged conduct, even if true, does not constitute a violation of this Policy, the complaint will be closed and no further action may be taken. The complainant will be notified, in writing, if such a decision is made. Where the facts, as alleged, state a potential violation of Erikson policy, Erikson Institute will proceed as set forth below. In such cases, the Title IX Coordinator shall provide both parties with a written statement of their rights and options under this Policy.
- C. Interim Measures.** Upon receipt of a complaint of alleged sexual misconduct, the Title IX Coordinator or his/her designee will provide prompt and appropriate interim measures to support and protect the Complainant and Respondent and prevent any further acts of misconduct, harassment or retaliation prior to the final resolution of the complaint. Interim measures may be imposed regardless of whether formal resolution is sought by the Complainant or Erikson Institute.

Interim measures may include, but are not limited to:

- Referral to counseling and health services;
- Referral to the Employee Assistance Program;
- Modification of work arrangements and/or scheduling;
- Campus escorts and/or changes to campus transportation arrangements;
- “No Contact Orders” between the parties; and/or
- Academic programming or scheduling adjustments
- Leave of absence (paid or unpaid)

In cases where the alleged Respondent is a student or student organization and considered a threat to persons or property, the Dean of Students may impose interim measures such as suspension and/or loss/cancellation of other privileges prior to or during an investigation and determination. Both Complainant and Respondent would be notified of such a decision.

Interim measures will be kept confidential to the extent that maintaining such confidentiality would not impair the ability of Erikson Institute to provide the interim measures. Erikson Institute will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for complainants by Erikson Institute and in the community. Students and employees will also be provided with written information about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures, as well as a copy of this Policy and complaint resolution procedures. They will also be informed that Erikson Institute shall make such accommodations or provide such protective measures if the Complainant requests them and if they are reasonably available, regardless of whether the complainant chooses to report the crime to campus police or local law enforcement.

Violation(s) of a directive and/or protective action issued as an interim measure may result in disciplinary action separate from any sanctions issued for a determination of sexual misconduct. Any such violation should be reported to the Title IX Coordinator as soon as practicable, and would be investigated.

**D. Complainant or Respondent Advisors.** The Complainant and Respondent are both entitled to bring an advisor of their choice, at their expense, to any meeting or interview in connection with a complaint of sexual misconduct. The advisor may be a friend, professor, mentor, family member, attorney, or any other supporter a party chooses to advise them, except that individuals who will be serving as witnesses may not serve as advisors.

Erikson Institute cannot guarantee equal advisory rights, meaning that if one party selects an attorney as an advisor, but the other party does not, or cannot afford an attorney, Erikson Institute is not obligated to provide one. However, the role of the advisor is for support only and therefore, non-participatory. In other words, the advisor may not speak for the Complainant or Respondent nor draft any statements on their behalf. An advisor who disrupts or otherwise fails to observe the limits of the advisor role will be asked to leave the meeting, and the meeting will continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated or replaced.

Both parties shall receive timely written notification of meetings at which they are required to be present. Therefore, Erikson Institute reserves the right to proceed with a pre-arranged meeting



or interview regardless of the advisor's availability. Advisors are expected to maintain the privacy of any records shared with them during the process. Such records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Erikson Institute. Erikson Institute will obtain a confidentiality statement from the advisor and may seek to restrict the role of any advisor who fails to abide by these privacy expectations.

**E. Alternate Resolution.** Where appropriate, Erikson Institute will work to resolve complaints by taking immediate and corrective action to stop the misconduct, address its effects, and prevent recurrence without a formal investigation and determination of Policy violation. Alternate resolution may include the range of interim measures set forth above, as well as targeted and/or broad-based training and educational programming for relevant individuals and groups, and/or any other remedy that will achieve the goals of this Policy. In some circumstances, mediation or joint conflict resolution may be appropriate. However, mediation or face to face meetings shall never be used to resolve allegations of non-consensual intercourse or contact or other sexual violence; such allegations will automatically invoke the formal resolution process outlined below. Participation in alternate resolution is voluntary and either party can request to end alternate resolution and initiate the formal resolution process at any time.

**F. Formal Resolution.**

**1. Investigation.** When a complaint cannot be resolved through the alternate resolution process, a formal resolution will be initiated. Formal resolution includes a prompt, thorough, impartial and fair investigation. The investigation shall be conducted by an internal or external investigator (or investigators) appointed by the Title IX Coordinator. All individuals who serve as investigators will have received training regarding the investigation of, and other issues relevant to, non-consensual sexual intercourse and contact, sexual exploitation, domestic and dating violence, stalking, and other misconduct covered by this Policy, including on how to conduct an investigation that protects the safety of victims and promotes accountability, and who does not have a conflict of interest or bias. Parties will be notified, in writing, should the time line need to be extended to accommodate the investigation.

Investigations may include one or more interviews with the Complainant, Respondent and any other identified witnesses. Investigations may also include the gathering of physical, documentary and/or other relevant evidence. Additionally, Complainants and Respondents may provide written statements, identify and/or present statements from fact witnesses or submit any other evidence that the Title IX Coordinator (or other Investigator) deems relevant. Complainants and Respondents may have their advisors present during interviews and any other meetings that occur during the investigation. Timely notice shall be provided to Complainants and Respondents of all meetings at which they may be present, and both parties will be provided with timely and equal access to all information gathered during the investigation that will be relied upon in reaching a conclusion.

If at any point during the investigation it is determined there is no reasonable cause to believe that Erikson's policy has been violated, the Title IX Coordinator has authority to terminate Erikson Institute's investigation, document its conclusion and communicate that the case is closed with no further action.

If the complaint has resulted in investigation outside the jurisdiction of Erikson Institute (e.g., police or court involvement), those investigations are entirely separate, and will include processes and timelines that are in addition to and distinct from Erikson's formal resolution procedures.

- 2. Prior Sexual History.** In general, a Complainant's prior sexual history is not relevant and will not be admitted as evidence during an investigation. However, where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent alleges that consent was given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications regarding consent between the parties. As noted in this Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is insufficient to constitute consent. Any prior sexual history of the Complainant with other individuals is typically not relevant and will not be permitted except under very limited exceptions, such as to explain injuries.

In gathering the facts, the investigator(s) may consider prior or subsequent allegations of, or findings of responsibility for, similar conduct by the Respondent only to the extent such information is relevant.

- 3. Investigative Report.** After the investigation has been completed, the investigator(s) will prepare an Investigative Report summarizing the evidence collected and analyzing the relevant facts determined through the Investigation, referencing any supporting documentation or statements gathered or relied upon, as well as evidence offered but not considered. The Investigative Report will include summaries of interviews with the Complainant, Respondent, third-party witnesses, and any other individuals with relevant information. Additionally, if such information is available and relevant, the Investigative Report shall reference photographs, physical evidence, electronic records and/or forensic evidence.

Before the report is finalized and a determination of responsibility has been made, the investigator(s) shall forward to each party a summary of their own interview for review. Each of the statements shall then be offered to the other party for review and comment. The Complainant and Respondent may submit any additional comments, evidence or suggested factual correction to the investigator(s) within three (3) business days of the date on which they were provided with their interview summaries. Both the Complainant and Respondent may have access to review the evidence gathered by submitting a written request to the Investigator. The Investigator will make arrangements for the evidence to be accessible within 5 business days.

Upon receipt of any additional information from the Complainant and/or Respondent, or after the three (3) day period has lapsed without comment, the investigator(s) will incorporate any additional information and make a finding as to whether there is sufficient information to establish, by a preponderance of the evidence, that a violation of this Policy occurred. The final Investigative Report will include the determination of responsibility, the rationale for such determination, and shall be issued to the Complainant, Respondent and Title IX Coordinator, simultaneously. If a finding of policy violation is made, the report shall

also be forwarded to the designated Sanctioning Official, as set forth in subsection G below, for issuance of sanctions.

4. **Standard of Proof.** The Investigator will determine whether the Respondent committed a violation of this Policy by a preponderance of the evidence standard. A preponderance of the evidence means whether the information provided during the investigation supports a finding that it is "more likely than not" that the Respondent violated this Policy.

**G. Sanctions and Remedies.** If the Investigator finds, based on a preponderance of the evidence, that the Respondent violated this Policy, the final Investigative Report will be forwarded to the appropriate Sanctioning Official for determination of sanction as set forth below. Each designated Sanctioning Official shall receive annual training regarding issues related to sexual misconduct as defined in this Policy, as well as sanctioning guidelines consistent with relevant federal law and regulation.

- When Respondent is a student, the Dean of Students will determine the appropriate sanction and any other corrective and remedial actions.
- When the Respondent is a faculty member, the Senior Vice President for Academic Affairs and Dean of the Faculty will determine the appropriate sanction and any other corrective and remedial actions.
- When Respondent is a staff member, the Chief Human Resources Officer will determine the appropriate sanction and any other corrective and remedial actions.

The disciplinary sanctions for violation of this Policy include:

- verbal or written warning
- mandatory educational programming
- community service
- probation
- removal from campus programs/activities/leadership positions
- restrictions regarding entering certain buildings or areas of campus
- No contact order
- suspension from school or employment (without pay, in the case of employees)
- dismissal or other separation from Erikson Institute

Additional corrective action may also include those accommodations set forth in the Interim Measures Section in Subsection C above and other broad-based remedial action.

Not all violations of this Policy are equally serious offenses. Therefore, the designated sanctioning official may impose whatever sanction from the above list he or she believes is fair and proportionate to the finding of violation, and may consider any record of past violations of this Policy, as well as the nature and severity of such past violation(s), when making a determination of sanctions. The sanctioning official shall also determine whether the sanction shall be implemented immediately or will be stayed if a party appeals the determination.

Within five (5) business days after receiving the Investigative Report, the sanctioning official will notify both parties simultaneously, in writing, the sanctions issued, the date the sanctions shall be implemented, and relevant information regarding the appeals process. The sanctioning official will

also provide a copy of the sanction notice to the Title IX Coordinator. This time period can be extended as necessary for good cause by the Sanctioning Official with notice to the parties of the extension and an explanation of the reason for the extension.

**H. Student-Respondent Withdrawal While Charges Are Pending.** Student-Respondents with cases pending under this Policy may not withdraw from Erikson Institute. Should a Student-Respondent decide to leave and not participate in the investigation and other portions of the procedures set forth herein, the process will nonetheless proceed in the Student-Respondent's absence to a reasonable resolution and the Student-Respondent will not be permitted to return to Erikson Institute until any sanctions issued have been satisfied. Consistent with Subsection L below, sanctions of suspension or expulsion will be permanently recorded on a student's transcript.

**I. Student-Respondent Failure to Complete Sanctions.** Student-Respondents who fail to complete assigned sanctions may be placed on academic hold and prohibited from registering for classes, acquiring transcripts, accessing student accounts and grade reviews.

**J. Appeals.** In cases of sexual misconduct (including gender-based discrimination), either party may appeal the final Investigative Report determination and/or the sanctions issued by the designated Sanctioning Official by submitting a written request for appeal via an email to [appeals@erikson.edu](mailto:appeals@erikson.edu), with supporting documentation, to Appellate Officer within five (5) business days of the date of the appealing party's receipt of the final Investigative Report or Notice of Sanctions, whichever is later. That appeal will then be forwarded within 5 business days to the other party. Appeals will only be considered on the following three grounds:

- The existence of procedural error(s) significant enough to alter the outcome;
- Existence of new and significant evidence which was not reasonably available at the time of the initial investigation and would likely alter the outcome; and/or
- The sanctions imposed are substantially disproportionate to the violation.

Mere disagreement with the decision is not grounds for appeal.

Within three (3) business days of receiving a request for appeal, the Appellate Officer, or designee in case of conflict of interest, will initiate the appeal process. Erikson Institute President appoints Appellate Officer and designee(s).

In any request for an appeal, the burden to demonstrate procedural error, new evidence or disproportionate sanctions lies with the party requesting the appeal. The Appellate Officer may:

- Deny the appeal because the reason for appeal does not fall within the stated ground for appeal, i.e., procedural error, new evidence or disproportionate sanctions;
- Uphold the original finding and/or sanction;
- Remand the case to the original Investigator for consideration of new evidence and issuance of a new determination;
- Appoint a new Investigator where significant procedural error occurred during the course of the original investigation; or
- Refer the case back to the Sanctioning Official for reconsideration of the sanction (with or without recommendations).

The Appellate Officer will make a determination within twenty (20) business days of receipt of the appeal materials. The Appellate Officer shall notify the parties simultaneously in writing of the outcome of the appeal within five (5) business days of the date of the determination. **Decisions of the Appellate Officer are final.** All appellate time periods set forth in this section can be extended as necessary for good cause by the Appellate Officer with written notice to the parties of the extension and an explanation of the reason for the extension.

The Appellate Officer and designees shall receive annual training regarding issues related to sexual misconduct as defined by this Policy and guidance for conducting appeals in a way that protects the rights of all parties and promotes institutional accountability.

**K. Conflict of Interest.** Erikson Institute requires any individual participating in the investigation, sanctioning or appeal determinations to disclose any potential or actual conflict of interest. If a Complainant or Respondent believes that any individual involved in the process has a conflict of interest, he or she may make a request to the Title IX Coordinator or, if the Title IX Coordinator is the individual believed to have a conflict, the Dean of Students or Chief Human Resources Officer, that the conflicted individual not participate. In cases where a party believes that one of the appointed members of the Sexual Misconduct Appeal Panel has a conflict of interest, a request to replace the panel member should be submitted to the Chair of the Sexual Misconduct Appellate Board. In cases where the party believes that the Sanctioning Official has a conflict of interest, a request to replace the Sanctioning Official shall be made to the President of Erikson Institute.

In all cases, requests to replace an individual due to conflict of interest must be submitted within five business days (5) of a party's notice of the conflicted individual's participation. The written request must include a description of the conflict. If it is determined that a conflict of interest exists, Erikson Institute will take steps to address the conflict in order to ensure an impartial process.

**L. Records.** The Investigation Report and, where issued, the Notice of Sanction and/or Appeal determination, will be maintained by the Dean of Students as part of a student Respondent's conduct record and with the Chief Human Resources Officer as part of an employee Respondent's employment file. The conduct files of students who have been suspended or dismissed from Erikson Institute are maintained in the Dean of Students' office for no fewer than seven (7) years after the student's departure from Erikson Institute. Employment records are maintained consistent with the Illinois Business Records Review Act and all other state and federal requirements.

**M. Non-Disclosure Agreements.** Erikson Institute will not require a party to abide by a nondisclosure Agreement, in writing or otherwise, that would prevent the re-disclosure of information related to the outcome of the proceeding. However advisors will be asked to maintain confidentiality of the information they may learn relating to any investigation or alternative resolution.

**N. Annual Report.** At the beginning of each academic year, the Title IX Coordinator shall report on the previous year's Complaints and responsive action under this Policy. The Title IX Coordinator shall submit the report to Erikson Institute President, who shall publicize it to Erikson Institute community. The report shall not mention the name of any individuals or identify details of any complaint.

## **XI. POLICY APPROVAL**

This policy is approved by the President of Erikson Institute and reviewed at least annually for compliance with federal, state, and regional laws.

## **XII. WEBSITE ADDRESS FOR POLICY AND RELATED MATERIALS**

This policy and its related materials may be found at [www.erikson.edu/consumer-information](http://www.erikson.edu/consumer-information) and click on Health & Safety.

## **XIII. AMENDMENTS**

This policy may be amended, in writing, by the President or the President's designee at any time.

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Approved By: Geoffrey Nagle, President & CEO

**Effective: July 29, 2016.**