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The Duke Policy on Prohibited Discrimination, Harassment, and Related Misconduct applies to both Duke University and Duke Health (Duke) and is maintained and revised by Duke’s Office for Institutional Equity (OIE). This Policy and accompanying Procedures may be revised in Duke’s sole discretion from time to time.

Policy on Prohibited Discrimination, Harassment, and Related Misconduct

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I. Introduction

Duke University and Duke University Health System (“Duke”) are committed to encouraging and sustaining a learning, living, and work environment free from discrimination, harassment, and related misconduct. Duke is committed to maintaining an inclusive community that respects and values all of its members.

The [Office for Institutional Equity \(OIE\)](#) is responsible for administering the Policy on Prohibited Discrimination, Harassment, and Related Misconduct (“Policy”) and its implementing procedures. The Vice President for Institutional Equity is Duke’s designated Coordinator for the Age Discrimination Act of 1975. The Associate Vice President for Harassment and Discrimination Prevention and Compliance is Duke’s designated Coordinator for Title IX of the Education Amendments of 1972. These officers may be contacted at the Office for Institutional Equity, Smith Warehouse, 114 S. Buchanan Blvd., Bay 8, Durham, North Carolina 27708, [919-684- 8222](tel:919-684-8222), oie-help@duke.edu.

Anyone can consult directly with the Office for Institutional Equity for guidance at 919-684-8222 or oie-help@duke.edu.

II. Policy

This Policy prohibits discrimination and harassment on the basis age, color, disability, ethnicity, gender, gender expression, gender identity, genetic information, military status, national origin, race, religion, sex, or sexual orientation (collectively, “protected status” or “protected characteristics”). This prohibition includes discrimination and harassment based on the perception of an individual’s protected status, even if that perception is incorrect. The Policy also prohibits related misconduct, such as sexual assault, relationship violence, stalking, and retaliation. This Policy applies to all operations of Duke University and Duke University Health System.

The Policy should be read consistently with all applicable federal, state, and local laws addressing discrimination, harassment, and related misconduct. These include, but are not limited to, Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.¹

Duke has adopted procedures, described and linked below, which provide for the prompt and equitable resolution of Complaints alleging any action which would be prohibited by this Policy.

This Policy shall be applied in a way that is consistent with Duke’s principles of academic freedom. Duke is committed to the free and vigorous discussion of ideas and issues, which Duke believes will be protected by this Policy. Academic freedom and the related freedom of expression include, but are not limited to, the civil expressions of ideas – however controversial – in the classroom, residence halls, and other teaching and student living environments.

Duke will apply the Policy in place at the time of the alleged conduct, but will apply the procedures in

¹ Concerns about Duke’s application of Title VI and Title IX under this Policy may be addressed to the United States Department of Education, Office for Civil Rights: ocr@ed.gov, [800-421-3481](tel:800-421-3481).

place at the time an investigation is initiated through a Notice of Investigation/Allegations.

III. Jurisdiction/Scope

The Policy applies to all members of the Duke community (including members of Duke entities and affiliates supporting organizations and affiliates) and applies to all Prohibited Conduct that occurs on Duke property and/or during participation or attempted participation in a Duke program or activity. Duke will respond appropriately to conduct that occurs off Duke property and/or outside of a Duke-related program or activity, including off-campus or online conduct that is not part of a Duke program or activity if the alleged Prohibited Conduct is contributing to a hostile environment that occurs within a Duke program or activity. Duke maintains the discretion to address conduct that occurs off campus and/or outside of a Duke-related program or activity that does not contribute to a hostile environment within a Duke program or activity.

Members of the Duke community covered by this Policy include, but are not limited to, full and part-time students and employees of Duke University and Duke University Health System, including faculty members, physicians, staff employees, undergraduate students, graduate and professional students, doctoral students, post-doctoral scholars and fellows, medical residents, house staff, student employees, and temporary and contract employees. Members of the Duke community may also include third parties engaging in a Duke program or activity, including, but not limited to, applicants for admission and employment, visitors, visiting scholars, conference attendees, exchange students, patients, employees of Duke contractors, and program participants.

When OIE receives reports from individuals who are not participating in Duke programs or activities, it will evaluate those reports promptly and determine the applicability of the Policy and what, if any, action is warranted. OIE retains the discretion to use any of its existing procedures, processes, and/or alternate resolution mechanisms to address the reports and complaints of Prohibited Conduct committed by individuals who are affiliated with Duke, but who do not fall into the category of a student, faculty, or staff respondent.

Some types of harassment and related misconduct may be criminal in nature and can also be reported to the [Duke University Police Department](#), 911 (emergencies), or 919-684-2444 (non-emergencies) or local law enforcement for incidents that occur off campus (which can also be reached by calling 911).

IV. Prohibited Conduct

This Policy prohibits all of the following conduct, collectively defined as “Prohibited Conduct.”

A. Discrimination and Harassment Based on All Protected Characteristics

Discrimination: When an individual or group is subjected to an adverse action, including differential treatment, based upon a protected status or characteristic. Discrimination can occur under this Policy in either an employment or an educational context. Discrimination also includes failing to provide reasonable accommodations to a qualified person with a disability or failing to reasonably accommodate an employee’s religious beliefs or practices, as required by state and federal law.

Harassment: Conduct based on a protected characteristic that satisfies one or more of the following:

Hostile Environment Harassment (Including Sexual Harassment)²: Unwelcome protected status-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from Duke's programs or activities (i.e., creates a hostile environment).

Factors considered when determining whether the conduct created a Hostile Environment include, but are not limited to:

1. The degree in which the conduct affected the Complainant's ability to access Duke's program or activity;
2. The type, frequency, and duration of the conduct;
3. The parties' ages, roles within Duke's program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
4. The location of the conduct and the context in which the conduct occurred; and
5. Other Prohibited Conduct in Duke's program or activity.

An isolated incident, unless sufficiently severe, would not create a hostile environment. Harassment is distinguished from behavior that, even though unpleasant or disconcerting, is appropriate to the carrying out of certain instructional, advisory, or supervisory responsibilities. Harassment can include conduct that significantly interferes with the individual's or group's:

- educational environment (e.g., admission, academic standing, grades, assignment);
- work environment (e.g., hiring, advancement, assignment);
- participation in a Duke program or activity (e.g., campus housing); or
- receipt of legitimately-requested services (e.g., disability, pregnancy, or religious accommodations).

Quid Pro Quo Harassment. An employee, agent, or other person authorized by Duke to provide an aid, benefit, or service under Duke's program or activity explicitly or impliedly conditioning the provision of such aid, benefit, or service on a person's participation in unwelcome conduct based on protected status.

Protected Characteristics include the following:

Age: The number of years from the date of a person's birth. With respect to employment, individuals who are forty (40) years of age or older are protected from discrimination and harassment based on age. There is no age threshold for protection from discrimination for students or other participants in educational programs or activities.

Color: An individual's skin tone, complexion, or shade.

Disability: A physical or mental impairment that substantially limits one or more major life activities. Individuals are protected from discrimination if they have such an impairment; have a

² Sexual Harassment that falls within the definitional and/or jurisdictional requirements of the Title IX federal regulations is defined below. See Section IV.F.

record of such impairment; or are regarded as having such impairment. A qualified person with a disability must be able to perform the essential functions of the employment or volunteer position or the academic, athletic, or extra- curricular program, with or without reasonable accommodation.

Ethnicity or National Origin: An individual’s actual or perceived country or ethnicity of origin.

Gender: A socially constructed set of expectations, roles, behaviors, and activities a given society or culture considers appropriate for individuals generally based on an individual’s sex assigned at birth.

Gender Expression: The external appearance of one’s gender identity, usually expressed through behavior, clothing, haircut, or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.

Gender Identity: One’s innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. One’s gender identity can be the same as or different from their sex assigned at birth.

Genetic Information: Information about (i) an individual’s genetic tests, (ii) the genetic tests of family members of such individual, and (iii) the manifestation of a disease or disorder in family members of such individual. Genetic Information includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services by such individual or any family member of such individual.

Military Status: Service members and veterans including disabled veterans, special disabled veterans, veterans of the Vietnam Era, and other protected veterans as defined by federal and state law.

Race: An individual’s actual or perceived racial or ethnic ancestry or physical characteristics associated with a person’s race, such as a person’s color, hair (including hair texture or hairstyle commonly associated with a particular race), facial features, height, and weight.

Religion: All aspects of religious observance and practice, as well as belief.

Sex (Assigned at Birth): A designation at birth (male, female, and intersex) generally based on external appearance of sex organs; includes pregnancy, childbirth, and medical conditions related to pregnancy or childbirth. Conduct of a sexual nature is by definition based on Sex as a Protected Status.

Sexual Orientation: One’s sexual, romantic, physical, and/or emotional attraction (or lack of attraction) to others.

The following are examples of conduct that may constitute Discrimination or Harassment:

- Adversely changing an employee’s work responsibilities based on assumptions about the employee’s ability to perform due to their age, disability, or genetic information.
- Excluding a student from a program or activity based on their complexion or hair texture associated

with their race.

- Refusing to hire an applicant or admit a student applicant because of their race, religion or national origin.
- Targeting a student or employee because of their race, religion or national origin by electronically distributing personally identifying information
- Denying an individual access to an educational program solely because of their military status.
- A supervisor subjecting an employee to repeated unwelcome questions about their sexual orientation.
- A professor subjecting a student to repeated unwelcome questions about their dating life and sexual preferences.
- Denying an applicant membership or benefits in a student group because of their Hindu religion or because they are perceived to be from India or another country where Hinduism is commonly practiced.
- Refusing professional or learning opportunities to an individual because of their sexual orientation or gender expression.
- Anti-Semitic conduct implicates the Policy and can manifest in the Duke environment in a number of ways. The International Holocaust Remembrance Alliance defines anti-Semitism as “a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.” Examples of anti-Semitic conduct that implicates this Policy include:
 - Repeated instances of anti-Semitic slurs directed toward an individual, regardless of whether that individual is Jewish.
 - Refusing to allow an individual to participate in any program sponsored or hosted by Duke because they are perceived to be from Israel, are associated with a Jewish organization, wears religious attire, like a kippah, or displays a religious symbol associated with Judaism, like a Star of David.
 - Defacing a Jewish employee’s or student’s property with a hateful symbol such as a swastika.
 - Using force or intimidation to obstruct the path of an employee or student because they are Jewish, perceived to be Jewish, or supportive of Jewish institutions or organizations.
 - Refusing to grant a student some expected benefit, such as a letter of recommendation, based on the perception that the student is Jewish, is associated with a Jewish organization, or because that student is perceived to be from Israel.
- Islamophobia is a form of discrimination or harassment that is based on one’s religion (Islam) and/or national origin (e.g. an individual from a Muslim majority country). Examples of Islamophobic conduct that implicates the Policy include:
 - Repeatedly referring to a Muslim individual or someone perceived to be a Muslim as a “terrorist.”

- Removing a student from a Duke program or activity based on the perception that the student is Muslim or perceived to be Muslim or is associated with a Muslim organization.
- Refusing professional or learning opportunities because an individual wears a hijab to work or in the classroom.
- Physically threatening an individual for wearing a religious symbol associated with Islam or a national symbol like a keffiyeh.

It is important to remember that the examples provided above can also apply to situations involving other protected characteristics, including age, color, disability, ethnicity, gender, gender identity, gender expression, genetic information, military status, national origin, race, religion, sex, or sexual orientation. It is also important to remember that the Policy protects freedom of expression, even when controversial. When a question exists concerning whether the alleged discrimination or harassment is based in full or in part on a protected characteristic, Duke will respond consistent with this Policy.

B. Stalking³

A course of conduct (including cyberstalking) directed at a specific person, based on that person's protected status/characteristic, that would cause a reasonable person to fear for their safety or the safety of another, or to suffer substantial emotional distress.

A course of conduct means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.

Substantial emotional distress means significant mental suffering or anguish.

C. Relationship Violence⁴

A pattern of abusive behavior in a current or former intimate relationship that is used by one partner to gain or maintain power and control over another partner. Relationship violence can be sexual, emotional, economic, or psychological actions or threats of actions that influence another person. Relationship violence includes, but is not limited to, dating violence and domestic violence as defined below.

D. Sexual Assault⁵

Any actual or attempted sexual contact with another person without consent, including instances where the Complainant is incapable of giving consent.

Sexual contact includes touching or penetration or a person's clothed or unclothed intimate body

³ Stalking that falls within the definitional and/or jurisdictional requirements of the Title IX federal regulations is defined below. See Section IV.F.

⁴ Dating Violence and Domestic Violence that falls within the definitional and/or jurisdictional requirements of the Title IX federal regulations is defined below. See Section IV.F.

⁵ Sexual Assault that falls within the definitional and/or jurisdictional requirements of the Title IX federal regulations is defined below. See Section IV.F.

parts, by any object or body part of another, in a sexual manner or causing a person to touch or penetrate themselves or another person's body as described herein.

Sexual assault can occur between individuals of the same or different sexes and/or genders.

E. Sexual Exploitation

Taking sexual advantage of another without consent for one's benefit or the benefit of another party. This may include but is not limited to the following: threatening to disclose an individual's sexual orientation, gender identity, or gender expression unless the individual submits to sexual demands; observing or allowing others to observe sexual activity of others without their knowledge or consent; or streaming images of sexual activity without the knowledge or consent of those involved; causing the incapacitation of another person for the purpose of compromising that person's ability to give consent to sexual activity; knowingly exposing another individual to a sexually-transmitted infection without the individual's knowledge; and knowingly making a materially false representation about sexually transmitted infection, birth control, or prophylactic status with the specific intent and effect of inducing the Complainant to participate in a specific sexual act or encounter.

F. Title IX Sexual Harassment⁶

Title IX Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:

- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Duke's program or activity.
- A Duke employee (including a faculty member) conditioning the provision of an aid, benefit, or service of Duke on an individual's participation in unwelcome sexual conduct (quid pro quo).
- Sexual Assault:⁷ Any of the following sexual acts directed against another person, without the Consent of the Complainant, including instances where the Complainant is incapable of giving Consent:
 - Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the Complainant;
 - Sodomy: Oral or anal sexual intercourse with another person, without the Affirmative Consent of the Complainant, including instances where the Complainant is incapable of

⁶ Title IX Sexual Harassment encompasses the Prohibited Conduct described below that occurs on the basis of Sex and that meets all of the following requirements: (i) Occurs within the United States; (ii) Occurs within Duke's education program or activity, meaning a) locations, events, or circumstances over which Duke exercises substantial control over both the Respondent and the context in which the Title IX Sexual Harassment occurs, and b) any building owned or controlled by a student organization that is officially recognized by Duke; and (iii) At the time of filing a formal complaint, the Complainant is participating in or attempting to participate in a Duke education program or activity. Allegations of Prohibited Conduct that do not meet these Title IX requirements may constitute other forms of Prohibited Conduct within this Policy.

⁷ The following sexual acts covered by this definition are required to be included by federal regulations and are derived from the FBI's Summary Reporting System and National Incident-Based Reporting System User Manual definitions

giving consent because of age or because of temporary or permanent mental or physical Incapacitation.

- Sexual Assault with an Object: To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the Affirmative Consent of the Complainant, including instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical Incapacitation.
 - Fondling: The touching of the private body parts of Complainant for the purpose of sexual gratification, without the Consent of the Complainant, including instances where the Complainant is incapable of giving Consent because of age or because of temporary or permanent mental or physical incapacity;
 - Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by North Carolina law; or
 - Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent in North Carolina.
- Stalking: A course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of another, or to suffer substantial emotional distress.
 - Domestic violence: A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of North Carolina, or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of North Carolina.
 - Dating violence: Any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant and where the existence of such a relationship is determined based on a consideration of the length, type, and frequency of interactions between the persons involved in the relationship. For purposes of this definition, violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

G. Violation of Supportive or Remedial Measures

Violation of directives associated with supportive or remedial measures provided to an individual in connection with this Policy.

Where a violation of Supportive Measures would constitute Prohibited Conduct under this Policy the violation will be addressed pursuant to the Policy. If the violation of Supportive Measures would not constitute Prohibited Conduct under this Policy, then such violation of Supportive Measures will be referred to the Office of Student Conduct and Community Standards, Duke Human Resources, departmental human resources, the appropriate dean, chair, or other appropriate senior administrator.

H. Retaliation

Intimidation, threats, coercion, or discrimination against any person by Duke, a student, or an employee or other person authorized by Duke to provide aid, benefit, or service under Duke's program or activity, for the purpose of interfering with any right or privilege under the Policy or because the person reported information, made a complaint, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding, hearing, or alternative resolution. Individuals are also protected from good faith opposition to what an individual reasonably believes to be discrimination, harassment, or related misconduct under this Policy and making good faith requests for accommodations on the basis of religion, pregnancy or pregnancy-related medical conditions, or disability.⁸

To be a Policy violation, the challenged actions or treatment must be sufficiently serious to discourage a reasonable person from further reporting, participation, or opposition. Charging an individual with a policy violation for making a materially false statement in bad faith in the course of Duke's complaint process or in response to a complaint does not constitute Retaliation.

I. Additional Defined Terms⁹

Alternative Resolution: A voluntary, non-punitive, remedies-based process that does not include an investigation or hearing. Remedies may include appropriate and reasonable educational, restorative, and accountability-focused measures as agreed to by the parties and approved by OIE.

Coercion: 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. When a person decides not to participate in a particular form of sexual activity, decides to stop, or decides not to go beyond a certain sexual interaction, continued pressure can be coercive. In evaluating whether coercion was used, Duke will consider: (i) the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure.

Complaint: An oral or written request to Duke that objectively can be understood as a request for Duke to investigate and make a determination about alleged Prohibited Conduct.¹⁰

Complainant: An individual who is alleged to have experienced Prohibited Conduct who was participating or attempting to participate in Duke's program or activity at the time of the alleged Prohibited Conduct. In some situations, the conduct may be reported by someone other than the Complainant. In either case, the "Complainant" is the individual who was/is being subjected to the Prohibited Conduct, not necessarily the reporter.

Consent: An affirmative decision to engage in mutually acceptable sexual activity freely given by clear actions and/or words. Consent may not be inferred from silence, passivity, or lack of active resistance alone. A current or previous dating or sexual relationship is not sufficient to constitute consent. Consent to one form of sexual activity does not imply consent to other forms of sexual

⁸ Good faith opposition means that there is a reasonable belief that Prohibited Conduct occurred. There is no requirement that a matter complained of actually violate law or policy in order to have been made in good faith.

⁹ Additional Defined Terms are not forms of Prohibited Conduct.

¹⁰ Such requests related to Title IX Sexual Harassment must meet the definition of Formal Complaint of Title IX Sexual Harassment, below.

activity.

- Consent is not freely given when the individual is incapacitated (Defined further below). Consent is not freely given when the individual is coerced into sexual activity, such as, for example, through the use of physical force, threat of physical or emotional harm, undue pressure, isolation, or confinement.
- Consent may be withdrawn at any time. Once withdrawn, sexual activity must cease.
- The perspective of a reasonable person will be the basis for determining whether a Respondent knew, or reasonably should have known, whether a Complainant was able to freely give consent and whether consent was given. Additionally, being intoxicated or incapacitated does not diminish one's responsibility to obtain consent and will not be an excuse for Prohibited Conduct.

Confidential Employee: An employee whose communications are privileged or confidential under federal or state law, whom Duke has designated as confidential to provide services to persons related to discrimination, harassment, and related misconduct, or who is conducting an Institutional Review Board-approved human-subjects research study.

Duke Program or Activity: Includes all operations of Duke, including educational programs, employment or other activities; locations, events, and circumstances where Duke exercises substantial control; remote learning platforms; and any building owned or controlled by a student organization recognized by Duke.

Incapacitation: Incapacitation is the state of being unable to consent by making informed, deliberate decisions about whether or not to engage in sexual activity. States of incapacitation include, but are not limited to: being mentally and/or physically helpless, asleep, unconscious, intermittently conscious or unaware that sexual activity is occurring.

Alcohol or other drug use is one of the primary causes of Incapacitation. Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily Incapacitated solely as a result of drinking or using drugs; the level of impairment must be significant enough to render a Complainant unable to Consent.

Evaluating incapacitation requires an assessment of whether a Respondent knew or should have known of the Complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent's position. Indications that a person may be incapacitated include but are not limited to: slurred speech, unsteady walking, combativeness, emotional volatility, vomiting, and inability to dress or undress without assistance. Being impaired by alcohol or other drugs is not a defense to any violation of this Policy.

Formal Complaint of Title IX Sexual Harassment: A document or electronic submission filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that Duke investigate the allegation. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in a Duke education program or activity. A Formal Complaint must contain the Complainant's physical or digital signature or otherwise indicate that the Complainant is the person filing the Formal Complaint.

Report: Notification, either orally or in writing, and by any individual, that Prohibited Conduct is alleged to have occurred.

Respondent: The person or office, program, department, or group against whom the allegation or complaint is made; i.e., the individual(s), organizational unit(s), or group(s) who have been reported to be the perpetrator of conduct that could constitute Prohibited Conduct. For allegations of Harassment, only a person can be a Respondent.

Responsible Employee: An individual designated by the Policy who is required to report information regarding Prohibited Conduct to OIE. See Section V.C below for more information about responsible employees who have knowledge of prohibited conduct.

Student: A person who has gained admission to Duke’s education programs.

Supportive Measures: Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to restore or preserve a party’s access to Duke’s programs or activities, protect the safety of the parties or Duke’s educational environment, or provide support during the investigation and grievance process or Alternative Resolution process.

V. Resources and Reporting Options

Duke encourages all individuals to seek the support of on- and off-campus resources, regardless of when or where an incident occurred. These resources can provide guidance on reporting options and information about available resources. In general, Duke provides two ways to raise concerns about possible Prohibited Conduct: **Confidential Resources** and **Non-Confidential Reporting Options**.

A. Confidential Resources

The following Duke resources can provide counseling, information, and support in a confidential setting. These confidential resources will not share information about a report of Prohibited Conduct without the individual’s express written permission unless there is a continuing threat of serious harm to the Complainant or to others or there is a legal obligation to reveal such information (*e.g.*, suspected abuse or neglect of a minor). These individuals can also help an individual make a report to Duke.

Confidential Duke Resources for Students	Confidential Duke Resources for Employees
Counseling and Psychological Services (CAPS) https://students.duke.edu/wellness/caps (919) 660-1000	Personal Assistance Service (PAS) https://pas.duke.edu (919) 416-1727 (800) 327-2251 (for out-of-state employees)

CAPS includes Gender Violence Intervention Coordinator: gvicoordinator@duke.edu	
Student Health Services https://students.duke.edu/wellness/studenthealth (919) 681-9355 (919) 966-3820 (nurse advice)	
Clergy/Religious Life https://chapel.duke.edu/student-engagement/religious-life-duke	Chaplain Services (DUHS employees) https://www.dukehealth.org/support-services/pastoral-services
The Office of the Ombuds https://ombuds.duke.edu/	The Office of the Ombuds https://ombuds.duke.edu/

These off-campus resources can also provide counseling, information, and support in a confidential setting to students, faculty, and staff:

Off-Campus/Community Confidential Resources
Duke University Hospital Emergency Room https://www.dukehealth.org/locations/duke-university-hospital-emergency-room (919) 684-2413
Durham Crisis Response Center (sexual violence, relationship violence, and stalking) https://www.durhamcrisisresponse.org 919-403-6562 (English) 919-519-3735 (Spanish)
InterAct Family Safety and Empowerment Center of Wake County, https://interactofwake.org (919) 828-7740 (Domestic Violence) (919)828-3005 (Sexual Assault) (844)203-8896 (Spanish)
Orange County Rape Crisis Center https://ocrc.org/ 919-968-4647

Medical concerns/evidence preservation. Duke encourages individuals to seek assistance from a medical provider or crisis response service immediately after an incident that may require medical attention or preservation of evidence. This provides the opportunity to address physical well-being or health concerns, preserve any available evidence, and begin a timely investigative and remedial response.

B. Reporting Options (Non-Confidential)

Individuals are encouraged to report all Prohibited Conduct, including Title IX Sexual Harassment, to OIE. Making a non-confidential report of Prohibited Conduct means that OIE (or DukeReach in most student matters) will contact the Complainant to offer resources and support. OIE will also identify the appropriate response to the report as outlined in this Policy and accompanying Procedures.

Any individual can make a report under this Policy to OIE. A report may be made in person, in writing, by telephone, [by e-mail](#), or [online](#). A report can be made anonymously.

Any report involving a minor will be shared with law enforcement agencies, child protective services, and [Duke's Youth Protection Coordinator](#).

To discuss reporting options or any aspect of the Policy, individuals are encouraged to contact:

Kimberly Hewitt, Vice President for Institutional Equity and Chief Diversity Officer
Smith Warehouse, Bay 8, 1st Floor
[919-684-8222](tel:919-684-8222) | kimberly.hewitt@duke.edu

For Employees, including Faculty:

Cynthia Clinton, Associate Vice President, Harassment and Discrimination Prevention and Compliance
Title IX Coordinator
Smith Warehouse, Bay 8, 1st Floor
[919-668-6214](tel:919-668-6214) | cynthia.clinton@duke.edu

For Students:

Adrienne Allison, Deputy Title IX Coordinator for Students Equal Opportunity Compliance Investigator
Smith Warehouse, Bay 8, 1st Floor
[919-684-1437](tel:919-684-1437) | adrienne.allison@duke.edu

For General Questions:

oie-help@duke.edu
[919-684-8222](tel:919-684-8222)

C. Responsible Employees

Responsible Employees are individuals who must immediately share all known information about **all forms** of possible Prohibited Conduct, **not limited to sexual misconduct**, directly with OIE. Responsible Employees are **not confidential** resources. Responsible Employees include, but are not limited to, all faculty, employees with teaching or supervisory authority, and graduate students with teaching or supervisory authority (including Teaching Assistants acting in their role). Members of the Board of Trustees, the President, Vice Presidents, Deans, Directors, Department Chairs, Academic Administrators, Advisors, all Athletic Department Staff (including Coaches), HR Representatives/Managers, Principal Investigators, Lab Managers, Nurse Managers, and Student Affairs professionals (including Resident Assistants acting within their role) are also Responsible Employees. Confidential Resources are not Responsible Employees.

Responsible Employees are **required** by Duke to promptly consult with OIE, sharing known details of the incident, by telephone, email, or the [OIE online reporting form](#). This responsibility applies even if they have directed those involved to report to OIE, even if they believe those involved have, in fact, reported the incident to OIE and/or even if the individual(s) who shared the information with a Responsible Employee requested confidentiality regarding the incident or its details.

Upon receipt of a report of possible Prohibited Conduct, OIE (or designee) will consult with the Complainant to offer Supportive Measures, as addressed below, to provide for the safety of the parties and the campus community. Information that is only gathered pursuant to an Institutional Review Board (IRB)-approved-research project does not have to be reported to OIE subject to advance approval from OIE.

Individuals who are not required to report Prohibited Conduct to OIE as described above are nonetheless **strongly encouraged** by Duke to consult with OIE and/or file a report.

If you have any question about whether you are a Responsible Employee or questions regarding your Responsible Employee duties, please promptly [contact OIE](#) for clarification.

D. Law Enforcement

Duke encourages all individuals to report Prohibited Conduct that may involve criminal conduct to the Duke University Police Department or, for incidents taking place off campus, to the appropriate local law enforcement agency. Criminal conduct could include sexual violence, relationship violence, stalking, dating or domestic violence, and conduct that could be a hate crime. In cases of sexual misconduct involving a minor, members of the Duke community are required to report the situation to Duke Police.

[Duke Police](#) can be contacted at 919-684-2444 (non-emergencies), or by calling 911 in emergency situations. Duke Police will respond to emergencies and non-emergencies and assist by intervening in cases of criminal conduct, providing transportation to the Emergency Department, taking reports of criminal conduct, and/or investigating and participating in legal or disciplinary action. They are responsible for notifying the community in a case of continuing danger, issuing a trespass order that requires an individual to stay away from campus or a particular area of campus when needed, and providing referrals and information including how to obtain a restraining order. Duke Police can help facilitate blind reporting (i.e., filing a report without one's name attached to it), which is an available option with both Duke Police and Durham Police. Regardless of whether a Complainant pursues a criminal complaint, Duke will take appropriate responsive action to ensure that the educational environment at Duke is free of harassment and to prevent the recurrence of a hostile environment, and, as appropriate, to remedy the effects of the harassment.

Criminal conduct that occurs off campus may fall under the jurisdiction of the [Durham Police Department](#) or other law enforcement agency. Durham Police can be reached by calling 911 (emergencies) or 919-560-4427 / 919-560-4600 (non-emergencies).

VI. Supportive Measures

As defined in Section IV., Supportive Measures are intended to restore or preserve a party's access to Duke's programs or activities, protect the safety of the parties or Duke's educational environment, or provide support during a resolution process. Supportive Measures are available regardless of whether an investigation is requested and may be appropriate in cases where reported conduct would not warrant an investigation.

OIE or its designee will contact a Complainant after receiving notice of possible Prohibited Conduct (1) to discuss the availability of Supportive Measures and (2) to explain that Supportive Measures are available with or without a request for investigation. A Complainant who requests Supportive Measures

retains the right to request an investigation, either at the time Supportive Measures are requested or at a later date.

Supportive Measures may also be requested by and made available to Respondents. OIE will ultimately serve as the point of contact for any Party requesting Supportive Measures under this Policy. OIE will determine a reasonable timeframe for application of Supportive Measures, which in most cases will be time-limited.

To determine the appropriate Supportive Measure(s) to be implemented, Duke conducts an individualized assessment based on the unique facts and circumstances of a situation. Supportive Measures are not disciplinary or punitive in nature and will not unreasonably burden, or unreasonably interfere with the professional or educational pursuits of, the other party.¹¹ Whether a possible Supportive Measure would unreasonably burden the other party is a fact-specific determination by OIE that takes into account the nature of the educational programs, activities, opportunities and benefits in which an individual is participating.

Examples of Supportive Measures include:

- No contact directives (to instruct individuals to stop all attempts at communication or other interaction with one another);
- Academic support services and course-related adjustments, including the ability to reschedule classes, exams and assignments, transfer course sections, receive extended time on assignments, or withdraw from courses without penalty;
- Academic schedule modifications (typically to separate Complainant and Respondent);
- Changes in work or housing location or access;
- An escort to ensure safe movement on campus;
- On-campus counseling services and/or assistance in connecting to community-based counseling services;
- Assistance in connecting to community-based medical services;
- Placing temporary limitations on an individual's access to certain Duke facilities or activities;
- Work schedule or job assignment modifications, including suspending employment with or without pay consistent with any applicable written procedures (for Duke positions);
- Information about and/or assistance with obtaining personal protection orders;
- Leaves of absences;
- Increased monitoring and security of certain areas of the campus; or

¹¹ In some situations and as deemed warranted by OIE, OIE may consult with Duke administrators in the implementation of supportive measures.

- A combination of any of these measures.

As part of this process, OIE may also refer individuals to other resources, such as [Duke Access and Accommodation Services](#), [Counseling & Psychological Services \(CAPS\)](#), or [Personal Assistance Service \(PAS\)](#). Duke will treat Supportive Measures as confidential and will not disclose any provided measures except as necessary to implement and maintain those measures or unless required to do so under applicable law, policy, contract, grant or other terms. For example, Duke may be required to disclose Supportive Measures to research sponsors, particularly if those measures could potentially impact ongoing sponsored research.

VII. Emergency Removal and Administrative Leave

Emergency Removal of a Student Respondent. Where there is an imminent and serious threat to the health or safety of any students, employees, or other individuals arising from a report of Prohibited Conduct, Duke can remove a Student Respondent from part or all of Duke’s programs or activities and issue any necessary related no-trespass and no-contact orders.¹² The process for such removal is set forth in the [Duke Community Standard](#) under the Office of Student Conduct and Community Standards.

Administrative Leave of an Employee/Faculty Respondent. Duke may place an Employee/Faculty Respondent on administrative leave (or a student employee on leave from their employment including graduate students on leave from their appointment) upon a report of Prohibited Conduct and/or during the pendency of the grievance process. Duke, in its discretion and based on the circumstances, will determine whether any administrative leave is imposed with or without pay or benefits.

VIII. Timelines

To maintain and support a community that is respectful and free from discrimination, harassment, and related misconduct, and to maximize Duke’s ability to respond promptly and effectively, Duke urges individuals to come forward with reports of Prohibited Conduct as soon as possible. Complainants and other reporting individuals are encouraged to seek assistance and utilize available resources if they feel they have been subjected to Prohibited Conduct. The sooner a report is made, the more effectively it can be investigated.¹³ There is, however, no time limitation for reporting Prohibited Conduct.

IX. Privacy and Confidentiality

For the purpose of this Policy, Privacy and Confidentiality have distinct meanings.

Privacy means that information related to a report will be shared with a limited number of University employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report, including the provision of Supportive Measures. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), and the privacy of employee records will be protected in accordance with state law and University policy.

¹² Where the reported Prohibited Conduct is Title IX Sexual Harassment, specific requirements for removal are required. See Duke’s Procedures for Responding to Reports and Complaints of Title IX Sexual Harassment.

¹³ In some cases, e.g., where the individual accused of misconduct is no longer affiliated with Duke, Duke may not be able to take disciplinary action.

Confidentiality exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. The University has designated individuals who have the ability to have privileged communications as Confidential Resources.

Duke recognizes the importance of privacy and confidentiality. Breaches of privacy compromise Duke's ability to investigate and resolve complaints of Prohibited Conduct. Duke will protect the confidentiality and privacy of the complaint process to the extent reasonably possible. Investigators, advisors, decision-makers, facilitators, and any others participating in the process on behalf of Duke shall preserve the privacy of information obtained through the process except as required to implement the Policy and/or its procedures. All other participants in the process (including the Complainant, Respondent, non-Duke advisors, and witnesses) are encouraged to respect the privacy of the proceedings and circumstances giving rise to the report of Prohibited Conduct and to discuss the matter only with those persons who have a genuine need to know.

Duke will make reasonable and appropriate efforts to preserve an individual's privacy and to protect the confidentiality of information. However, because of legal requirements, Duke cannot guarantee confidentiality relating to incidents of Prohibited Conduct except where those reports are privileged communications to Confidential Resources.¹⁴

Examples of situations in which absolute confidentiality cannot be maintained include:

- When Duke is required by law to disclose information (such as in response to a subpoena or court order).
- When reporting relevant information to a licensing board, sponsors or granting agencies such as the National Institutes of Health (NIH) and the National Science Foundation (NSF).
- When disclosure of information is determined by OIE, Student Affairs and/or the department to be necessary for conducting an effective investigation or hearing of the complaint.
- When confidentiality concerns are outweighed by Duke's interest in protecting the safety or rights of others.
- When a Formal Complaint of Title IX Sexual Harassment is filed.
- When a party properly executes a Release or Waiver and Duke deems the disclosure to be appropriate.
- When determined by OIE.

X. Applicable Procedures

¹⁴ Even with Confidential Resources, there are exceptions to maintaining Confidentiality set by law; for example, physicians and nurses who treat any physical injury sustained during a sexual assault are required to report it to law enforcement. Also, physicians, nurses, psychologists, psychiatrists, teachers and social workers must report a sexual assault committed against a person under age 18.

OIE will review all reports of Prohibited Conduct. The procedures used to adjudicate Prohibited Conduct will vary based on the identity of the parties and the nature of the Prohibited Conduct:

- Procedures for Responding to Reports and Complaints of Discrimination, Harassment, and Related Misconduct Involving Student Respondents
- Procedures for Responding to Reports and Complaints of Discrimination, Harassment, and Related Misconduct Involving Faculty and Staff Respondents
- Procedures for Responding to Reports and Complaints of Title IX Sexual Harassment

Where more than one procedure may apply based on the parties and/or alleged conduct, Duke has discretion to apply the procedure that it determines is most appropriate based on the unique facts and circumstances presented by the allegations, as well as to consolidate multiple sets of allegations into a single investigation and/or adjudication. Likewise, Duke may decide to process separately allegations raised in the same report.

OIE has the discretion to consolidate complaints 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 arise out of the same facts of circumstances.

XI. Records Retention

For a period of at least seven years after the date of a matter is concluded, Duke will maintain records documenting the educational response, Alternative Resolution processes, or the investigation/determination process, including any investigation report, sanctioning, and/or appeals processes involving allegations of Prohibited Conduct.

XII. Resources for Concerns Outside of this Policy

If you are a member of the Duke community with workplace, academic, or other concerns not covered by this Policy, there are a number of other resources available to you. For employees (including faculty and staff within the University and all Health System employees), these may include: managers and/or human resources within their department, program, office, or school; [Staff & Labor Relations in Human Resources](#); [the Office of the Ombuds](#); [the Faculty Hearing Committee](#)¹⁵; [Personal Assistance Service](#); and union representatives for those in a bargaining unit. For students, this may include their academic dean, advisors, administrators in their departments or schools, [DukeReach](#), and the [Office of the Ombuds](#).

If you are a Duke applicant for employment, applicant for admission, visitor, or patient with concerns not covered by this Policy, there are resources to assist you with your concern or question. If you are an applicant for employment, you may contact [Duke Human Resources](#) at 919-684-5600. If you are an applicant for admission, you may contact the admissions office of the appropriate school. If you are a patient, complaints may be made to Duke Risk Management and/or Duke Patient Visitors Relations at 919-681- 2020 (option 3).

¹⁵ The Faculty Hearing Committee has jurisdiction to consider certain complaints from faculty and instructional staff.

[Duke Speak Up](#) is a tool to report concerns or share suggestions about Duke policies and other issues. You may contact Speak Up at 800-826-8109 or by filing a [report online](#). A third-party administers this service and refers the information to the appropriate audit or compliance office for follow-up action.