



L Makeup Institute  
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L Makeup Institute-Las Vegas, Nevada  
Title IX Non-Discrimination &  
Grievance Process Policy

Effective Date: 8/1/2024

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## **QUICK REFERENCE GUIDE**

### **MAIN CAMPUS-NEVADA**

L Makeup Institute  
Lisa Torti  
Title IX Coordinator  
Office of School Director  
440 S. Rampart Blvd. B130  
Las Vegas, NV 89145  
Tel.: (702) 685-9298  
Email: [lisa@lmi.edu](mailto:lisa@lmi.edu)  
Web: [www.lmi.edu](http://www.lmi.edu)

### **National Headquarters**

U.S. Department of Education  
Office of Civil Rights  
Lyndon Baines Johnson Dept. of Ed Bldg.  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Tel: (800) 421-3481  
Fax: (202) 453-6012  
TDD#: (800) 877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

# **L Makeup Institute**

## **Title IX Non-Discrimination & Grievance Process Policy**

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### **I. Introduction**

Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex in any education program or activity operated by a recipient that receives federal financial assistance. As an educational institution subject to Title IX, L Makeup Institute<sup>1</sup> has adopted this Title IX Non-Discrimination & Grievance Process Policy (the “Policy”).<sup>2</sup> As set forth in detail herein, L Makeup Institute:

- Does not discriminate on the basis of sex, including in admissions and employment, and is committed to providing an educational and workplace environment that is free from sex-based discrimination, harassment, and retaliation;
- Prohibits discrimination on the basis of sex in its educational programs and activities, as required by law;
- Is committed to promoting fairness and equity in all aspects its operations; and
- Values and promotes the equal dignity of all community members and is committed to the pursuit of just resolutions with respect the rights of all parties involved.

This Policy is adopted to prevent discrimination prohibited under Title IX and provide a prompt, fair, and impartial process to address complaints of alleged discrimination based on sex.

Inquiries about this Policy or the application of Title IX may be referred to L Makeup Institute’s Title IX Coordinator, the Assistant Secretary of the Department of Education’s Office for Civil Rights, or both.

### **II. Overview of Title IX Policy and Grievance Process: General Provisions**

#### **Responsibilities of the Title IX Coordinator**

The Title IX Coordinator oversees implementation and enforcement of this Policy, which includes primary responsibility for coordinating the School’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

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<sup>1</sup> L Makeup Institute may be referred to interchangeably as the “School” throughout this Policy.

<sup>2</sup> All capitalized terms not defined within this Policy are defined in Appendix A.

## **Nondiscrimination Policy & Notice of Nondiscrimination (§ 106.8(b)–(c))**

### *Nondiscrimination Policy*

L Makeup Institute does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

### *Notice of Nondiscrimination*

The School does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

Inquiries about Title IX may be referred to the School's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both. The School's Title IX Coordinator is identified below and may be contacted with questions about this policy, to file a formal complaint, or to otherwise assist individuals in ensuring equal access to the School's educational programs or activities in compliance with Title IX.

L Makeup Institute  
Lisa Torti  
Title IX Coordinator  
Office of School Director  
440 S. Rampart Blvd. B130  
Las Vegas, NV 89145  
Tel.: (702) 685-9298  
Email: [lisa@lmi.edu](mailto:lisa@lmi.edu)  
Web: [www.lmi.edu](http://www.lmi.edu)

Individuals may also contact the U.S. Department of Education's Office for Civil Rights with Title IX questions. *(Please note that inquiries to OCR alone are not sufficient to allow appropriate responsive action by the School. To ensure your concern is appropriately addressed under this Policy, please file a report with the School's Title IX Coordinator).*

### **National Headquarters**

Office for Civil Rights (OCR)  
U.S. Department of Education  
Lyndon Baines Johnson Department of Education Bldg.  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Telephone #: (800) 421-3481  
Fax: (202) 453-6012  
TDD#: (800)877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

## **How to Make a Report or Formal Complaint of an Alleged Title IX Violation**

Any person may report alleged sex discrimination, sexual harassment, or retaliation to the Title IX Coordinator, irrespective of whether the reporting person is the alleged victim of such conduct. A report is differentiated from a Formal Complaint (“Complaint”), which is a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging sexual harassment and requesting that the School investigate the allegation(s) and implement the School’s Grievance Process. A report or complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail at any time (including during non-business hours), using the contact information in the section immediately above or as described below:

### **MAIN CAMPUS-NEVADA**

L Makeup Institute

Lisa Torti

Tel.: (702) 685-9298

Email: [lisa@lmi.edu](mailto:lisa@lmi.edu)

Web: [www.lmi.edu](http://www.lmi.edu)

The School’s nondiscrimination policy and grievance procedures can be located at [www.lmi.edu](http://www.lmi.edu).

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to [www.lmi.edu](http://www.lmi.edu).

## **Grievance Procedures for Complaints of Sex Discrimination (§ 106.45)**

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

### **Complaints:**

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

- A “complainant,” which includes:
  - a student or employee of the School who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
  - a person other than a student or employee the School who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate the School’s education program or activity;



- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- The School's Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment, only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R §106.44(f)(1)(v).

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- Any student or employee of the School; or
- Any person other than a student or employee who was participating or attempting to participate in the School's education program or activity at the time of the alleged sex discrimination.

L Makeup Institute may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

### **Time Limits on Reporting**

There is no time limitation on making a report or Complaint. However, acting on reports or Complaints is significantly impacted by the passage of time and occurrence of other events (including, but not limited to, the rescission or any revision of this Policy), and is at the discretion of the Title IX Coordinator, who may, among other things, document allegations for future reference, offer supportive measures and/or Remedies, and/or engage in informal or formal action, as appropriate. Additionally, if the Respondent is no longer subject to the School's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide Remedies may be more limited or impossible.

### **Anonymous Report or Complaint**

If a Complainant makes a report anonymously, it will be investigated by the School to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or Remedies can be provided. Anonymous reports typically limit the School's ability to investigate and respond, depending on what information is shared. In some situations, the Title IX Coordinator may proceed with the issuance of a Formal Complaint even when the Complainant's report has been made anonymously.

## **Confidentiality**

The School shall undertake reasonable efforts to preserve the confidentiality of reports and Complaints. The School shall not disclose any report or Complaint except as provided herein and as necessary to effectuate this Policy, or as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99, or as required under applicable law.

Certain professionals have a legal and/or ethical responsibility to maintain communications made in the scope of their professional roles in strict confidence.<sup>3</sup> Some of these roles include licensed professional counselors/mental health providers, licensed medical and health care providers, victim advocates, ordained/licensed clergy, licensed attorneys and rape crisis or domestic violence resources. Complainants or Respondents wishing to speak to someone confidentially are encouraged to seek out such resources. Communications with such professionals are considered legally privileged and cannot be revealed without a party's express written consent.

## **After Making a Report or Formal Complaint**

Upon receipt of a report or Complaint, the Title IX Coordinator shall undertake an initial assessment to determine appropriate next steps as required under this Policy, including making an initial threat assessment to ensure there is no immediate danger to Complainant or the campus community and, if there is, to take appropriate action, which may include emergency removal of Respondent as described below.

The Coordinator shall contact Complainant to discuss the availability of appropriate supportive measures that may be implemented with input from the Complainant irrespective of, and in addition to, any resolution process including the formal Grievance Process, and will notify Complainant about the right to have an advisor.

If the report has been made without filing a Complaint, the Title IX Coordinator will review the allegations and discuss options with the Complainant, including the option of proceeding with a Complaint. If the Complainant does not want to proceed with a Complaint, the Coordinator may initiate a Complaint if the Coordinator determines that a Complaint is warranted.

If the Complainant files a Complaint, or the Title IX Coordinator initiates a Complaint, the matter will proceed as described under the Grievance Process.

After submission of a Complaint and after notifying the Respondent of the Complaint's allegations, the parties will be notified of the availability of informal resolution, as applicable. All parties must voluntarily consent in writing to any informal resolution process. The parties may withdraw such consent at any time and resume the formal Grievance Process.

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<sup>3</sup> In highly limited circumstances, such as when presenting an immediate threat or danger to another, or when subject to a court order, confidential communications may be revealed without the consent of a party.

At all stages of the process, irrespective of any resolution or grievance process which may be implemented, responsive and reasonable supportive measures will be implemented to ensure continued access to the School's educational program or activities.

### **Emergency Removal of Respondent**

The School reserves the right to remove a Respondent from its education program or activities on an emergency basis when the Respondent poses an immediate threat to the health or safety of any student or campus community member. The School will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. If an emergency removal is imposed, the Respondent will be given notice of the removal and the option to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the removal should not be implemented. Emergency removal decisions are not subject to Appeal.

### **Administrative Leave of Employee Respondent**

Respondents that are School employees may be placed on administrative leave during the pendency of a grievance process as determined by the School and the Title IX Coordinator.

### **Complainant's Decision to Pursue a Complaint**

If a Complainant does not wish to be identified, does not wish for an investigation to take place, or does not want a Complaint to be pursued, the Complainant may make such a request to the Title IX Coordinator, who will evaluate the request in light of the duty to ensure campus safety and compliance with state and federal law. The School will comply with Complainant's wishes unless the Coordinator determines that initiating a Complaint is warranted under the circumstances.

If the Coordinator independently initiates a Complaint, the Complainant may have as much or as little involvement in the process as the Complainant desires. The Complainant retains all rights of a Complainant under this Policy irrespective of participation level. Irrespective of whether a Complaint is filed, the School shall offer supportive measures to ensure Complainant's continued access to the School's educational program and activities. If the Complainant elects not to file a Complaint, the Complaint shall retain the right to file a Complaint later.

### **Basic Requirements of Title IX Grievance Procedures:**

L Makeup Institute will treat complainants and respondents equitably.

The School requires that any Title IX Coordinator, investigator, or decision-maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decision-maker may be the same person as the Title IX Coordinator or investigator.

The School presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

The School has established the following timeframes for the major stages of the grievance procedures:

- 1) Notice of Allegations-The Title IX Coordinator will provide written notice of the allegations to the Respondent and Complainant upon receipt of a Formal Complaint. The notice will be provided prior to any initial meeting or interview with the Respondent and their advisor, if applicable, allowing sufficient advanced notice to prepare.
- 2) Investigation-Trained Investigators will be assigned to investigate allegations contained in a Formal Complaint and will do so objectively.
- 3) Dismissal-The School may dismiss a complaint at any time during the investigation or hearing. ( paraphrased out of Texas)
- 4) Investigation Timeline-The School will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation. The investigation will be conducted within a reasonably prompt timeframe, allowing for thorough collection and evaluation of all evidence related to the allegations.
- 5) Upon conclusion of the investigation, the parties will be provided with an electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence related to the allegations. The parties will have a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence.
- 6) The investigator will incorporate any relevant feedback provided by the parties during the review process, and the final report is then shared with all parties and their advisors through electronic transmission or hard copy at least ten (10) business days prior to a hearing.
- 7) Hearing-Upon conclusion of the investigation and distribution of the investigative report to the parties, the matter will proceed to the hearing stage of the grievance process.
- 8) Final Determination-Upon completion of the hearing, the decision-maker will deliberate privately and will render a finding to each allegation in the complaint by applying the clear and convincing evidence standard; whether there is a high probability that the Respondent violated the Policy as alleged.
- 9) Appeals: any party may file an Appeal on the following grounds. Appeals must be submitted to the Title IX coordinator within five (5) days of the delivery of the Notice of Outcome. Appeals decisions will be made within seven (7) business days, barring exigent

circumstances, including the review of new evidence not immediately available for submission with the appeal request.

The School has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay:

(1) The School may take a reasonable delay in its investigation under appropriate circumstances. Such circumstances include, but are not limited to, a concurrent law enforcement investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

(2) The School will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates as warranted.

(3) The School will promptly resume investigation and resolution process as soon as feasible. During such a delay, the School will implement supportive measures as deemed appropriate.

The School will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

The School will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

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

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the School obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to

prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

### **Notice of Allegations:**

Upon initiation of L Makeup Institute's Title IX grievance procedures, the school will notify the parties of the following:

- The School's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited; and
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence upon the request of any party

If, in the course of an investigation, the School decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the School will notify the parties of the additional allegations.

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

L Makeup Institute may dismiss a complaint of sex discrimination if:

- The School is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the School's education program or activity and is not employed by the School;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the School determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- The School determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the School will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, L Makeup Institute will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the School will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

The School will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the School will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, the School will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decision-maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decision-maker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, the School will, at a minimum:

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

### **Investigation:**

L Makeup Institute will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on the School—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The School will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

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

The School will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- The School will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence upon request of any party
- The School will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- The School will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

### **Questioning the Parties and Witnesses:**

L Makeup Institute will provide a process that enables the decision-maker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

Witnesses who are School employees are expected to cooperate with and participate in the School's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a Policy violation and may warrant discipline.

Interviews may occur in-person or remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used. The School will take appropriate steps to reasonably ensure the security/privacy of remote Add our process

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be aware of [and consent to] audio and/or video recording.

### **Determination Whether Sex Discrimination Occurred:**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the School will:

- Use the preponderance of the evidence or, if applicable, clear and convincing standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decision-maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decision-maker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decision-maker will not determine that sex discrimination occurred.
- Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;



- Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
  - Coordinate the provision and implementation of remedies to a complainant and other people L Makeup Institute identifies as having had equal access to the School's education program or activity limited or denied by sex discrimination;
  - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
  - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the School's education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

### **Appeal of Determinations, if offered**

L Makeup Institute offers the following process for appeals from a determination whether sex discrimination occurred: This appeal process will be, at a minimum, the same as the School offers in all other comparable proceedings, including proceedings relating to other discrimination complaints.

Any party may file an Appeal on the following grounds. Appeals must be submitted in writing to the Title IX Coordinator within five (5) days of the delivery of the Notice of Outcome. After expiration of the appeal window, the determination will be considered final, and any applicable sanctions will be imposed.

#### *Grounds for Appeal*

Appeals may be made on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

Any sanctions imposed as a result of the Final Determination are stayed during the appeal process.

Title IX personnel with prior involvement in the matter will not be permitted to serve as a Decision-maker in the appeal. Appeals will not include a hearing. A decision on the merits will be based on information provided in the appeal document. If an appeal is based on the availability of new evidence, this evidence must be described with specificity and must be available for review within a reasonably prompt timeframe for consideration.

The appeal outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, and the rationale supporting the findings. Appeal decisions will be made within seven (7) business days, barring exigent circumstances, including the review of new evidence not immediately available for submission with the appeal request. Decisions on appeal will be made by applying the clear and convincing and convincing standard.

Notification of the appeal outcome will be made in writing and will be delivered simultaneously to the parties by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official School records, or emailed to the parties' School-issued email or otherwise approved account. Once mailed, e-mailed and/or received in-person, notice will be presumptively delivered. Decisions on appeal are considered final.

**Informal Resolution, if offered:**

In lieu of resolving a complaint through the School's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process.

**Supportive Measures:**

The Title IX Coordinator promptly makes supportive measures available upon receipt of a report or a complaint alleging possible sexual harassment. At the time that supportive measures are offered, the School will inform the Complainant, in writing, that they may file a formal complaint with the School either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The School shall maintain the confidentiality of the supportive measures to the greatest extent reasonably practicable, provided that confidentiality does not impair the School's ability to provide supportive measures or otherwise fulfill its obligations under this Policy. The School will implement measures in a way that does not unreasonably burden the other party.

The School will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the School's education program or activity or provide support during the School's Title IX grievance procedures or during the informal resolution process. For complaints of sex-based harassment, these supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, referral to medical or healthcare services, referral to community-based services, campus escort services, mutual restrictions on contact

between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures

### **Amnesty for Complainants and Witnesses**

The School encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the School community that Complainants choose to report misconduct to School officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the School may offer parties and witnesses amnesty from minor violations of other School policies – such as underage alcohol consumption or personal use of illicit drugs – that may be associated with the incident. Amnesty is not applicable to more serious allegations, such as physical abuse of another or illicit drug distribution.

### **Right to an Advisor**

The parties have the right to select an advisor of their choice to accompany them to any or all meetings and interviews during the resolution process. There are no limits on who can serve as an advisor; it may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. Under Title IX, cross-examination is required during the hearing, and must be conducted by the parties' advisors. If a party selects an advisor of their choice, this advisor must perform cross-examination on their behalf during the hearing, as the parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an advisor, or the advisor does not appear for a hearing, the School will provide one for the limited purpose of conducting cross-examination on behalf of the party.

An advisor who is also a witness to the allegations in the complaint creates potential for bias and conflict-of-interest. A party who chooses an advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s) and may, but will not necessarily, impact the Final Determination.

The School cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not select or retain an attorney or cannot afford an attorney, the School is not obligated to provide the other party with an attorney.

### **Conflict-of-Interest & Bias**

Title IX Personnel are trained to ensure they have no conflict of interest and are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest or other misconduct by any Title IX Personnel contact the School's Chief Executive Officer, Lissette Waugh at [lissette@lmi.edu](mailto:lissette@lmi.edu) or (214) 446-6092 to report your concern.

### **Resolution Timeline**

The School will make a good faith effort to complete the resolution process fairly and promptly. Duration of a matter that proceeds through the Formal Grievance Process is determined by many factors including, but not limited to, the cooperation and availability of the parties and witnesses, potential concurrent criminal investigations, and the School closures, among others. The School will avoid all undue delays within its control and will grant reasonable extensions of time, upon written request and showing of good cause, by a party. The School shall provide the parties written notice of delays and/or extensions, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

### **Notifications to Parties**

All notifications to the parties noted herein will be made by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official School records, or emailed to the parties' School-issued email or otherwise approved account. Once mailed, e-mailed and/or received in-person, notice will be presumptively delivered

### **Clery Act Reporting**

Reports or complaints of sexual assault, domestic violence, dating violence, and/or stalking that pose a serious or continuing threat of bodily harm or danger to members of the campus community may trigger a timely warning obligation by the School under the Clery Act. If a warning is deemed necessary, the School will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

In addition, the School is obligated to report and disclose crimes under the Clery Act, including the crimes of sexual assault, domestic violence, dating violence and stalking as defined in this Policy, for statistical reporting purposes only. Reports of these crimes do not include personally identifiable information and therefore preserves the confidentiality of any involved parties.

### **Retaliation**

The School prohibits retaliation under this Policy. Retaliation may include intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure. Alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The School

will take appropriate action to protect individuals who fear that they may be subjected to retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy and procedure does not constitute retaliation. Relatedly, a determination of responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

### **The School's Mandatory Response Obligations**

L Makeup Institute's mandatory response obligations under this Policy arise when L Makeup Institute has Actual Knowledge of conduct that may constitute sexual discrimination, harassment, or retaliation, as defined herein. Actual Knowledge occurs when the Title IX Coordinator or a School official with authority to implement corrective measures ("OWA")<sup>4</sup> becomes aware of the potential occurrence of such conduct. Actual notice received by any of these OWAs constitutes Actual Knowledge upon which the School's mandatory response obligations arise under this Policy. Additionally, the School has identified Mandated Reporters<sup>5</sup> who are required under the School's policy to report known or suspected discrimination to the Title IX Coordinator. In these cases, the School must act to stop, remedy and prevent future recurrence of prohibited conduct through application of this Policy.

### **Notice, Dissemination and Publication of Policy**

Title IX requires L Makeup Institute to notify applicants for admission or employment as well as students, employees, and, if applicable, unions or professional organizations holding collective bargaining of collective agreements with the School, of this Policy. L Makeup Institute complies with Title IX's notice requirements, including prominently publishing its Non-Discrimination & Grievance Process Policy and contact information for the Title IX Coordinator on its website and in other publications.

### **Disciplinary Sanctions and Remedies:**

Following a determination that sex-based harassment occurred, the School may impose disciplinary sanctions, or remedies. The School may consider a number of factors when determining a sanction and/or remedy and will focus primarily on actions aimed at ending, and preventing the recurrence of, discrimination, harassment, and/or retaliation and the need to remedy the effects its effects on the Complainant and campus community. Sanctions will be

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<sup>4</sup> The following have been identified and designated as OWAs: Lissette Waugh, Director of Education/CEO; Kyle Waugh, COO.

<sup>5</sup> The School has identified the following as Mandated Reporters: All L Makeup Institute Staff and Faculty.

imposed upon either expiration of the appeal window, or after Final Determination on any appeal filed.

Sanctions or actions may include, but are not limited to, those listed below. These may be applied individually or in combination and the School may assign sanctions not listed, as deemed appropriate.

*Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any School policy, procedure, or directive will result in more severe sanctions/responsive actions.

*Required Counseling:* A mandate to meet with and engage in either School-sponsored or external counseling to better comprehend the misconduct and its effects.

*Probation:* A written reprimand for violation of School policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any School policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

*Suspension:* Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the School.

*Expulsion:* Permanent termination of student status and revocation of rights to be on campus for any reason or to attend School-sponsored events.

*Withholding Diploma:* The School may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.

*Other Actions:* In addition to or in place of the above sanctions, the School may impose any other sanction as deemed appropriate.

*Performance Improvement/Management Process*

*Required Training or Education*

*Loss of Annual Pay Increase*

*Loss of Oversight or Supervisory Responsibility*

*Demotion*

*Suspension with pay*

*Suspension without pay*

*Termination*

### **False Allegations and Evidence**

Making deliberately false and/or malicious accusations, knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation are policy violations subject to discipline.

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

Following the conclusion of the resolution process, and in addition to any sanctions imposed, the Title IX Coordinator may implement additional long-term Remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These Remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Education to the individual and/or the community
- Alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification
- Training or awareness campaigns
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Adjustments to academic deadlines, course schedules, etc.
- Modified campus security measures

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no Policy violation is found.

The School will maintain the privacy of any long-term Remedies, provided privacy does not impair the School's ability to provide these services.

### **Failure to Comply with Disciplinary Sanctions or other Remedies**

Respondents are expected to comply with any disciplinary sanction or remedy as set forth in the Final Determination or in response to a final outcome. Failure to abide by the sanction(s)/action(s) whether by refusal, neglect, or any other reason, may result in additional disciplinary action, including suspension, expulsion, and/or.

## **IV. Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Complainants or Student Respondents at Postsecondary Institutions (§ 106.46)**

L Makeup Institute has adopted Title IX grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX

Coordinator. These grievance procedures address complaints of sex-based harassment that involve a student party.

### **Complaints:**

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

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

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

The School may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

### **Basic Requirements of Title IX Grievance Procedures:**

The School will treat complainants and respondents equitably.

L Makeup Institute requires that any Title IX Coordinator, investigator, or decision-maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. As long as there is no conflict of interest or bias, a decision-maker may be the same person as the Title IX Coordinator or investigator.

The School presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

The School has established the following timeframes for the major stages of the grievance procedures:



- 1) Notice of Allegations-The Title IX Coordinator will provide written notice of the allegations to the Respondent and Complainant upon receipt of a Formal Complaint. The notice will be provided prior to any initial meeting or interview with the Respondent and their advisor, if applicable, allowing sufficient advanced notice to prepare.
- 2) Investigation-Trained Investigators will be assigned to investigate allegations contained in a Formal Complaint and will do so objectively.
- 3) Dismissal-The School may dismiss a complaint at any time during the investigation or hearing.
- 4) Investigation Timeline-The School will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation. The investigation will be conducted within a reasonably prompt timeframe, allowing for thorough collection and evaluation of all evidence related to the allegations.
- 5) Upon conclusion of the investigation, the parties will be provided with an electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence related to the allegations. The parties will have a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence.
- 6) The investigator will incorporate any relevant feedback provided by the parties during the review process, and the final report is then shared with all parties and their advisors through electronic transmission or hard copy at least ten (10) business days prior to a hearing.
- 7) Hearing-Upon conclusion of the investigation and distribution of the investigative report to the parties, the matter will proceed to the hearing stage of the grievance process.
- 8) Final Determination-Upon completion of the hearing, the decision-maker will deliberate privately and will render a finding to each allegation in the complaint by applying the clear and convincing evidence standard; whether there is a high probability that the Respondent violated the Policy as alleged.
- 9) Appeals: any party may file an Appeal on the following grounds. Appeals must be submitted to the Title IX coordinator within five (5) days of the delivery of the Notice of Outcome. Appeals decisions will be made within seven (7) business days, barring exigent circumstances, including the review of new evidence not immediately available for submission with the appeal request.

The School has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay:

(1) The School may take a reasonable delay in its investigation under appropriate circumstances. Such circumstances include, but are not limited to, a concurrent law enforcement investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

(2) The School will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates as warranted.

(3) The School will promptly resume investigation and resolution process as soon as feasible. During such a delay, the School will implement supportive measures as deemed appropriate.

The School will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

The School will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

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

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

the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

### **Written Notice of Allegations:**

Upon initiation of these Title IX grievance procedures, L Makeup Institute will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- The School's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision-maker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence

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

The Title IX Coordinator will provide written notice of the allegations to the Respondent and Complainant upon receipt of a Formal Complaint. The notice will be provided prior to any initial meeting or interview with the Respondent and their advisor, if applicable, allowing sufficient advanced notice to prepare.

The notice will include:

- A meaningful summary of all allegations,
- The identity of the parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies alleged to have been violated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that Respondent is presumed not responsible for the reported misconduct unless and until a Final Determination has been rendered at the conclusion of the process,

- Notice that the parties will be given an opportunity to inspect and review all directly related and relevant evidence obtained during the investigation,
- The School’s policy on retaliation,
- Information about the privacy of the process,
- The right to have an advisor of their choice, who may be, but is not required to be, an attorney,
- A statement informing the parties that the School’s policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- An instruction to preserve any evidence that is directly related to the allegations.

**Dismissal of a Complaint:**

L Makeup Institute may dismiss a complaint if:

- The School is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the School’s education program or activity and is not employed by the School;
- The School obtains the complainant/s voluntary withdrawal in writing of any or all of the allegations, the Title IX coordinator declines to initiate a complaint, and L Makeup Institute determines that, without the complainant’s withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- L Makeup Institute determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, L Makeup Institute will make reasonable efforts to clarify the allegations with the complainant.

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

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

When a complaint is dismissed, the School will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and

- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within L Makeup Institute's education program or activity.

**Investigation:**

L Makeup Institute will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on the School --not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The School will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

ivL Makeup Institute will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

- The School will not limit the choice of presence of the advisor for the complainant or respondent in any meeting or proceeding.
- The School may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

The School will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties' choice present during any meeting or proceeding.

The School will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

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

The School will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

- The School will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence.
- The School will provide a reasonable opportunity to review and respond to the evidence or the investigative report. If the School conducts a live hearing as part of its grievance procedures, it will provide this opportunity to review the evidence in advance of the live hearing. The School may decide whether to provide this opportunity to respond prior to the live hearing, during the live hearing, or both prior to and during the live hearing.]; and

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

### **Evidentiary Considerations in the Investigation**

The investigation includes collection of all evidence directly related to the allegations, which is not otherwise privileged. Only evidence which is also deemed relevant is summarized in the investigative report which is considered by the Decision-Maker(s), in rendering a determination of responsibility. All parties are provided the opportunity to review all non-privileged evidence gathered during the investigation which is directly related to the allegations in the complaint, whether or not it is also included in the investigative report. All parties are also provided with a copy of the investigative report summarizing relevant evidence only.

Relevant evidence does not include evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such evidence is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the evidence concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent, and are offered to prove consent.

Privileged evidence is likewise excluded from both the investigation, investigative report and hearing unless a party expressly waives this privilege in writing and consents to the release of this information during the grievance process.

### **Investigative Report**

Upon conclusion of the investigation, the Investigator will create an investigative report that fairly summarizes relevant evidence and, at least ten (10) days prior to a hearing, will send the report to each party and the party's advisor, if any, the investigative report in an electronic format or hard copy, for their review and written response.

### **The Hearing**

Upon conclusion of the investigation and distribution of the investigative report to the parties, the matter will proceed to the hearing stage of the grievance process. The hearing will be offered live, in real-time and will include cross-examination. A Decision-maker(s) will be appointed to preside over the hearing, evaluate the evidence and make a determination as to each allegation in the complaint. The Decision-maker will be independent and neutral, and will not have had any previous involvement with the investigation. Investigators, Title IX Coordinator (or designee) or advisors are prohibited from serving as Decision-makers.

The School reserves the right to adopt any hearing protocols, which will be applied and be made available equally to both parties, to ensure the efficiency, order and decorum of the hearing process. Any such protocols will be provided in writing to the parties, witnesses and participating individuals at least ten (10) days prior to the scheduled hearing date.

The School may designate an administrative facilitator of the hearing, which may include the Title IX Coordinator, as long as they do not have a conflict of interest.

The School may conduct the hearing virtually at their discretion or upon request of a party. Request for remote participation by any party or witness should be directed to the Title IX Coordinator made at least five (5) business days prior to the hearing.

The Decision-maker may question the parties and any witness at the hearing.

Only relevant questions, testimony and evidence may be proffered at the hearing, and the Decision-maker will make determinations as to relevancy of every question posed by an advisor during cross-examination before it is answered, and of any evidence offered.

Privileged evidence or testimony, likewise, may not be proffered during the hearing, without a party's waiver and written consent allowing its consideration at the hearing.

Parties may not conduct cross-examination. Advisors only will conduct cross-exam on a party's behalf. Only relevant questions will be allowed.

Parties, advisors, witnesses, and all participating individuals are expected to behave respectfully during the hearing. Harassing, intimidating or disruptive behavior will not be tolerated, and the School reserves the right to exclude anyone from participation in the process that fails to comport themselves accordingly.

An audio or audiovisual recording, or transcript will be made of the hearing, and will be made available to the parties for inspection and review. No other recording of the hearing will be allowed.

### **Evidentiary Considerations in the Hearing**

#### *Only Relevant Evidence Allowed*

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. Only evidence, which is directly related to the allegations, not subject to an enforceable legal privilege and not otherwise excludable as described here is considered relevant.

The hearing does not consider the following which are deemed not relevant: 1) incidents not directly related to the possible violation, unless they evidence a pattern; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

#### *Privileged Evidence Must be Excluded*

Evidence subject to any recognized legal privilege will not be allowed in the hearing without the prior written waiver of the privilege and consent for its consideration during the grievance process.

#### *When a Party/Witness Refuses to Submit to Cross-Examination*

If a party or witness does not attend, or chooses not to submit to cross-examination at the hearing, the Decision-maker may not rely on any prior statement made by that party or witness in the ultimate determination of responsibility. The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

### **Questioning the Parties and Witnesses:**

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

When the School chooses not to conduct a live hearing: The School's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow the investigator or decision-maker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decision-maker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

When the School chooses to conduct a live hearing: The School's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will allow the decision-maker to ask such questions, and either:

- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the decision-maker, subject to the procedures for evaluating and limiting questions discussed below; or
- Allow each party's advisor to ask any party or witness such questions, subject to the procedures for evaluating and limiting questions discussed below. Such questioning will never be conducted by a party personally.

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

*Refusal to respond to questions and inferences based on refusal to respond to questions:* The decision-maker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decision-maker will



not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

### **Procedures for a Live Hearing, if offered**

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

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

### **Determination Whether Sex-Based Harassment Occurred:**

Following the investigation and evaluation of all relevant and not otherwise impermissible evidence, L Makeup Institute will:

- Use the [preponderance of the evidence or, if applicable, clear and convincing] standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decision-maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decision-maker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decision-maker will not determine that sex discrimination occurred.
- Notify the parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:
  - A description of the alleged sex-based harassment;
  - Information about the policies and procedures that the School used to evaluate the allegations;
  - The decision-maker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
  - When the decision-maker finds that sex-based harassment occurred, any disciplinary sanctions the School will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the School to the complainant, and, to the extent appropriate, other students identified by the School to be experiencing the effects of the sex-based harassment; and
  - The School's procedures and permissible bases for the complainant and respondent to appeal.
- L Makeup Institute will not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the

conclusion of the Title IX grievance procedures that the respondent engaged in prohibited sex discrimination.

- If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will:
  - Coordinate the provision and implementation of remedies to a complainant and other people L Makeup Institute identifies as having had equal access L Makeup Institute's education program or activity limited or denied by sex discrimination;
  - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
  - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within L Makeup Institute's education program or activity.
  
- Comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
- Not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

The determination regarding responsibility becomes final either on the date that L Makeup Institute provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

### **Appeals:**

L Makeup Institute will offer an appeal from a dismissal or determination whether sex-based harassment occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If a party appeals a dismissal or determination whether sex-based harassment occurred, L Makeup Institute will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decision-maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decision-maker for the appeal has been trained consistent with the Title IX regulations; communicate to the parties in writing that the School will provide the

parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and

- Notify the parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal the School offers will be equally available to all parties.

### **Informal Resolution, if offered**

In lieu of resolving a complaint through L Makeup Institute's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. The will inform the parties in writing of any informal resolution process it offers and determines is appropriate, if any. L Makeup Institute will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, The School will explain in writing to the parties:

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

### **Supportive Measures:**

The School shall maintain the confidentiality of the supportive measures to the greatest extent reasonably practicable, provided that confidentiality does not impair the School's ability to provide supportive measures or otherwise fulfill its obligations under this Policy. The School will implement measures in a way that does not unreasonably burden the other party.

The School will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the School's education program or activity or provide support during the School's Title IX grievance procedures or during the informal resolution process. For complaints of sex-based harassment, these supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, referral to medical or healthcare services, referral to community-based services, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures

## **Disciplinary Sanctions and Remedies:**

Following a determination that sex-based harassment occurred, The School may impose disciplinary sanctions. The School may consider a number of factors when determining a sanction and/or remedy and will focus primarily on actions aimed at ending, and preventing the recurrence of, discrimination, harassment, and/or retaliation and the need to remedy the effects its effects on the Complainant and campus community. Sanctions will be imposed upon either expiration of the appeal window, or after Final Determination on any appeal filed.

Sanctions or actions may include, but are not limited to, those listed below. These may be applied individually or in combination and the School may assign sanctions not listed, as deemed appropriate.

*Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any School policy, procedure, or directive will result in more severe sanctions/responsive actions.

*Required Counseling:* A mandate to meet with and engage in either School-sponsored or external counseling to better comprehend the misconduct and its effects.

*Probation:* A written reprimand for violation of School policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any School policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

*Suspension:* Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the School.

*Expulsion:* Permanent termination of student status and revocation of rights to be on campus for any reason or to attend School-sponsored events.

*Withholding Diploma:* The School may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.

*Other Actions:* In addition to or in place of the above sanctions, the School may impose any other sanction as deemed appropriate.

*Performance Improvement/Management Process*  
*Required Training or Education*  
*Loss of Annual Pay Increase*  
*Loss of Oversight or Supervisory Responsibility*  
*Demotion*

*Suspension with pay*  
*Suspension without pay*  
*Termination*

## **False Allegations and Evidence**

Making deliberately false and/or malicious accusations, knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation are policy violations subject to discipline.

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

Following the conclusion of the resolution process, and in addition to any sanctions imposed, the Title IX Coordinator may implement additional long-term Remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These Remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Education to the individual and/or the community
- Alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification
- Training or awareness campaigns
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Adjustments to academic deadlines, course schedules, etc.
- Modified campus security measures

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no Policy violation is found.

The School will maintain the privacy of any long-term Remedies, provided privacy does not impair the School's ability to provide these services.

## **Failure to Comply with Disciplinary Sanctions or other Remedies**

Respondents are expected to comply with any disciplinary sanction or remedy as set forth in the Final Determination or in response to a final outcome. Failure to abide by the sanction(s)/action(s) whether by refusal, neglect, or any other reason, may result in additional disciplinary action, including suspension, expulsion, and/or.

## **Record Retention**

The School shall maintain the following records related to the implementation of this Policy for at least seven years:

1. Reports or Formal Complaints alleging sexual discrimination, including harassment.
2. Records of any dismissal of a Formal Complaint.
3. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
4. Any disciplinary sanctions imposed on the Respondent;
5. Any Remedies implemented by the School designed to restore or preserve equal access to the School's education program or activity;
6. Any appeal and the result therefrom;
7. Any Informal Resolution and the result therefrom;
8. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. The School will make these training materials publicly available on the School's website. (Note: If the School does not maintain a website, the School must make these materials available upon request for inspection by members of the public.); and
9. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to the School's education program or activity; and
  - c. If no supportive measures were provided, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

## **Revision of this Policy**

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation under Title IX and will be reviewed and updated subject to any relevant change in law or School policy, and on a recurring periodic basis, by the Title IX Coordinator. The School reserves the right to make changes to this Policy as necessary, which become effective when published.

This Policy will not restrict any rights guaranteed against government action by the U.S. Constitution and should be interpreted accordingly and should also be construed to comply with the most recent government regulations or applicable judicial decisions.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective August 1, 2024.

## **Appendix A: Definitions (106.2)**

***Actual Notice.*** Notice of sexual harassment or allegations of sexual harassment to the School's Title IX Coordinator or any official of the School who has the authority to institute corrective measures on behalf of the School. The School receives notice when an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge.

***Complainant*** means:

- (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or
- (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

***Complaint*** means an oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or its regulations.

***Consolidated Complaint.*** A formal complaint with more than one Complainant or Respondent arising when multiple parties submit formal complaints arising out of the same facts and circumstances and as deemed appropriate for consolidation by the Title IX Coordinator. **(added from Texas)**

***Decision-maker(s).*** A trained individual with responsibility for making a Final Determination as set forth in the School's Grievance Process. A Decision-maker must maintain neutrality and cannot perform the function of either the Title IX Coordinator or Investigator.

***Disciplinary sanctions*** means consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.

***Education Program or Activity.*** Locations, events, or circumstances where the School exercises substantial control over both the Respondent and the context in which the alleged sexual harassment or discrimination occurs and also includes any building owned or controlled by the School or by a student organization that is officially recognized by the School. **(added from Texas)**

***Finding:*** A conclusion within the Final Determination as evaluated under the burden of proof that a specific allegation within a Formal Complaint did or did not occur.

***Formal Complaint.*** A document filed and signed by the Complainant or signed by the Title IX Coordinator alleging a Policy violation by a Respondent and requesting that the School investigate the allegation(s).

**Formal Grievance Process.** The method of formal resolution designated by the School to address conduct that falls within the scope of this Policy, and which complies with the requirements of 34 CFR Part 106.45.

**Informal Resolution Process.** An alternative resolution process which may be available to the parties to seek Resolution of a Formal Complaint in lieu of the Formal Grievance Process. Informal resolution is facilitated by appropriately trained individuals, is made available at the discretion of the School and as deemed appropriate by the Title IX Coordinator, and offered only if informed, voluntary and written consent is made by all parties to a complaint. Any party may opt-out of the informal process at any time, and the matter will proceed through the Formal Grievance Process. Examples of informal resolution include, but are not limited to, mediation and restorative justice.

**Investigator.** A trained individual responsible for fulfilling the School's burden of gathering and evaluating all evidence related to allegations within a Formal Complaint as required under the School's Grievance Process.

**Mandated Reporter.** An employee of the School who is obligated by Policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.

**Official with Authority.** An employee of the School explicitly vested with the responsibility to implement corrective measures for Title IX harassment, discrimination, and/or retaliation on behalf of the School.

**Party** means a complainant or respondent.

**Relevant** means related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged sex discrimination occurred.

**Remedies** means measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

**Respondent** means a person who is alleged to have violated the recipient's prohibition on sex discrimination.



**Retaliation** means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

**Sex-based harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

(1) **Quid pro quo harassment.** An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) **Hostile environment harassment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;

(ii) The type, frequency, and duration of the conduct;

(iii) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

(iv) The location of the conduct and the context in which the conduct occurred; and

(v) Other sex-based harassment in the recipient's education program or activity; or

(3) **Specific offenses.**

(i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

(ii) Dating violence meaning violence committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(1) The length of the relationship;

(2) The type of relationship; and

(3) The frequency of interaction between the persons involved in the relationship;

(iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:

(A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;

(B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) Shares a child in common with the victim; or

- (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- (iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - (A) Fear for the person's safety or the safety of others; or
  - (B) Suffer substantial emotional distress.

**Sanction.** A disciplinary consequence imposed by the School on a Respondent who is found to have violated this Policy.

**Sexual Harassment.** Behavior or conduct as defined under Title IX and its implementing regulations at 34 CFR 106, and as more fully articulated in this Policy.

**Supportive measures** means 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:

- (1) Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
- (2) Provide support during the recipient's grievance procedures or during an informal resolution process.

**Title IX Coordinator.** The School's employee responsible for ensuring compliance with Title IX.

**Title IX Personnel.** Those individuals collectively tasked with implementation of this Policy and Grievance Process including specifically, the Title IX Coordinator (including any designees as applicable), any Investigator or any Decision-maker.