



SALEM ACADEMY AND COLLEGE

SEX¹ DISCRIMINATION, HARASSMENT, AND RELATED SEXUAL MISCONDUCT POLICY

2020-2021

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¹ As used herein, “sex” includes birth/biological sex, gender, gender identify and expression, and sexual orientation.

² As defined by Title IX of the Education Amendments Act of 1972 and its implementing regulations (“Title IX”) and herein, Sexual Harassment includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking.

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**IMPORTANT INFORMATION FOR INDIVIDUALS WHO MAY BE VICTIMS OF
SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, OR STALKING:**

If you or someone you know may have been a victim of these behaviors or any other type of violence, you are strongly encouraged to seek immediate assistance.

**ASSISTANCE CAN BE OBTAINED 24 HOURS A DAY, 7 DAYS
A WEEK, FROM SALEM PUBLIC SAFETY
LOCATED AT MAIN HALL (LOWER LEVEL, REAR ENTRANCE) AND
AVAILABLE BY PHONE AT 336-917-5555.**

During business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), you are also strongly encouraged to contact:

**Erin Jones Adams, Title IX Coordinator and
Associate Vice President for Administration**
336-721-2702; erin.adams@saalem.edu
Inspector's House, Second Level

For additional information about seeking medical assistance and emotional support, as well as important contact information for local law enforcement agencies, hospitals, and other resources, see the [Appendices](#) attached to this document.

SECTION I. SEX DISCRIMINATION, HARASSMENT, AND RELATED SEXUAL MISCONDUCT POLICY

1.01 Notice of Nondiscrimination

Salem Academy and College (“Salem”), in compliance with and as required by Title IX of the Education Amendments Act of 1972 and its implementing regulations (“Title IX”) and other civil rights laws, as well as in furtherance of its own values as a higher education institution, does not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender, gender identity, gender expression, pregnancy, disability, age, religion, veteran status, or any other characteristic or status protected by applicable local, state, or federal law in admission,³ treatment, access to, or employment in, its programs and activities.

Discrimination and harassment are antithetical to the values and standards of the Salem community; are incompatible with the safe, healthy environment that the Salem community expects and deserves and will not be tolerated. Salem is committed to providing programs, activities, and an education and work environment free from discrimination and harassment. Salem is also committed fostering a community that promotes prompt reporting and fair and timely resolution of those behaviors.

Inquiries concerning sex discrimination and harassment may be referred to Salem’s Title IX Coordinator, Erin Jones Adams. Appendices to this Policy provide the Title IX Coordinator’s contact information.

Inquiries concerning discrimination or harassment based on a protected characteristic or status other than sex may be referred to the Head of School (for Academy students), Dean of Students and Associate Vice President for Student Affairs (for College students), or Director of Human Resources and Benefits (for employees). Appendices to this Policy also provide their contact information.

Individuals may also make inquiries regarding discrimination or harassment to the U.S. Department of Education’s Office for Civil Rights by contacting the District of Columbia Office, 400 Maryland Avenue, SW, Washington, D.C. 20202-1475; Phone 800-421-3481; email: OCR@ed.gov.

1.02 Prohibition on Sex Discrimination and Harassment; Retaliation; and Providing False Information or Interfering with a Grievance Process

This Policy prohibits discrimination and harassment on the basis of sex. Salem strongly encourages the prompt reporting of, and is committed to timely and fair resolution of, complaints of sex discrimination and harassment, including Sexual Harassment and Non-Title IX Sexual Misconduct.

Sexual Harassment, as defined by Title IX and herein,⁴ is a specific type of sex discrimination/harassment that includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking and that Salem addresses using its Title IX Sexual Harassment Grievance Procedures, as required by Title IX. Other forms of prohibited sexual misconduct not governed by Title IX, which are defined herein as Non-Title IX Sexual Misconduct, are addressed by Salem using the Non-Title IX Sexual Misconduct Grievance Procedures.

This Policy also prohibits Retaliation, as defined by Title IX and herein. Complaints alleging Retaliation may be filed with the Title IX Coordinator and, at the discretion of the Title IX Coordinator, may be addressed under Salem’s Title IX Sexual Harassment Grievance Procedures, Non-Title IX Sexual Misconduct Grievance Procedures, or other grievance process adopted by Salem.

³ As a single-sex institution, Salem Academy admits only girls and Salem College admits only women in its traditional undergraduate programs.

⁴ Capitalized terms used herein are defined in Section 1.06.

Additionally, any individual who knowingly files a false complaint or who interferes with a Salem grievance process may be subject to disciplinary action. Interference with a grievance process may include, but is not limited to, attempting to coerce, compel, or prevent an individual from providing testimony or relevant information; removing, destroying, or altering documentation relevant to an investigation; or providing false or misleading information to Salem officials who are involved in the investigation and/or resolution of a Formal Complaint or Non-Title IX Sexual Misconduct complaint, or encouraging others to do so.

1.03 Reporting Resources and Time Period

Non-Confidential Salem Reporting Resources. Any person (whether or not alleged to be the victim) is encouraged to report sex discrimination or harassment, including Sexual Harassment and Non-Title IX Sexual Misconduct, to Salem in person, by mail, by telephone, or by electronic mail, using the contact information for the Title IX Coordinator listed in the Appendices, or by any other means that results in the Title IX Coordinator receiving the verbal or written report. Such a report may be made at any time (including during non-business hours).

All faculty employees with teaching, advisory, and/or supervisory authority are Responsible Employees. Members of the Board of Trustees, the President, the Head of School, Vice Presidents, Assistant/Associate Vice Presidents, Deans, Directors, Department Chairs, Athletics Coaches and staff, Human Resources, Lab Coordinators, and Student Affairs and Residence Life professionals (including Resident Advisors acting within their role) are also Responsible Employees. Confidential resources are not Responsible Employees. Responsible Employees are *required* by Salem to promptly consult with the Title IX Coordinator regarding reports of discrimination and harassment on the basis of sex, sharing known details of the incident, by telephone, in person, or electronic mail. Receipt of information by a Responsible Employee will not automatically trigger an obligation to respond to an allegation of Sexual Harassment.

Salem *strongly encourages* all non-supervisory employees and other members of the Salem community (including students) to promptly report concerns regarding suspected or known sex discrimination or harassment to the Title IX Coordinator.

In addition to the Title IX Coordinator, Salem has specifically designated the following employees as individuals with the authority to institute corrective measures on behalf of Salem: the President, the Head of School, Vice Presidents, Deans and Directors of Student Affairs/Student Life, Residence Life, and Academic Programs, and the Athletics Director and Coaches. Accordingly, an incident of sex-based discrimination and harassment shared with these mandatory reporters constitutes Actual Knowledge under this Policy.

Confidential Salem Reporting Resources. Salem has designated the Academy Counselor, College Counseling Services, and the Chaplain as confidential resources for students, and their contact information is listed in the Appendices. Information about sex discrimination and harassment, including Sexual Harassment and Non-Title IX Sexual Misconduct, shared with these confidential resources typically will not be reported to other Salem personnel (including the Title IX Coordinator), to the Respondent, or to others, unless the disclosing individual gives their consent to the disclosure or the law requires it (as may be the case with abuse involving a minor or under conditions involving imminent physical harm, for example). (Confidential resources may report *non-identifying* statistical information to the Title IX Coordinator for recordkeeping and compliance purposes.)

Anonymous Salem Reporting Resources. Sex discrimination and harassment, including Sexual Harassment and Non-Title IX Sexual Misconduct, may be reported anonymously to Salem via the reporting telephone line or the anonymous reporting form available on the Title IX webpage of the Salem website. (Employees should not use the anonymous reporting options for fulfilling their Title IX reporting obligations and should direct any reports of conduct in violation of the Policy to the Title IX Coordinator.) When the complaint does not reveal the identity of the aggrieved person, the ability of Salem to respond to the complaint may be limited. To the extent possible and as permitted by law, Salem will nevertheless conduct an inquiry and take prompt and effective action that is reasonably calculated to eliminate the discriminatory or harassing behavior, prevent its recurrence, and limit its effects.

Community Reporting Resources. Individuals who have experienced sex discrimination and harassment, including Sexual Harassment and Non-Title IX Sexual Misconduct, may also report to and seek assistance from community resources, including law enforcement for filing criminal charges, hospital and health centers for medical assistance (including rape kit evidence collection), and family violence, intimate partner violence, and rape crisis centers for counseling, shelter, safety planning, and access to other resources. Contact information for local community resources is listed in the Appendices, and assistance with identifying non-local resources may be obtained from the Title IX Coordinator, Salem Public Safety, or community services listed in the Appendices.

Reporting Time Period. An individual who has experienced sex discrimination and harassment and initially chooses to consult confidential resources and not file a complaint under this Policy or report to law enforcement may change their mind later. Salem will address allegations of sex discrimination and harassment appropriately no matter the length of time that has passed since the alleged conduct. However, Salem strongly encourages prompt reporting to preserve evidence for a potential legal or disciplinary proceeding. Delay may compromise the ability to investigate, particularly if the individuals involved in the alleged conduct are no longer Salem students or employees.

Timely Warning. If based on the reported sex discrimination and harassment, Salem determines that there is a continuing threat to the safety of members of the Salem community, Salem may issue a timely community warning regarding the incident. The name of the Complainant or other identifying information will not be released as part of the timely warning process.

1.04 Applicability of Policy and Grievance Procedures

This Policy applies to any allegation of sex discrimination and harassment, including Sexual Harassment and Non-Title IX Sexual Misconduct, made by or against a student or an employee of Salem or a third party, regardless of sex, sexual orientation, sexual identity, gender expression, or gender identity.

The Title IX Sexual Harassment Grievance Procedures apply only to allegations of Sexual Harassment in Salem's Education Program or Activity (as defined herein).⁵

Salem will address allegations of Non-Title IX Sexual Misconduct (i.e., that do not meet the definition of Title IX Sexual Harassment) by: (1) using the Non-Title IX Sexual Misconduct Grievance Procedures contained in Section III of this Policy; (2) other student and employee conduct disciplinary procedures as applicable and deemed appropriate by the Title IX Coordinator in consultation with other Salem administrators; and/or (3) with Supportive Measures, which are defined and discussed in more detail herein.

1.05 Rights of Parents

When a student Complainant or Respondent is a minor or has a guardian appointed and their parent or guardian has the legal right to act on the student's behalf, then the parent or guardian may file a Formal Complaint on behalf of the student, although the student would be the "Complainant." In such a situation, the parent or guardian may exercise the rights granted to the student under this Policy, including requesting Supportive Measures and participating in a grievance process. Similarly, the parent or guardian may accompany the student to meetings, interviews, and hearings during a grievance process to exercise rights on behalf of the student, while the student's Advisor of choice may be a different person from the parent or guardian. Whether or not a parent or guardian has the legal right to act on behalf of an individual would be determined by state law, court orders, child custody arrangements, or other sources granting legal rights to parents or guardians.

Additionally, FERPA and its implementing regulations address the circumstances under which a parent or guardian is permitted to inspect and review a student's education records. However, in circumstances in which FERPA would not grant a party the opportunity to inspect and review evidence in connection with a grievance

⁵ And, at the discretion of the Title IX Coordinator, to related allegations of Retaliation.

process, pursuant to Title IX and its implementing regulations, the student has an opportunity to do so, and a parent or guardian who has a legal right to act on behalf of the student has the same opportunity.

1.06 Definitions Applicable to Policy and Grievance Procedures

Capitalized terms used in this Policy are defined as follows:

“Actual Knowledge” means notice of Sexual Harassment or allegations of Sexual Harassment to Salem’s Title IX Coordinator, President, Head of School (Academy), Vice Presidents, Deans and Directors of Student Affairs/Student Life, Residence Life, and Academic Programs, and Athletics Director and Coaches. **“Notice”** as used in this paragraph includes, but is not limited to, a report of Sexual Harassment to the Title IX Coordinator.⁶

“Clery Act” refers to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, which is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. § 668.46. The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment or Non-Title IX Sexual Misconduct under this Policy, irrespective of whether a Formal Complaint or a Non-Title IX Sexual Misconduct complaint has been filed.

“Consent” is informed, freely and actively given, mutually understandable words or actions that indicate a willingness and readiness to participate in mutually agreed upon sexual activity. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a clear and unambiguous agreement between them to engage in certain conduct with each other. Consent cannot be gained by ignoring or acting in spite of the objections of another.

Consent cannot be inferred from: silence, passivity, or lack of resistance alone; a current or previous dating or sexual relationship alone (or the existence of such a relationship with anyone else); attire; the buying of dinner or the spending of money on a date; or Consent previously given (i.e., Consent to one sexual act does not imply Consent to another sexual act).

Consent is not effective if it is obtained through the use of physical force, violence, duress, deception, intimidation, coercion, or the threat, expressed or implied, of bodily injury. Whether a party used any of these means to obtain Consent will be determined by reference to the perception of a reasonable person found in the same or similar circumstances.

Consent may never be given by the following individuals: minors, even if the other participant did not know the minor’s age; mentally disabled persons, if their disability was reasonably knowable to a person who is not mentally disabled; or persons who are Incapacitated. The use of alcohol or drugs does not diminish one’s responsibility to obtain Consent and does not excuse conduct that constitutes Sexual Harassment.

If at any time during a sexual act any confusion or ambiguity is or should reasonably be apparent on the issue of Consent, it is incumbent upon each individual involved in the activity to stop and clarify the other’s willingness and readiness to continue and capacity to Consent. Neither party should make assumptions about the other’s willingness and readiness to continue.

⁶ This standard is not met through imputation of knowledge based solely on vicarious liability or constructive notice. This standard also is not met when the only individual with Actual Knowledge is the Respondent. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one to whom notice of Sexual Harassment or allegations of Sexual Harassment constitutes Notice.

“Day” means a business day, unless otherwise specified.

“Education Program or Activity” means all of Salem’s operations and includes (1) locations, events, or circumstances over which Salem exercised substantial control over both the Respondent and the context in which the alleged Sexual Harassment occurred; and (2) any building owned or controlled by a student organization that is officially recognized by Salem.

“Education Record” has the meaning assigned to it under FERPA.

“FERPA” is the Family Educational Rights and Privacy Act, a federal statute codified at 20 U.S.C. § 1232g, with implementing regulations at 34 C.F.R. § 99. FERPA protects the privacy of student Education Records. FERPA grants to eligible students the right to access, inspect, and review Education Records, the right to challenge the content of Education Records, and the right to consent to the disclosure of Education Records.

“Formal Complaint” means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that Salem investigate the allegation of Sexual Harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in Salem’s Education Program or Activity. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail by using the contact information listed for the Title IX Coordinator in the Appendices. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.

“Incapacitated” means lacking the physical and/or mental ability to make informed, rational judgments. A person may be Incapacitated for a variety of reasons, including but not limited to being asleep or unconscious, having consumed alcohol or taken drugs, or experiencing blackouts or flashbacks.

“Respondent” means an individual who has been reported to be the perpetrator of conduct alleged to constitute Sexual Harassment or Non-Title IX Sexual Misconduct under this Policy.

“Retaliation” means (1) any adverse action, including direct and indirect intimidation, threats, coercion, discrimination, or harassment (including charges for conduct violations that do not involve sex discrimination or harassment but that arise out of the same facts or circumstances as a report, Formal Complaint, or Non-Title IX Sexual Misconduct complaint alleging those behaviors) that is (2) threatened or taken against a person (a) for the purpose of interfering with any right or privilege secured by Title IX or this Policy; or (b) because the person has made a report, Formal Complaint, or Non-Title IX Sexual Misconduct complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Title IX or this Policy.⁷

“Sexual Exploitation” means taking sexual advantage of or sexually exploiting another person without their Consent, such as the non-consensual videotaping of an individual engaging in sexual activity, the knowing exposure of an individual to a sexually transmitted disease, non-consensual observation of an individual engaging in sexual acts, or causing or inducing someone to become Incapacitated for the purpose of engaging in sexual acts without their Consent, or indecent exposure.

“Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:

1. an employee of Salem conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct (commonly referred to *quid pro quo* harassment);

⁷ Retaliation does not include (1) the exercise of rights protected under the First Amendment; (2) charging an individual with making a materially false statement in bad faith in the course of a grievance proceeding (provided, however, that a determination regarding responsibility alone is not sufficient to conclude that an individual made a materially false statement in bad faith); or (3) good faith actions lawfully pursued in response to a report of prohibited conduct.

2. unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Salem’s Education Program or Activity; or
3. **“Sexual Assault”** is any sexual act directed against another person, without the consent of the person, including instances where the person is incapable of giving consent. Sexual Assault can occur between individuals of the same or different sexes and/or genders. Sexual Assault includes the following:
 - Rape: The carnal knowledge of a person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
 - Sodomy: Oral or anal sexual intercourse with another person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
 - Sexual Assault with an Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of a person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
 - Fondling: The touching of the private body parts of a person for the purpose of sexual gratification, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
 - Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; and
 - Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

“Dating Violence,” as defined in 34 U.S.C. § 12291(a)(10): 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: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship;

“Domestic Violence,” as defined in 34 U.S.C. § 12291(a)(8): felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction; or

“Stalking,” as defined in 34 U.S.C. § 12291(a)(30): engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

“Non-Title IX Sexual Misconduct” is unwelcome conduct based on sex that creates a hostile environment or involves the submission to or rejection of such conduct as a condition of any aid, benefit, or service in employment, education, or participation in a Salem program or activity and that does not meet the definition of Sexual Harassment. For purposes of this definition, **“hostile environment”** is unwelcome conduct that is sufficiently severe, persistent, and/or pervasive so as to significantly interfere with or alter the conditions of education, employment, or participation in a Salem program or activity, or creates a hostile working or learning environment that a reasonable person in similar circumstances and with similar identifies would find hostile, intimidating, or abusive. An isolated incident, unless sufficiently severe, would not create a hostile environment. A hostile environment is distinguished from behavior that even though unpleasant or disconcerting is appropriate

for carrying out certain instruction, advisory, or supervisory functions. Whether conduct is sufficient to constitute a hostile environment is evaluated under the totality of the circumstances, including the frequency of the conduct, its severity, whether it is physically threatening or humiliating, or merely an offensive utterance. Non-Title IX Sexual Misconduct prohibited by this Policy includes **“Sexual Exploitation.”**

“Supportive Measures” are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant and/or a Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to Salem’s Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Salem’s educational environment or deter Sexual Harassment or Non-Title IX Sexual Misconduct.

Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security, and monitoring of certain areas of the campus. Salem will maintain as confidential any Supportive Measures provided to a Complainant or a Respondent, to the extent that maintaining such confidentiality would not impair Salem’s ability to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

1.07 Amnesty

Salem considers the reporting and adjudication of Sexual Harassment and Non-Title IX Sexual Misconduct to be of paramount importance. Salem does not condone underage drinking or the use of illegal drugs; however, Salem may extend amnesty to Complainants, Respondents, witnesses, and others involved in a grievance process from punitive sanctioning for illegal use of drugs and/or alcohol when evidence of such use is discovered or submitted in the course of a grievance process. Similarly, Salem may, in its discretion, provide amnesty for other conduct code violations that are discovered in the course of a grievance process.

1.08 Individuals with Disabilities

Salem will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in grievance processes under this Policy. Student requests for accommodation should be made to the Director of Academic Support and Student Disability Services (for College students), Learning Specialist (for Academy students), or Director of Human Resources and Benefits (for employees).

SECTION II. TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCEDURES

A. APPLICABILITY, COMPLAINT INTAKE, AND OVERARCHING PROVISIONS

2A.01 Applicability of Grievance Procedures

As noted above, these Grievance Procedures apply to allegations of Sexual Harassment in Salem’s Education Program or Activity (and to related Retaliation, at the discretion of the Title IX Coordinator). Salem treats Complainants and Respondents equitably by providing remedies to a Complainant where Salem makes a determination of responsibility for Sexual Harassment against a Respondent under these Grievance Procedures and also by following these Grievance Procedures before imposing any disciplinary sanctions against a Respondent for Sexual Harassment.

2A.02 Obligation to Respond and Initial Outreach to Complainant

When Salem has Actual Knowledge of Sexual Harassment (or allegations thereof) against a person in the United States in its Education Program or Activity, Salem is obligated to respond and to follow Title IX’s specific requirements, which are addressed and incorporated in these Grievance Procedures.

Promptly upon receiving allegations of Sexual Harassment against a person in the United States in Salem’s Education Program or Activity, the Title IX Coordinator will contact the Complainant to discuss the availability of Supportive Measures with or without the filing of a Formal Complaint and to explain to the Complainant the process for filing a Formal Complaint.

2A.03 Filing of a Formal Complaint

As noted in the Definitions section above, a Formal Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that Salem investigate the allegation(s) of Sexual Harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in Salem’s Education Program or Activity. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed in Appendices. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission that contains the Complainant’s physical or digital signature or otherwise indicates that the Complainant is the person filing the Formal Complaint.

When the Title IX Coordinator believes that, with or without the Complainant’s desire to participate in a grievance process, a non-deliberately indifferent response to the allegations requires an investigation, the Title IX Coordinator has the discretion to initiate the grievance process by signing a Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party under these Grievance Procedures. Furthermore, initiation of a Formal Complaint by the Title IX Coordinator is not sufficient alone to imply bias or that the Title IX Coordinator is taking a position adverse to the Respondent.

Once a Formal Complaint is initiated, an alleged victim will be referred to as a “Complainant,” and an alleged perpetrator will be referred to as a “Respondent.”

2A.04 Notice of Allegations

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide the Complainant and any known Respondent written notice of these Grievance Procedures and of the allegations of conduct potentially constituting Sexual Harassment, including sufficient details known at the time and with at least five days to

prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, if known.

The written notice will include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice also will inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and that at appropriate junctures the parties and their advisors may review and inspect evidence collected during the investigation. Additionally, the written notice will inform the parties of Salem's prohibition on knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, Salem decides to investigate allegations of Sexual Harassment involving the Complainant or Respondent that are not included in the original written notice of allegations, Salem will provide notice of the additional allegations to the parties whose identities are known.

2A.05 Dismissal

Salem will investigate the allegations in a Formal Complaint; however, Salem *will* dismiss a Formal Complaint or a portion of the allegations therein if (1) the conduct alleged in the Formal Complaint, even if substantiated, would not constitute Sexual Harassment; (2) at the time of filing the Formal Complaint the Complainant was not participating in or attempting to participate in Salem's Education Program or Activity; (3) the conduct alleged in the Formal Complaint did not occur in Salem's Education Program or Activity; or (4) the conduct alleged in the Formal Complaint did not occur against an individual in the United States. Such a dismissal may take place at the conclusion of the investigation or at any time prior to the conclusion of the investigation.

Additionally, Salem *may* dismiss a Formal Complaint or a portion of the allegations therein if (1) the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; (2) the Respondent is no longer enrolled or employed at Salem; or (3) despite efforts to do so, Salem is unable to gather evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

In the event the Title IX Coordinator determines that dismissal of a Formal Complaint or a portion of the allegations is appropriate, the Title IX Coordinator will promptly notify the parties in writing of the dismissal and the reasons for it. Dismissal does not impair Salem's ability to proceed with any appropriate investigatory or disciplinary actions under this Policy or another Salem policy or procedure and/or to provide Supportive Measures to the parties.

Either party may appeal a decision to dismiss a Formal Complaint or a portion of the allegations on the following grounds by submitting a written appeal to the Title IX Coordinator within five days of the issuance of the written notice of the dismissal: (1) procedural irregularity that affected the decision to dismiss; (2) new evidence that was not reasonably available at the time of dismissal and that could affect the outcome of the matter; or (3) the Title IX Coordinator or other participant in the dismissal having a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the decision to dismiss.

The Title IX Coordinator will promptly notify the other party of the appeal, and the non-appealing party may submit a response to the appeal within three days of notification of the appeal.

The Title IX Coordinator will appoint an appeal officer and will contemporaneously share the appeal officer's name and contact information with the Complainant and the Respondent.

Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias on the part of the appeal officer. The Title IX

Coordinator will consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

The Title IX Coordinator will forward the Formal Complaint and any documents upon which the dismissal decision was based, as well as the appeal and any response to the appeal to the appeal officer.

Within seven days of receipt of those materials, the appeal officer will determine whether any of the grounds for appeal warrant overturning or modifying the dismissal. The decision by the appeal officer is final.

2A.06 Advisors

The Complainant and the Respondent may be accompanied to any meeting or proceeding under these Grievance Procedures by the advisor of their choice, who may be, but is not required to be, an attorney. Salem will not limit the choice or presence of the advisor for either the Complainant or the Respondent in any meeting or grievance proceeding, except that the advisor cannot be a witness identified by the Complainant or Respondent in the underlying case or a Salem official appointed to adjudicate the Formal Complaint. Advisors, however, are not allowed to disrupt any such meeting or proceeding or to speak on behalf of the Complainant or the Respondent, with the exception of cross-examination during any hearing conducted under these Grievance Procedures, which must be conducted by an advisor and never personally by the Complainant or the Respondent.

Parties must provide the name and contact of their advisor to the Title IX Coordinator in writing as soon as reasonably possible and must provide updated information if their advisor changes. All advisors will be required to assent to Salem's expectations for advisors.

If a party does not have an advisor present at the hearing, Salem will provide, without any charge to that party, an advisor of Salem's choice who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

Absent accommodation for a disability, the Complainant and the Respondent typically may not be accompanied by more than one advisor or by other individuals during meetings or proceedings under these Grievance Procedures.

2A.07 Timing

Salem will make every reasonable effort to ensure that the investigation and resolution of a Formal Complaint occurs as timely and efficiently as possible. The timelines set forth in these Grievance Procedures are guidelines and may be altered for good cause with written notice to the Complainant and the Respondent of any delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; natural disasters, pandemic restrictions, and similar occurrences; or the need for language assistance or accommodation of disabilities.

Salem will strive to complete its investigation and resolution of a Formal Complaint (not including an appeal, if applicable) within 90 days of the receipt of the Formal Complaint, absent extenuating circumstances. Hearings (College) or panel review (Academy), as applicable, generally will take place within 20 days of the conclusion of the investigation. Within seven days of the conclusion of the hearing (College) or panel review (Academy), as applicable, both the Complainant and the Respondent will receive a final outcome letter.

Either party may request an extension of any deadline by providing the Title IX Coordinator with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The Title IX Coordinator will review the request and will make a determination with regard to the request within three days.

2A.08 Written Notice of Meetings

Salem will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with sufficient time for the party to prepare to participate.

2A.09 Effect of Corollary Criminal Investigation

Salem's investigation may be delayed temporarily while criminal investigators are gathering evidence. In the event of such a delay, Salem will implement any appropriate Supportive Measures and will evaluate the need for other actions necessary to assist or protect the Complainant, the Respondent, and/or the Salem community.

Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decline to investigate a matter is determinative of whether Sexual Harassment has occurred in the eyes of Salem.

2A.10 Emergency Removal and Administrative Leave

Salem may remove a Respondent from Salem's Education Program or Activity on an emergency basis, provided that Salem first undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal, provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal, and does so in accordance with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, as applicable.

Additionally, Salem may place a non-student employee Respondent on administrative leave during the pendency of Salem's response to allegations of Sexual Harassment provided that it does so in accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

2A.11 Effect of Respondent Withdrawal, Graduation, or Resignation During Grievance Process

At the discretion of Salem, a Respondent who withdraws or resigns from Salem during the pendency of a grievance process under these Grievance Procedures may be barred from Salem property and Salem activities and events and may be ineligible for re-enrollment or to be re-hired. If a Respondent completes all requirements to graduate during the grievance process, Salem may hold the Respondent's diploma until full resolution of the Formal Complaint.

2A.12 Privacy and Disclosure

Except as may be permitted by FERPA or as required by law or to carry out any investigation or resolution of sex discrimination or harassment allegations, Salem will keep private the identity of any individual who has made a report or complaint of sex discrimination or harassment (including any individual who has made a report or filed a Formal Complaint of Sexual Harassment), any Complainant, any Respondent, and any witness.

Salem may report alleged Sexual Harassment to local law enforcement if warranted by the nature of the allegations at issue, and Salem administrators will share information regarding alleged Sexual Harassment, as appropriate and necessary, in order to address and resolve the allegation(s) at issue, prevent the recurrence of similar Sexual Harassment, and address the effects of the Sexual Harassment. Additionally, information regarding alleged Sexual Harassment may be used as a statistical, anonymous report for data collection purposes under the Clery Act.

To comply with FERPA, Title IX, and other applicable laws and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, grievance processes carried out under these Grievance Procedures are not open to the general public. Accordingly, documents prepared in connection with such processes; documents, statements, or other information introduced

in interviews, meetings, and proceedings; and the final outcome letter may not be disclosed outside of those processes except as may be required or authorized by law.

As permitted by and subject to the limitations of FERPA, Salem reserves the right to notify parent(s) or guardian(s) of a student Respondent of the outcome of any investigation involving that Respondent, redacting names of any other students who do not consent to the disclosure of their information. At the written request of a party, Salem may include a party's advisor on communications and share access to documents, including the investigation report. This access is subject to the advisor's acknowledgment and agreement to maintain the confidentiality of the documents. While Salem strongly encourages parties to maintain privacy in connection with a grievance process, Salem does not prohibit parties from discussing the allegations under investigation or in any way inhibit the parties from gathering or presenting relevant evidence. In addition, Salem's policy does not prohibit disclosure of the final outcome letter by either the Complainant or the Respondent.

2A.13 Conflicts of Interest, Bias, and Training

Salem will ensure that any individual designated by Salem as a Title IX Coordinator, investigator, decision-maker, or informal resolution facilitator under these Grievance Procedures does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

If any employee designated to participate in the investigation or resolution of a Formal Complaint is the Respondent or a relevant witness, then the Title IX Coordinator will appoint another employee to perform their duties. (If the Title IX Coordinator is the Respondent, then the President will appoint another employee to perform their duties.)

Salem also ensures that Title IX Coordinators, investigators, decision-makers, advisors, and informal resolution facilitators receive training, as applicable, on the definition of Sexual Harassment; the scope of Salem's Education Program or Activity; how to conduct an investigation and grievance process, including hearings or panel review, appeals, and informal resolution processes; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Salem further ensures that decision-makers receive training on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, and that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Additionally, Salem ensures that decision-makers receive training on any technology to be used at live hearings.

Materials used to train Title IX Coordinators, investigators, decision-makers, advisors, and informal resolution facilitators will not rely on sex stereotypes and promote impartial investigations and adjudications of Formal Complaints of Sexual Harassment.

2A.14 Burden of Proof

At all times, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Salem, not on either of the parties.

2A.15 Presumption of No Responsibility until Determination

Respondents are presumed to be not responsible for alleged Sexual Harassment until Salem makes a determination regarding responsibility pursuant to these Grievance Procedures.

2A.16 Objective Evaluation of All Relevant Evidence; Credibility Determinations

The investigators and decision-makers under these Grievance Procedures will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and will not make any credibility determinations based on a person's status as a Complainant, Respondent, or witness.

2A.17 Academic Freedom

Salem affirms its commitment to academic freedom but notes that academic freedom does not allow any form of Sexual Harassment. Salem recognizes that an essential function of education is a probing of opinions and an exploration of ideas, some of which, because they are controversial, may cause students and others discomfort. This discomfort, as a product of free academic inquiry within a faculty member's area(s) of expertise, shall in no way be considered or construed to constitute Sexual Harassment. Academic inquiry may involve teaching, research and extramural speech. Furthermore, nothing in this document shall be interpreted to prohibit bona fide academic requirements for a specific Salem program or activity. When investigating complaints that a party or the Title IX Coordinator believes may involve issues of academic freedom, the Title IX Coordinator will consult with the Vice President for Academic and Student Affairs with respect to contemporary academic practices and standards.

2A.18 Documentation

Salem will retain documentation (including but not limited to any Formal Complaint, notifications, recording or transcripts of interviews, investigative report, written findings of fact, petitions for appeal, notifications of decisions (including the final outcome letter), audio recordings of hearings, and written communication with the Complainant and Respondent), for no less than seven years.

2A.19 Consolidation of Formal Complaints

Salem may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, by more than one Complainant against one or more Respondents, or by one party against the other party where the allegations of Sexual Harassment arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in these Grievance Procedures to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

B. THE INVESTIGATION

2B.01 Appointment of Investigators and Challenging of the Same

Unless a Formal Complaint is dismissed or the parties elect to participate in informal resolution, the Title IX Coordinator will promptly appoint one or more investigators. These investigators may be Salem employees, non-employees, or a combination of the two. The Title IX Coordinator will contemporaneously share their names and contact information with the Complainant and Respondent and also will forward a copy of the Formal Complaint to the investigators.

Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of the assigned investigators. The Title IX Coordinator will consider such statements and will promptly assign different investigators if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

2B.02 Investigators' Activities

Upon receipt of the Formal Complaint, the investigators will promptly begin their investigation, taking such steps as interviewing the Complainant, the Respondent, and witnesses (including expert witnesses, where applicable); summarizing such interviews in writing; collecting and reviewing relevant documents; visiting,

inspecting, and taking or reviewing photographs of relevant sites; and collecting and reviewing other relevant evidence.

2B.03 Investigative Report and Evidence Review

The investigators will prepare a written investigative report that fairly summarizes relevant evidence and includes items such as the Formal Complaint, written statements of position, summaries or transcripts of all interviews conducted, photographs, descriptions of relevant evidence, and summaries or copies of relevant electronic records.

Prior to the completion of the investigative report, the investigators will send to each party and the party's advisor, if any, an electronic or hard copy of any evidence obtained during the investigation that is directly related to the allegations raised in the Formal Complaint, including (1) any evidence upon which Salem does not intend to rely in reaching a determination regarding responsibility; and (2) both inculpatory and exculpatory evidence.

The parties have ten days from the time that the evidence is provided to submit to the investigators a written response to the evidence. In the response, the parties may address the relevancy of any evidence that the parties believe should be included in or excluded from the investigative report and may also address any further investigation activities or questions that they believe are necessary. If a party wishes to submit additional evidence at this stage, they should explain how the evidence is relevant and why it was not previously provided.

The investigators will review and consider the parties' written submissions and may conduct additional investigative activities as appropriate prior to finalizing the investigative report. The need for additional investigative activities may result in a delay or extension to the timelines set forth in these Grievance Procedures.

At least ten days prior to the hearing (College) or panel review (Academy), as applicable, the investigators will send an electronic or hard copy of the investigative report to each party and the party's advisor, if any. Any response a party wishes to make to the investigative report may be included in that party's pre-hearing or pre-panel review statement, which is discussed in this Policy.

Due to the sensitive nature of the investigative report, neither the parties nor their advisors may copy, publish, photograph, print, image, record or in any other manner duplicate the report. Parties who violate these restrictions may be disciplined, and advisors who violate these restrictions may be disciplined and/or be barred from further participation in the grievance process.

Nothing in this document restricts the ability of either party to discuss the allegations under investigation or to gather, preserve, and/or present relevant evidence.

2B.04 Submission of Evidence; Expert Witnesses

Any evidence that the parties wish for the hearing officer(s) or panel to consider should be presented to the investigators as early as possible during the investigation process. Evidence that is not submitted in a timely manner and prior to completion of the investigative report may be excluded from the hearing (College) or panel review (Academy), as applicable, at the discretion of the hearing officer(s) or panel members.

Similarly, all relevant witnesses should be identified to the investigators as early as possible during the investigation. The hearing officer(s) or panel generally will not call or consider written statements from witnesses who were not identified to investigators and interviewed during the investigation. However, in their discretion and for good cause, the hearing officer(s) or panel may choose to consider information from witnesses who were not interviewed during the investigation.

Any party who wishes to present testimony from an expert witness should identify that witness by providing the witness's name, contact information and a summary of (1) the witness's qualifications to offer expert testimony;

and (2) any opinions the witness expects to offer related to the allegations or evidence. Any evidence upon which the witness relies must be provided to the investigators and will be made available to the other party and their advisor, as well as to any expert witness the other party has identified. This information must be provided as early as possible in the investigation and in no event later than finalization of the investigative report. The parties must make any expert witnesses available to be interviewed by investigators and to testify at the hearing or to respond to questions presented by the parties and panel prior to the panel review. If an expert witness is not available to provide live testimony at the hearing or to respond to questions presented by the parties and panel, as applicable, any information submitted by that expert must be disregarded.

2B.05 Treatment Records

Salem will not access, consider, disclose, or otherwise use in a grievance process any party's treatment records that are maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in their professional/paraprofessional capacity unless the party provides voluntary, written consent.

C. PANEL REVIEW AND APPEALS FOR COMPLAINTS INVOLVING ACADEMY (HIGH SCHOOL) STUDENTS⁸

2C.01 Formal Resolution Process

Unless a Formal Complaint is dismissed or the parties elect to participate in informal resolution pursuant to Section 2E below, following the investigation the appointed panel will conduct a review of the evidence and investigative report, provide a process for the parties to submit relevant questions to and receive responses from the parties and witnesses, and allow the parties to submit written statements for consideration by the panel. In advance of the panel review, the panel and the parties may submit questions to the investigators as necessary to clarify information provided in the investigative report.

2C.02 Appointment of Panel and Challenging of the Same

The Title IX Coordinator will appoint a panel, which will serve as the decision-maker regarding responsibility, and (as applicable) recommend sanctions. The panel may be composed of Salem employees or non-employees. The Title IX Coordinator will contemporaneously share the names and contact information of the panel members with the Complainant and the Respondent. The Title IX Coordinator will provide to the panel the Formal Complaint, all evidence directly related to the allegations, the parties' written responses to the evidence, and the investigative report.

Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of the panel members. The Title IX Coordinator will carefully consider such statements and will promptly assign different panel members if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

2C.03 Notice of the Panel Review and Opportunity to Present Questions

Promptly after the appointment of the panel and no less than ten days prior to the panel review, the panel will provide concurrent written notice to the Complainant and the Respondent and their advisors setting forth the date and time of the panel review. The written notice will provide the Complainant and the Respondent with an opportunity to submit written, relevant questions to the review panel that either party wants asked of any party or witnesses within two days. On receipt of the questions, the panel will share the questions with the parties (and their advisors) and witnesses, as applicable, via electronic mail and direct that responses be submitted to the panel within two days. On receipt of the parties and witnesses' responses, the panel will share the responses with

⁸ In the event of a Formal Complaint that involves an Academy student and a College student or an Academy student and a Salem employee, the formal resolution procedures set forth in Section 2D will apply.

the Complainant and the Respondent and their advisors via electronic mail. The panel will then provide the Complainant and Respondent and their advisors with two days to allow for limited, follow-up questions from each party. If a party presents additional questions, the panel will share the questions with the parties (and their advisors) and witnesses, as applicable, and direct that responses be submitted to the panel within two days. Any final responses will be shared with the Complainant and the Respondent and their advisors prior to the panel deliberation. During this process, the panel may refrain from presenting questions received that are not relevant with notice and explanation provided to the presenting party and their advisor.

2C.04 Pre-Panel Deliberation Submissions

Each party may submit a written statement to the panel that includes any response the party wishes to make to the investigative report. Each party's pre-panel deliberation statement must be submitted at least five days prior to the panel deliberation. The panel will share the statement with the other party, who may submit a response within two days.

2C.05 Evidentiary Matters

A Title IX panel deliberation does not take place within a court of law and is not bound by formal rules of evidence.

Evidence of and questions about the Complainant's sexual predisposition or prior sexual behavior are not relevant and will not be permitted or considered during the panel review process, with the following exceptions: (1) if the 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 (2) 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.

Evidence regarding the past sexual activity of the Respondent (regardless of whether the Respondent was formally investigated or found responsible for such conduct) may be permitted to show that the Respondent has engaged in a pattern of behavior similar to the alleged Sexual Harassment at issue before the panel, provided that the Respondent has not been found "not responsible" by Salem in a proceeding related to such conduct.

Salem will not access, consider, disclose, or otherwise use in a grievance process any party's treatment records that are maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in their professional/paraprofessional capacity unless the party provides voluntary, written consent. Questions and/or evidence that constitute or seek disclosure of information protected under a legally recognized privilege are not permitted, unless the person holding the privilege has waived the privilege in writing.

2C.06 Determination of the Panel Regarding Responsibility

During the panel review, the panel will determine whether the evidence establishes that it is more likely than not⁹ that the Respondent committed Sexual Harassment. The panel will render a finding of "Responsible" or "Not Responsible" and will provide the rationale for the decision. If the Respondent is found "Responsible," the panel will specify the type(s) of Sexual Harassment for which the Respondent is found "Responsible" (for example, Sexual Assault, Stalking, etc.). When feasible, the panel will orally communicate the finding of "Responsible" or "Not Responsible" to the parties on the day of or day following the panel deliberation. Additional information regarding the decision, including the rationale and sanctions (if applicable) will be communicated in the final outcome letter (as described below).

⁹ In other words, the standard of proof will be the preponderance of the evidence standard.

2C.07 Recommendation of the Panel Regarding Sanctions

If the panel determines that the Respondent is “Responsible,” they will recommend appropriate sanctions to be imposed on the Respondent.

Sanctions following a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline, or both. Sanctions for employees may include, but are not limited to, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, and compensation adjustments.

Sanctions for students may include, but are not limited to, expulsion or suspension from Salem, suspension-held-in-abeyance, disciplinary probation, social restrictions, expulsion or suspension from campus housing, relocation of campus residence, reassignment of classes, suspension or revocation of admission, or suspension or revocation of degree.

Other potential sanctions for Respondents may include, but are not limited to, written warning, mandated counseling, completion of an intervention program, completion of violence risk assessment, parental notification, and/or education sanctions (such as training, community service, reflection paper(s), and/or fines) as deemed appropriate by the panel.

In recommending sanctions, the panel will consider whether a sanction will bring an end to, prevent a recurrence of, and remedy the effects of the Sexual Harassment. The panel also will consider the impact of separating a student from their education. The appropriate sanctions for Sexual Assault generally will include at a minimum a period of separation from Salem.

The panel will forward their sanctions recommendation to the Title IX Coordinator, who will share it with the appropriate Salem officials for consideration in the context of the sanctioning guidelines, the Respondent’s disciplinary history, the institution’s handling of similar cases, and other relevant factors.

2C.08 Implementation of Sanctions

Sanctions generally are effective immediately upon issuance of the final outcome letter described below. However, if necessary to protect the welfare of the Complainant, Respondent, or Salem community, the panel may recommend and/or the Title IX Coordinator may determine that any sanctions are effective at any time after the conclusion of the panel review and continue in effect until the issuance of the final outcome letter.

2C.09 Final Outcome Letter

Within seven days after the panel review, the panel will issue a final outcome letter through the Title IX Coordinator to the Respondent and Complainant simultaneously.

The final outcome letter will (1) name the Respondent; (2) identify the allegations potentially constituting Sexual Harassment; (3) describe procedural steps taken from the filing of the Formal Complainant through the determination; (4) provide findings of fact in support of the panel’s determination; and (5) provide a statement of rationale for the result as to each allegation, including the responsibility determination and any sanctions.

2C.10 Appeals

The Complainant or the Respondent may appeal the decision of the panel regarding responsibility and/or the sanction(s) imposed on the Respondent.

The following are the only permissible grounds for an appeal of the panel’s responsibility determination: (1) procedural irregularity that affected the outcome; (2) new evidence that was not reasonably available at the time

of the determination and that could affect the outcome; and (3) the Title IX Coordinator, an investigator, or a panel member had a conflict of interest or bias that affected the outcome.

Sanctions may only be appealed on the ground that the severity is incommensurate to the gravity of the Sexual Harassment for which the Respondent was found responsible.

Appeals must be submitted in writing to the Title IX Coordinator within five days from the date of the final outcome letter. The Title IX Coordinator will promptly inform the other party of the filing of the appeal. The other party will have three days from such notification to submit a written response to the appeal.

2C.11 Appointment of the Appeal Officer and Challenging of the Same

Upon receipt of an appeal, the Title IX Coordinator, in consultation with the Director of Student Life (if the Formal Complaint involves Academy students) and/or Director of Human Resources and Benefits (if the Formal Complaint involves faculty or staff) will appoint an appeal officer.

Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias posed by assigning that appeal officer. The Title IX Coordinator will carefully consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

2C.12 Appellate Review

The Title IX Coordinator will share the Formal Complaint, the investigative report, all statements presented to the panel, any other evidence considered by the panel, the panel's written findings, and the written appeal submissions with the appeal officer. In addition, if an appeal raises procedural issues, the Title IX Coordinator may provide the appeal officer additional information relevant to those issues.

Within ten days of the receipt of the appeal the appeal officer will determine (a) that the decision of the panel should stand; or (b) that the decision of the panel should be overturned and will issue a written explanation of that result and the rationale behind it.

In the event the panel determines that the decision of the panel should be overturned, the appeal officer will specify, after consultation with the Title IX Coordinator and other Salem administrators as necessary, the appropriate steps to be taken to come to a final resolution of the Formal Complaint (which may include another panel review before the same or a different panel).

D. HEARING AND APPEALS FOR COMPLAINTS INVOLVING COLLEGE STUDENTS AND/OR EMPLOYEES

2D.01 Formal Resolution Process

Unless a Formal Complaint is dismissed or the parties elect to participate in informal resolution pursuant to Section 2E below, following the investigation the appointed hearing officer(s) or panel will conduct a hearing in which they may question the Complainant, the Respondent, and any witnesses whose testimony the hearing officer deems relevant. During the hearing, the hearing officer or panel and the parties may also question the investigators as necessary to clarify information provided in the investigative report.

2D.02 Appointment of the Hearing Officer and Challenging of the Same

The Title IX Coordinator will appoint a hearing officer, who will administer the hearing, serve as the decision-maker regarding responsibility, and (as applicable) recommend sanctions. The hearing officer may be a Salem employee or non-employee. The Title IX Coordinator will contemporaneously share the hearing officer's name and contact information with the Complainant and the Respondent. The Title IX Coordinator will provide to

the hearing officer the Formal Complaint, all evidence directly related to the allegations, the parties' written responses to the evidence, and the investigative report.

Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of the hearing officer(s). The Title IX Coordinator will carefully consider such statements and will promptly assign a different hearing officer(s) if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

2D.03 Notice of the Hearing

Promptly after the appointment of the hearing officer and no less than seven days prior to the hearing, the hearing officer will provide concurrent written notice to the Complainant and the Respondent setting forth the date, time, and location of the hearing. Any modifications to the hearing date, time, or location will be provided in writing to both parties prior to the date of the hearing.

2D.04 Pre-Hearing Submissions

Each party may submit a written statement to the hearing officer that includes any response the party wishes to make to the investigative report. Each party's pre-hearing statement must be submitted at least five days prior to the hearing. The hearing officer will share the statement with the other party, who may submit a response within two days.

2D.05 Failure to Appear

If any party, advisor, or witness fails to appear at the hearing after having been provided proper notice of the hearing as set forth above, then absent extenuating circumstances, the hearing officer will proceed with the hearing and issuance of their responsibility determination and, as applicable, sanction recommendation. Salem will provide an advisor to any party who attends the hearing unaccompanied.

2D.06 Evidentiary Matters

A Title IX hearing does not take place within a court of law and is not bound by formal rules of evidence.

Evidence of and questions about the Complainant's sexual predisposition or prior sexual behavior are not relevant and will not be permitted at the hearing, with the following exceptions: (1) if the 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 (2) 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.

Evidence regarding the past sexual activity of the Respondent (regardless of whether the Respondent was formally investigated or found responsible for such conduct) may be permitted to show that the Respondent has engaged in a pattern of behavior similar to the alleged Sexual Harassment at issue before the hearing officer, provided that the Respondent has not been found "not responsible" by Salem in a proceeding related to such conduct.

Salem will not access, consider, disclose, or otherwise use in a grievance process any party's treatment records that are maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in their professional/paraprofessional capacity unless the party provides voluntary, written consent. Questions and/or evidence that constitute or seek disclosure of information protected under a legally recognized privilege are not permitted, unless the person holding the privilege has waived the privilege in writing.

Salem will make the evidence that the investigators provided to the parties for their review and inspection prior to finalization of the investigative report available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

2D.07 Conduct of the Hearing and Questioning of Witnesses and Parties

The hearing will be conducted with parties in separate rooms, using technology to ensure that each party can see and hear any party or witness answering questions. At the discretion of the hearing officer, the hearing may be conducted partially or entirely remotely, with any or all participants participating virtually.

The Complainant and the Respondent will have equal opportunity to address the hearing officer, if desired, and both the hearing officer and the parties' advisors will have the opportunity to question the other party and any witnesses, including investigators and expert witnesses. The hearing officer will first ask any questions of each party and each witness through direct examination. After the hearing officer has completed direct examination, the advisor for each party will have an opportunity to conduct a cross-examination of the other party and/or the witnesses. Any questions that a party has for a witness or the other party must be posed by the party's advisor. A party's advisor will not have the opportunity to question the party for whom they serve as advisor.

Before a party or witness answers a cross-examination question, the hearing officer will determine whether the question is relevant and allowed under these Grievance Procedures. For example, the hearing officer may exclude as not relevant duplicative questions or questions posed solely to harass a witness or the other party. The hearing officer will explain any decision to exclude a question.

If a party does not have an advisor present at the hearing, Salem will provide an advisor, at no cost to the party, to conduct cross-examination on behalf of that party.

Members of the Salem community are expected to provide truthful testimony, and any member of the Salem community who knowingly provides false information during this process is subject to discipline.

2D.08 Unavailability or Refusal to Testify or Submit to Cross-Examination

The Respondent and/or the Complainant may choose not to testify at the hearing; however, the exercise of that option will not preclude the hearing officer from making their responsibility determination and, as applicable, sanction recommendation regarding the Formal Complaint. Also, if a party or witness does not submit to cross-examination at the hearing, the hearing officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility or, as applicable, recommendation regarding sanctions. The hearing officer will not draw an inference regarding responsibility or sanctions based solely on a party's or witness' absence from the hearing or refusal to testify or submit to cross-examination.

2D.09 Recording

Salem will record the hearing. This recording will be the only recording permitted of the proceedings and will be the property of Salem. The parties and the appeal officer may use the recording as part of the appeal process. Reasonable care will be taken to ensure a quality recording; however, technological problems that result in no recording or in an inaudible one will not affect the validity of the outcome of a hearing.

2D.10 Determination of the Hearing Officer Regarding Responsibility

Following the hearing, the hearing officer will determine whether the evidence establishes that it is more likely than not¹⁰ that the Respondent committed Sexual Harassment. The hearing officer will render a finding of "Responsible" or "Not Responsible" and will provide the rationale for the decision. If the Respondent is found "Responsible," the hearing officer will specify the specific type(s) of Sexual Harassment for which the

¹⁰ In other words, the standard of proof will be the preponderance of the evidence standard.

Respondent is found “Responsible” (for example, Sexual Assault, Stalking, etc.). When feasible, the hearing officer will orally communicate the finding of “Responsible” or “Not Responsible” to the parties on the day of or day following the hearing. Additional information regarding the decision, including the rationale and sanctions (if applicable) will be communicated in the final outcome letter (as described below).

2D.11 Recommendation of the Hearing Officer Regarding Sanctions

If the hearing officer determines that the Respondent is “Responsible,” they will recommend appropriate sanctions to be imposed on the Respondent.

Sanctions following a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline, or both. Sanctions for employees may include, but are not limited to, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, and compensation adjustments.

Sanctions for students may include, but are not limited to, expulsion or suspension from Salem, suspension-held-in-abeyance, disciplinary probation, social restrictions, expulsion or suspension from campus housing, relocation of campus residence, reassignment of classes, suspension or revocation of admission, or suspension or revocation of degree.

Other potential sanctions for Respondents may include, but are not limited to, written warning, mandated counseling, completion of an intervention program, completion of violence risk assessment, parental notification, and/or education sanctions (such as training, community service, reflection paper(s), and/or fines) as deemed appropriate by the hearing officer.

In recommending sanctions, the hearing officer(s) will consider whether a sanction will bring an end to, prevent a recurrence of, and remedy the effects of the Sexual Harassment. The hearing officer also will consider the impact of separating a student from their education. The appropriate sanctions for Sexual Assault generally will include at a minimum a period of separation from Salem.

The hearing officer(s) will forward their sanctions recommendation to the Title IX Coordinator, who will share it with the appropriate Salem officials for consideration in the context of the sanctioning guidelines, the Respondent’s disciplinary history, the institution’s handling of similar cases, and other relevant factors.

2D.12 Implementation of Sanctions

Sanctions generally are effective immediately upon issuance of the final outcome letter described below. However, if necessary to protect the welfare of the Complainant, Respondent, or Salem community, the hearing officer may recommend and/or the Title IX Coordinator may determine that any sanctions are effective at any time after the conclusion of the hearing and continue in effect until the issuance of the final outcome letter.

2D.13 Final Outcome Letter

Within seven days after the hearing, the hearing officer will issue a final outcome letter through the Title IX Coordinator to the Respondent and Complainant simultaneously.

The final outcome letter will (1) name the Respondent; (2) identify the allegations potentially constituting Sexual Harassment; (3) describe procedural steps taken from the filing of the Formal Complainant through the determination; (4) provide findings of fact in support of the hearing officer’s determination; and (5) provide a statement of rationale for the result as to each allegation, including the responsibility determination and any sanctions.

2D.14 Appeals

The Complainant or the Respondent may appeal the decision of the hearing officer regarding responsibility and/or the sanction(s) imposed on the Respondent.

The following are the only permissible grounds for an appeal of the hearing officer's responsibility determination: (1) procedural irregularity that affected the outcome; (2) new evidence that was not reasonably available at the time of the determination and that could affect the outcome; and (3) the Title IX Coordinator, an investigator, or the hearing officer had a conflict of interest or bias that affected the outcome.

Sanctions may only be appealed on the ground that the severity is incommensurate to the gravity of the Sexual Harassment for which the Respondent was found responsible.

Appeals must be submitted in writing to the Title IX Coordinator within five days from the date of the final outcome letter. The Title IX Coordinator will promptly inform the other party of the filing of the appeal. The other party will have three days from such notification to submit a written response to the appeal.

2D.15 Appointment of the Appeal Officer and Challenging of the Same

Upon receipt of an appeal, the Title IX Coordinator, in consultation with the Director of Student Life (if the Formal Complaint involves Academy students), Associate Vice President for Student Affairs and Dean of Students (if the Formal Complaint involves traditional undergraduate students), Dean of the Flee Center (if the Formal Complaint involves adult education/Flee students), Director of Teacher Education and Graduate Students in Education (if the Formal Complaint involves graduate students), and/or Director of Human Resources and Benefits (if the Formal Complaint involves faculty or staff) will appoint an appeal officer.

Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias posed by assigning that appeal officer. The Title IX Coordinator will carefully consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

2D.16 Appellate Review

The Title IX Coordinator will share the Formal Complaint, the investigative report, the hearing recording, all statements introduced at the hearing, any other evidence considered by the hearing officer, the hearing officer's written findings, and the written appeal submissions with the appeal officer. In addition, if an appeal raises procedural issues, the Title IX Coordinator may provide the appeal officer additional information relevant to those issues.

Within ten days of the receipt of the appeal the appeal officer will determine (a) that the decision of the hearing officer should stand; or (b) that the decision of the hearing officer should be overturned and will issue a written explanation of that result and the rationale behind it.

In the event that the appeal officer determines that the decision of the hearing officer should be overturned, the appeal officer will specify, after consultation with the Title IX Coordinator and other Salem administrators as necessary, the appropriate steps to be taken to come to a final resolution of the Formal Complaint (which may include another hearing before the same hearing officer or a different one).

E. INFORMAL RESOLUTION

2E.01 Determination of Formal Versus Informal Resolution

At any time before the issuance of the responsibility determination, the parties may elect to resolve the Formal Complaint for Sexual Harassment through the informal resolution process, provided that (1) the parties both

voluntarily consent in writing to such resolution; (2) both parties are students or employees of Salem; and (3) the Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving that specific complaint. Otherwise, a Formal Complaint that is not dismissed will proceed to a hearing. Informal resolution is not an appropriate mechanism for resolving a Formal Complaint by a student against an employee.

Informal resolution may not be selected for less than all of the misconduct alleged in the Formal Complaint. If the parties agree to informal resolution (and informal resolution is appropriate for all of the allegations at issue), then all of the allegations must be resolved according to the informal resolution process.

Either party has the right to terminate the informal resolution process at any time and proceed with formal resolution (i.e., a full investigation and hearing). Furthermore, the Title IX Coordinator may, where appropriate, terminate informal resolution and proceed with the formal resolution process instead.

2E.02 Notice of Allegations and Notice of Informal Resolution and Facilitator

The Title IX Coordinator will provide the parties a written notice disclosing the allegations and the requirements of the informal resolution process, including any circumstances under which Salem would preclude the parties from resuming a Formal Complaint arising from the same allegations.

When a complaint is to be resolved according to the informal resolution process, the Title IX Coordinator will designate a trained individual to serve as the informal resolution facilitator. The Title IX Coordinator will contemporaneously share the name of the informal resolution facilitator with the Complainant and the Respondent.

Within two days of such notification, the Complainant or Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias posed by assigning that facilitator. The Title IX Coordinator will carefully consider such statements and will promptly assign a different facilitator if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

2E.03 Facilitated Resolution

The informal resolution facilitator will meet separately with each party to review the informal resolution process and the allegations in the Formal Complaint and to identify the outcome that each party seeks from the informal resolution process. If the facilitator determines that it would be productive for both parties to attend a resolution meeting, the facilitator will provide written notice to the Complainant and the Respondent setting forth the date, time, and location of that meeting. At the request of either party or at the discretion of the informal resolution facilitator, the meeting may occur with the parties in different locations or meetings with parties may take place on different dates.

Both the Complainant and the Respondent are expected to participate in the informal resolution process. If either party fails to participate, the Title IX Coordinator may direct that the formal resolution process proceed.

During informal resolution, the parties may: (1) engage one another in the presence of, and/or facilitated by, the informal resolution facilitator; (2) communicate their feelings and perceptions regarding the incident and the impact of the incident (either by communicating directly with one another or by communicating indirectly through the informal resolution facilitator); (3) relay their wishes and expectations regarding the future; and/or (4) come to an agreed-upon resolution of the allegations in the Formal Complaint.

Participation in the informal resolution process is completely voluntary, and either party, the informal resolution facilitator, or the Title IX Coordinator may terminate the process at any time.

2E.04 Resolution

The informal resolution facilitator will attempt to facilitate the parties' resolution of the Formal Complaint. If this process results in a resolution between the parties and the Title IX Coordinator finds the resolution to be appropriate under the circumstances (giving consideration to factors including the extent to which the resolution will protect the safety of the Complainant and the entire Salem community), the resolution will be reduced to writing, which will conclude the process and close the Formal Complaint.

2E.05 Written Resolution Agreement

To be effective, any agreement reached during the informal resolution process must be memorialized in writing and signed by the parties, the informal resolution facilitator, and the Title IX Coordinator. If a Respondent completes all measures agreed to in the written resolution agreement, no further process is available with regard to the allegations in the Formal Complaint.

Measures that parties agree to in the informal resolution process may include (but are not limited to):

- 1) Alcohol education classes for the Respondent;
- 2) Completion of online sexual harassment training;
- 3) Completion of an intervention program;
- 4) Regular meetings with an appropriate individual, unit or resource;
- 5) Permanent or temporary no contact order;
- 6) Restrictions for participation in certain activities, organizations, programs or classes;
- 7) Change in residential assignment or restrictions on access to certain residence halls or apartments;
- 8) Restriction of participation in certain events;
- 9) Reflection paper or written apology;
- 10) Counseling sessions; and/or
- 11) The Respondent's completion of an educational or behavioral plan.

2E.06 Termination of Informal Resolution Process

At any time prior to completing a written resolution agreement, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint. If either party terminates the informal resolution process or Salem determines that the informal resolution process is no longer appropriate, the formal resolution process outlined above will promptly resume.

2E.07 Confidentiality of Information Shared

Any information that the parties share during the informal resolution process may not be used in any other investigation or proceeding at Salem.

2E.08 Timeframe

The informal resolution process generally will be completed within 30 days of the parties' agreement to the informal resolution process.

2E.09 Appeal

A resolution reached pursuant to the informal resolution process is final and not subject to appeal.

2E.10 Records

A resolution reached through the informal resolution process will not be included in a student Respondent's student conduct record or in an employee Respondent's personnel record, unless the inclusion of such information is agreed to as part of the informal resolution of the matter. The Title IX Coordinator will retain a record of the written resolution agreement for no less than seven years.

SECTION III. NON-TITLE IX SEXUAL MISCONDUCT GRIEVANCE PROCEDURES

3.01 Applicability and Preliminary Assessment

These Grievance Procedures apply to complaints of Non-Title IX Sexual Misconduct that do not meet the definition of Sexual Harassment in an Education Program or Activity in violation of this Policy. The Title IX Coordinator or designee will determine if the complaint meets the definition of Sexual Harassment or Non-Title IX Sexual Misconduct prohibited by this Policy for purposes of identifying the appropriate resolution procedures. For situations in which a Formal Complaint includes allegations of Non-Title IX Sexual Harassment, the Title IX Sexual Harassment Grievance Procedures will be apply. If the reported behavior does not allege Sexual Harassment or Non-Title IX Sexual Misconduct, the complaint will be dismissed or referred to another department if it asserts the potential violation of another Salem policy.

3.02 Initial Outreach to Complainant and Requests for Privacy

Upon receipt of a complaint of Non-Title IX Sexual Misconduct against a Salem student, employee, or third-party (including contractors, volunteers, or guests), the Title IX Coordinator will contact the Complainant to discuss the availability of Supportive Measures (including interim protective measures) and to explain the grievance process.

If a Complainant requests that their identity not be disclosed to Respondent or that Salem refrain from taking formal or informal action in response to their complaint of Non-Title IX Sexual Misconduct, Salem must balance that request against its need to investigate and take action in situations where the alleged behavior poses a risk to the safety and welfare of the campus community (which can include, but is not limited to, the involvement of violence, the use of weapons, or repeat offenders). When possible based on the facts and circumstances of the complaint, Salem will endeavor to act in manner consistent with the resolution preferences of the Complainant. Salem may be limited in its ability to respond to the report if the Complainant requests that their identity not be disclosed to the Respondent or refuses to participate in a resolution of the alleged incident. In such situation, even if these preferences by the Complainant limit the ability to fully investigate and take disciplinary action against the Respondent, to the extent possible and appropriate, Salem will nonetheless take prompt and effective action that is reasonably designed to prevent the recurrence of any alleged Non-Title IX Sexual Misconduct and limit its effects.

3.03 Filing a Complaint for Non-Title IX Sexual Misconduct

To initiate a complaint for Non-Title IX Sexual Misconduct in violation of this Policy, the Complainant should submit a statement to the Title IX Coordinator describing the Non-Title IX Sexual Misconduct and requesting that Salem investigate the allegations. A complaint for Non-Title IX Sexual Misconduct may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed in Appendices. The complaint should contain the physical or digital signature of the Complainant or otherwise indicate that the Complainant is the person filing the complaint. When the Title IX Coordinator believes that a non-deliberately indifferent response to the allegations requires an investigation, with or without participation by the Complainant, the Title IX Coordinator has the discretion to initiate the grievance process.

3.04 Formal Resolution Process for Non-Title IX Sexual Misconduct Complaints

After the initial assessment, when voluntary informal resolution has not been requested by the parties or is not an available option under this Policy, this formal resolution process has been established to resolve complaints of Non-Title IX Sexual Misconduct.

Appointment of Investigator and Notice of Complaint. The Title IX Coordinator will appoint an investigator to conduct a prompt, thorough, and impartial investigation as part of the formal resolution of alleged Non-Title IX

Sexual Misconduct that potentially violates this Policy. The Title IX Coordinator will provide the Complainant and Respondent with notice of the initiation of an investigation and will identify the parties, the date, time, location, and nature of the alleged Non-Title IX Sexual Misconduct, any potential policy violations, and the request to preserve evidence.

Notice of Investigator and Process to Challenge Appointment. Prior to the commencement of the investigation, the Title IX Coordinator will provide the name of the assigned investigator to the Complainant and the Respondent. Either party may request that the investigator not be assigned their case if they can offer valid justification and reasoning why that person will be unable to be objective or render an impartial, unbiased decision. The request must be received by the Title IX Coordinator in writing within two days. The Title IX Coordinator will consider the request and render a decision within two days. The Title IX Coordinator will carefully consider such statements and will promptly assign a different investigator if the Title IX Coordinator determines that a conflict of interest or material bias exists. The assigned investigator will conduct the investigation free of bias and conflicts of interest. Salem officials who investigate reports of Non-Title IX Sexual Misconduct in violation of this Policy will receive appropriate annual training to ensure a process that protects safety and promotes accountability.

Privacy. Participants in the investigation will be advised that maintaining confidentiality is essential to protect the integrity of the investigation and be asked to refrain from discussing the pending investigation except as necessary for the parties to gather or present relevant evidence.

Interim Protective Measures. During the complaint resolution process, Salem may determine that interim protective measures are necessary to stop or prevent any form of Non-Title IX Sexual Misconduct. Should the Title IX Coordinator, in consultation with other appropriate administrators, determine that a threat to the well-being or safety of the parties or campus community exists, the Title IX Coordinator will facilitate the implementation of interim protective measures. Examples of available interim protective measures include: a no contact order that bans interaction and communication between the affected parties; modified academic, extracurricular, transportation, dining, work, and residence arrangements; or increased security. Complainants and Respondents may also request that the Title IX Coordinator institute interim measures of protection.

During the complaint review process and as Salem determines necessary and appropriate, Salem may place the Respondent on investigative leave, temporary suspension, or reassignment or authorize other types of temporary measures while an investigation is pending.

North Carolina criminal law grants certain interim protective measures to alleged crime victims. Further information about criminal law interim measures can be obtained from law enforcement agencies and other community support services. Contact information for local resources that assist with interim protective measures, including the Winston-Salem Police Department, Family Services, and Safe on Seven, is listed on the Appendices.

Students who have reported Non-Title IX Sexual Misconduct and having difficulty maintaining their academic status should speak with the Title IX Coordinator, Learning Specialist (Academy), or Director of Academic Support and Student Disability Services (College), who can provide information about academic support services. Information about how to apply for a leave of absence is available from the Head of School (Academy) or Dean for Undergraduate Studies (College). Salem will work with students to address concerns about loan repayment terms and conditions. Student financial aid information can be obtained from the Financial Aid Office. Contact information for these Salem support resources is listed on the Appendices.

Salem will maintain as confidential any accommodations or protective measures provided to complainants so long as it does not impair the ability to provide such measures

Investigation Process. During the investigation, the investigator will attempt to meet separately with the Complainant, the Respondent, and any witnesses. The investigator may also work with Public Safety and other campus offices to obtain additional relevant information. The parties will have an equal opportunity to present

information and supporting evidence and to identify witnesses as part of the investigation. The parties should present all evidence in the case to the investigator during the investigation.

Concurrent Criminal Action. When a case also involves criminal charges, the Title IX Coordinator will cooperate with law enforcement. The Title IX investigation may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Salem determinations of responsibility or sanctions will not be subject to change because criminal charges arising out of the same facts giving rise to violation of Salem policies are later dismissed, reduced, or resolved in favor of or against the criminal defendant.

Investigation Timeframe. An investigation and determination of outcome will generally be completed within ninety (90) days after the complaint is delivered to the Title IX Coordinator. Salem reserves the right to exceed this timeframe in order to conduct a thorough investigation or for other good cause with notice to the Complainant and the Respondent of any delay and the reasons for the action. For this purpose, good cause may include concurrent law enforcement activity, natural disasters, pandemic restrictions, or accommodation of disabilities or language assistance.

Witnesses. During the investigation, the parties will provide their list of witnesses to the investigator. Witnesses may be individuals who have seen and/or heard the incident and individuals to whom the Complainant and/or Respondent may have spoken about the incident. Because the focus of the investigation is on facts, character witnesses are not used in this process. It is possible for both the Complainant and the Respondent to identify the same witnesses. Disclosure of facts to witnesses will be limited to what is reasonably necessary to conduct a fair and thorough investigation.

Other Policy Violations. Salem retains discretion to pursue other conduct violations that occurred in the context of the reported Non-Title IX Sexual Misconduct. Such violations may be resolved as part of the investigation described in these Grievance Procedures or pursuant to the grievance process applicable for other potential policy violations as set forth in the applicable Academy or College handbooks, manuals, catalogues, and guides.

Advisors for Investigation and Hearing. The Complainant and the Respondent may each be assisted by one advisor of their choice during the investigation process. The role of the advisor is to provide emotional, logistical, or other support to the party throughout the formal resolution process. The advisor is not permitted to question the other parties, witnesses, or Title IX Coordinator. The advisor may not be someone who was a witness to the events at issue or any Salem official who may have responsibility for adjudicating the complaint. The Complainant and Respondent should provide timely notice to their advisors of scheduled meetings or proceedings.

Standard of Review. Salem uses a preponderance of the evidence standard in determining whether to a violation of this policy occurred. This standard means that the offense is more likely than not to have occurred.

Conclusion of Investigation. An investigation will result in a written report that includes a statement of the allegations and issues, a summary of the information considered, and a determination by the investigator using a preponderance of the evidence standard as to whether the Respondent has been found responsible for Non-Title IX Sexual Misconduct in violation of the Policy. The investigation report also may contain a recommendation for sanctions and disciplinary action or other remedies to resolve the complaint. The parties may request to review a copy of the investigative report subject to institutional policy and/or applicable laws governing privacy and access to personal information.

Sanctions. Sanctions following a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline, or both. Sanctions for employees may include, but are not limited to, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, and compensation adjustments. Sanctions for students may include, but are not limited to, expulsion or suspension from Salem, suspension-held-in-abeyance, disciplinary probation, social restrictions, expulsion or suspension from campus housing, relocation of campus residence, reassignment of classes, suspension or revocation of admission, or suspension or revocation of degree. Other potential sanctions for Respondents may

include, but are not limited to, written warning, mandated counseling, completion of an intervention program, completion of violence risk assessment, parental notification, and/or education sanctions (such as training, community service, reflection paper(s), and/or fines) as deemed appropriate by the panel.

Post-Investigation Procedures. The Title IX Coordinator will refer any recommendation for discipline to the appropriate administrators, academic leaders, and supervisors for implementation. The Title IX Coordinator will oversee implementation of corrective measures as a means to prevent Non-Title IX Sexual Misconduct from recurring and to limit its effects. Corrective measures may include follow-up by the Title IX Coordinator or their designee to ensure that appropriate action is taken to complete the recommended actions. The Title IX Coordinator may require a Salem administrator, academic leader, or supervisor responsible for taking corrective action, who decides not to adopt a recommendation of the Title IX Office, to explain this decision in writing. If the Title IX Coordinator determines that the reasons offered by a Salem employee for not adopting a recommendation for corrective action are insufficient, the Title IX Coordinator will bring the matter to the attention of the appropriate administrator. Copies of the investigative report and/or the findings and recommendations will be provided to those Salem administrators, academic leaders, and supervisors who are directly responsible for implementing measures to correct and prevent discriminatory or harassing conditions.

Notice of Outcome. The Complainant and the Respondent will be informed in writing of the completion of the investigation and the outcome of the investigation by the Title IX Coordinator. The determination of outcome will provide an explanation of responsibility. The Complainant will be informed of actions taken or recommended to resolve the complaint, if any, that are directly related to the Complainant, such as a recommendation that the accused not contact the Complainant. The Complainant may be notified generally that the matter has been referred for disciplinary action, but will not be informed of the details of the recommended disciplinary action without the consent of the Respondent except as otherwise permitted or required by law. The Respondent will be informed of actions taken or recommended to resolve the complaint, and will be notified of any sanctions and/or referrals for disciplinary action.

3.05 Appeals

Grounds for Appeal. The Complainant and Respondent each have one opportunity to appeal a decision and/or any sanction(s) issued. Appeals must be submitted in writing to the Title IX Coordinator within three days of receiving the written notification of outcome. The written statement of appeal will be shared with the other party in the case, and the other party will receive an opportunity to submit a written response to the appeal. The available grounds for appeal include: (a) previously unavailable relevant evidence could significantly impact the outcome, (b) a procedural irregularity undermined the adjudication process and materially affected the outcome, and/or (c) the sanction is substantially disproportionate to the findings.

Notice of Appeal Officer and Process to Challenge Appointment. Upon receipt of an appeal, the Title IX Coordinator, in consultation with appropriate Salem officials, will appoint an appeal officer and provide the Complainant and the Respondent with the name of the appointed appeal officer. Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias posed by assigning that appeal officer. The Title IX Coordinator will carefully consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

Appellate Review. During the appellate review, the appeal officer will review written statements submitted by the parties related to the appeal, along with applicable portions of the investigative report, evidence gathered and considered during the investigation, and outcome determination by investigator, and reach a conclusion only on the challenged grounds. The appeal officer may consult with the Title IX Coordinator and investigator about an alleged procedural error. The outcome of the appeal will be provided in writing to both the Complainant and the Respondent within seven days of the appeal. In adjudicating the appeal, the appeal officer can do any of the following: overturn a finding, overturn or modify a sanction, or remand the case for further investigation or appoint a new investigator. Any sanctions imposed following the investigation will remain in effect pending the

outcome of an appeal and/or the subsequent determination of outcome if the case is remanded for further investigation or appointment of a new investigator.

3.06 Voluntary Informal Resolution of Non-Title IX Sexual Misconduct

At any time during the investigation or complaint resolution process, before a decision as to the responsibility of respondent is rendered, Salem may facilitate a voluntary informal resolution. The purpose of the voluntary informal resolution process is to eliminate the alleged conduct, prevent its recurrence, and limit its effects in an efficient manner that corresponds with the resolution preference expressed by the parties. Salem will facilitate voluntary informal resolution of a Non-Title IX Sexual Misconduct complaint when: (a) the parties mutually agree to participate in the voluntary informal resolution, without a full investigation and adjudication of the complaint, (b) the parties have been informed of the allegations of Non-Title IX Sexual Misconduct and their options for formal resolution, and (c) Salem determines that the facts and circumstances of the particular complaint are appropriate for the voluntary informal resolution process. At any time before its conclusion, the voluntary informal resolution process may be terminated and the formal resolution process may be invoked by Salem or by either of the parties.

Voluntary informal resolution includes, but is not limited to, options such as referral to another campus office, official, or program to facilitate the voluntary informal resolution, separation of the parties (such as a no-contact order), referral of the parties to counseling programs, or conducting targeted educational and training programs. Situations that are resolved through voluntary informal resolution are subject to follow-up after a period of time to ensure that resolution has been implemented effectively. The Title IX Coordinator will document steps taken to achieve voluntary information resolution.

Some reports of Non-Title IX Sexual Misconduct may not be appropriate for voluntary informal resolution, but may require the formal resolution process and/or a report to the Department of Social Services or a law enforcement agency, as determined by the Title IX Coordinator.

Salem will seek to complete voluntary informal resolution within thirty (30) days of the request by the parties when this option for resolution is available.

SECTION IV. ABUSE OR NEGLECT OF MINORS

Any person who has cause to suspect that a person under the age of eighteen (18) is abused, neglected, or dependent, as defined by North Carolina General Statutes 7B-301, has a reporting obligation under North Carolina law and must immediately notify the Title IX Coordinator (Academy and College), Head of School (Academy), or Vice President for Academic and Student Affairs (College), who will then take appropriate action in reporting the situation to the Director of the Department of Social Services in the county where the minor resides or is located. State law requires mandatory reporting of suspected abuse or neglect of any minor.

SECTION V. RELATIONSHIPS INVOLVING POWER DIFFERENTIAL

Salem prohibits romantic or sexual relationships between faculty/staff and students and between employees in supervisory/subordinate positions. There will be a strong presumption that sexual activity between faculty/staff and students and between employees in supervisory/subordinate positions is unwelcome and nonconsensual. All romantic or sexual advances and amorous relationships of any kind by faculty/staff toward students who are minors is strictly prohibited.

APPENDICES (*Revised August 2020*)

Contact Information for Salem Support Resources and Reporting Options

In response to sex discrimination and harassment, including Sexual Harassment and Non-Title IX Sexual Misconduct, individuals may contact the following Salem reporting and support resources:

A. NON-CONFIDENTIAL Campus Reporting and Support Resources

Title IX Coordinator

Erin Jones Adams
(336) 721-2702
erin.adams@salem.edu
Inspector's House, Second Level

Salem Public Safety Office

(336) 917-5555
publicsafety@salem.edu
Main Hall, Basement Level
Operates 24 hours a day, 7 days a week

OTHER ACADEMY RESOURCES

Academy Head of School

Kristina (Kris) Sorrells
336.917.5524
kris.sorrells@salem.edu

Academy Director of Student Life

Ashley Pearson
336-917-5508
ashley.pearson@salem.edu

Academy Director of Residence Life

Gloria Frost
(336) 721-2765
gloria.frost@salem.edu

Academy Learning Specialist

Joann Caligiuri
joann.caligiuri@salem.edu

OTHER COLLEGE RESOURCES

College Associate Vice President for Student Affairs and Dean of Students

Laura (Laurie) Neff
laura.neff@salem.edu

College Director of Residence Life

Cynthia Jones

336-721-2627

336-917-5018

cynthia.jones@salem.edu

College Office of Academic Support and Student Disability Services

Ida Turner Davis, Director

academic.support@salem.edu

OTHER ACADEMY AND COLLEGE RESOURCES

Office of Human Resources and Benefits

Emily Young, Director

(336) 917-5721

hr@salem.edu

Financial Aid Office

financial.aid@salem.edu

B. CONFIDENTIAL Campus Reporting and Support Resources

Reports made to a *Confidential Reporting Resource* (**Salem Counseling Services and Chaplain**) allow a student to receive access to Salem support resources and information without invoking the grievance procedures contained in this Policy. Confidential resources can provide students with information about medical care and treatment, counseling, safety planning, academic/housing, and any other assistance that may be needed in response to sexual misconduct.

Academy Counselor (*Confidential Resource*)

Mary Margaret Johnson

(336) 917-5518

mary.johnson@salem.edu

College Student Counseling Services (*Confidential Resource*)

Robin Campbell, MS, NCC, LCMHC

Director of Counseling

(336) 721-2625

robin.campbell@salem.edu

Gramley Hall, Basement Level

Salem Chaplain (*Confidential Resource*)

Rev. Dr. Amy J. Rio

(336) 917-5087

amy.rio@salem.edu

C. Local Community Resources for Seeking Safety, Medical, and Emotional Health Assistance

In addition to coordinating with Salem reporting and support resources, individuals may contact the following local community resources for assistance:

1. Local Law Enforcement

Winston Salem Police Department:

- Emergencies: 911
- Non-Emergencies: (336) 773-7700
 - For reports of sexual assault or other sex-related crimes to law enforcement, the investigation is conducted by police with cooperation by Salem Public Safety and the Title IX Coordinator. The Office of the County District Attorney decides whether to initiate criminal prosecution after an individual files criminal charges with police. Any prosecution occurs in the criminal courts. If an individual chooses to file both criminal charges with law enforcement and a complaint under this Policy, these processes may occur simultaneously and independently. An investigation under this Policy by Salem may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

2. Medical Care and Treatment and SANE Services

Novant Health / Forsyth Medical Center
3333 Silas Creek Parkway, Winston-Salem, NC 27103
(336) 718-5000

Wake Forest Baptist Medical Center
Medical Center Blvd, Winston-Salem, NC 27157
(336) 716-2011

- These local hospitals have sexual assault nurse examiners (SANE) available to conduct physical exams for collecting evidence (“rape kit”) to support criminal prosecution as may be requested by the victim. It is not required that victims file a police report in order to receive a confidential exam or medical treatment from a sexual assault nurse examiner. Individuals should seek medical assistance as soon as possible following sexual assault.
- In order to maintain confidentiality, if victims do not want information about their medical care sent to their home address, they should not provide the hospital with a home address or identification card (such as an insurance card) that lists or is linked to a home address.

3. Family Services (Victim Advocacy and Safety Planning)

1200 S. Broad Street
Winston-Salem, NC 27101
Phone: 336.722.8173 | Fax: 336.724.6491
Toll free: 1.800.316.5513
Head Start: 336.727.0617
Crisis Line: 336.723.8125
Email: info@familyservicesforsyth.org
Website: www.familyservicesforsyth.org

- Family Services is a local non-profit organization serving residents of Forsyth County, North Carolina and located approximately one mile from campus, which provides confidential victim advocate support for survivors of sexual assault and intimate partner violence 24 hours per day, 7 days per week. Family Services also provides the following kinds of services: counseling, assistance finding shelter, safety planning, assistance obtaining protective orders. Receiving assistance from Family Services does not require filing criminal charges.

4. Safe on Seven (by Family Services for Protective Orders and Legal Advocates)

725 Highland Avenue

Winston-Salem, NC 27101

Phone: 336.776.3255

Email: info@familyservicesforsyth.org

Website: www.familyservicesforsyth.org

- “One Stop Shop” for assistance with interpersonal violence concerns including criminal and civil justice systems, law enforcement, victim advocates, and legal advocates.

Suggested Actions for People Who Have Experienced Sexual Assault

If you have experienced sexual assault, Salem's first priority is to help you take steps to address your safety, medical needs, and emotional well-being. You are encouraged to take the following actions, as applicable, regardless of whether you have made a decision about whether to pursue a criminal or Salem complaint.

1. Ensure Your Physical Safety.

You may seek help from **local law enforcement agencies** or by contacting the **Salem Public Safety Office**. Salem Public Safety can assist you with contacting law enforcement and can help you obtain transportation to the local law enforcement office. Officers are on duty at the Salem Public Safety Office 24 hours a day, seven days a week.

2. Seek Medical Assistance and Treatment.

Local medical care resources with sexual assault nurse examiners (SANE) and the option for having a SANE evidence collection kit ("rape kit") completed include: Wake Forest Baptist Hospital and Forsyth Medical Center. It is crucial that you obtain medical attention as soon as possible after a sexual assault, for example, to determine the extent of physical injury and to prevent or treat sexually transmitted diseases (such as HIV). Medical facilities can also screen for the presence of sedative drugs such as Rohypnol or GHB (date-rape drugs).

Salem Public Safety can help you obtain transportation to a local hospital and can help you contact a support person, such as a family member, a friend, or a roommate.

If you choose to have an evidence collection (rap) kit completed, it is important to do so within 72 hours. To preserve evidence, it is advisable to avoid showering, bathing, going to the bathroom, or brushing your teeth before an evidence collection kit is completed. You should also wear (or take with you in a paper – not plastic – bag) to the hospital the same clothing that you were wearing during the assault. An evidence collection kit can still be completed even if you have showered or bathed.

Even if you have not decided whether to file charges, it is advisable to have the evidence collection kit completed so that you can better preserve the options of obtaining a protective order and/or filing criminal charges at a later date.

3. Obtain Emotional Support

Salem Counseling Services can help students sort through their feelings and begin the recovery process. The professionals at the Counseling Center are trained to provide crisis intervention on short-term and emergency issues. The Counseling Center can also provide referral services for outside providers and law enforcement. Counseling is free of charge to all students. In some instances, the law may require the disclosure of information shared by students with counselors. However, absent a legal mandate to the contrary, counseling services are strictly confidential, are not part of students' records, and will not be reported to other Salem personnel.

Employees may contact the Employee Assistance Program (EAP) to obtain emotional support. For information about EAP options and benefits, contact the Director of Human Resources and Benefits at hr@saalem.edu.

4. Obtain Information/Report Misconduct

You are encouraged to report incidents of sexual assault to Salem by notifying the Title IX Coordinator (even if you have filed a report directly with law enforcement). The Title IX Coordinator can help you access resources and can provide you with support and information, including information on Salem's procedures for investigating and addressing instances of sexual assault and related misconduct.

Bystander Intervention and Risk Reduction

Bystander Intervention. Bystander intervention is the safe and positive intervention into a situation by a person or group when there is a risk of sexual assault, domestic violence, dating violence, stalking, or other criminal conduct occurring as a means to prevent it. In the context of sexual assault/relationship violence, bystander intervention involves recognizing the warning signs, understanding the cultural and institutional conditions that perpetuate sexual and relationship violence, overcoming the barriers to taking action, identifying safe and effective ways to intervene, and taking action to stop of the offending conduct.

Examples of ways that you can consider safely and positively intervening in a situation as a bystander may include:

- Contacting Public Safety at (336) 917-5555 or the Winston-Salem Police Department at 911 to report suspicious activity;
- Creating a distraction that enables someone to avoid or escape a dangerous situation (e.g., interrupting someone about to engage in misconduct by asking them the time or directions);
- Encouraging someone to stop or minimize the consumption of alcohol or drugs that impair their ability to consent to sexual activity;
- Helping someone exit a dangerous situation by getting them home safely and securely (such as when someone is under the influence of or incapacitated by drugs or alcohol);
- Ensuring that someone suffering from depression, mental illness, or trauma in response to sexual assault or relationship violence has access to support resources (available from Public Safety and the Title IX Office);
- Intervening when someone makes a comment that perpetuates sex or gender-based harassment and sexual myths;
- Being an “on-call” support person whom someone can contact in the event of an emergency or need for support while on a date, at a party, or in other new settings; and
- Telling someone who has suffered from sexual assault or relationship violence “I believe you,” “you are not alone,” and “when you are ready, there are confidential resources available to help you on campus and in our community.”

In the event of an emergency, you should contact Public Safety at (336) 917-5555 or the Winston-Salem Police Department by dialing 911.

Risk Reduction. In addition to bystander intervention practices, avoiding and being cognizant of risk where possible is an important means for preventing crimes. While sexual/relationship violence is never the fault of the victim, there are certain behaviors that can increase the risk of sexual/relationship violence. Risk reduction is intended to decrease crimes and bystander inaction, empower victims, promote safety, and help the Salem community and its members address conditions that facilitate criminal conduct. General risk reduction measures include:

- Learning the warning signs of sexual/relationship violence and seeking assistance from trusted campus or off-campus support resources in response to “red flag” behavior;
- Avoiding the consumption of food and beverages left unattended and when alone in a public place or with strangers;
- Using a trusted “buddy-system” when going to parties, events, or other on-campus or off-campus functions and having a plan for how to get help and support one another in an unsafe situation;
- Avoiding the disclosure of personally identifying information to strangers;
- Avoiding disclosing your location and personal information on social media;
- Avoiding the acceptance of rides from strangers;
- Remaining aware of your settings in public at all times and avoiding the use of loud music or devices that interfere with your focus on environmental conditions around you;

- Developing an emergency alert message that you can discretely send by text or other means to support persons who can help you get immediate assistance or exit a dangerous situation; and
- Making certain that trusted support persons know your plans when going out somewhere or with someone new.

Individuals can avoid being perpetrators of sexual misconduct by obtaining consent that is clearly communicated and freely given from their partners and engaging in sexual activity only when there is a mutual willingness and readiness to participate.