

New England Conservatory's Gender-Based Misconduct Policy

New England Conservatory (NEC) is committed to providing a safe learning and working environment. We comply with all state and federal guidelines relating to sexual misconduct, including Title IX of the Higher Education Amendment Act (1972), the Violence Against Women Act (1994 and 2013), and the Campus Sexual Violence Elimination Act (2013). This policy applies to allegations of gender-based misconduct at NEC that do not apply to Title IX of the Educational Amendments of 1972, and applies to all members of the NEC community. Allegations of gender-based misconduct involving any member of the NEC community should be reported to a Title IX Officer:

Nick Macke, Title IX Coordinator
Office of Human Resources
St. Botolph Building, room 203
617-585-1229

PROHIBITED CONDUCT UNDER THE GENDER-BASED MISCONDUCT POLICY AND/OR THE TITLE IX SEXUAL MISCONDUCT POLICY

Sexual Misconduct

The Conservatory prohibits all forms of sexual misconduct. Sexual misconduct refers to a broad spectrum of behavior encompassing sexual harassment and all forms of non-consensual sexual activity. Sexual misconduct affects individuals of all genders, gender identities, gender expressions, and sexual orientation, and does not discriminate by racial, social, or economic background. The Conservatory will utilize this general term in both its [Title IX Policy](#) as well as its [GBM Policy](#), as appropriate.

Sexual Assault

Having or attempting to have sexual intercourse or sexual contact with another individual without consent. This includes sexual intercourse or sexual contact achieved by the use or threat of force or coercion, where an individual does not consent (*see definition for "Consent" above*) to the sexual act, or where an individual is incapacitated. Sexual assault includes the following:

- Penetrating or attempting to penetrate another individual without their consent. This includes vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact.
- Having or attempting to have sexual contact with another individual without consent. Sexual contact includes kissing, touching the intimate parts of another, causing the

other to touch one's intimate parts, or disrobing of another without permission. Intimate parts may include the breasts, genitals, buttocks, mouth, or any other part of the body that is touched in a sexual manner.

**Sexual Assault will typically be considered under the Conservatory's Title IX Policy unless certain jurisdictional criteria is not met. In those situations, the Conservatory has the discretion to consider such conduct under its GBM Policy.*

Sexual Exploitation

An act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any non-legitimate purpose. Examples include, but are not limited to: observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved; non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved; prostituting another individual; knowingly exposing another individual to a sexually transmitted disease or virus without his or her knowledge; and inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

**Sexual exploitation is prohibited behavior that will typically be addressed through the Conservatory's GBM Policy unless it is consolidated with other forms of Title IX prohibited conduct in this section. In those situations involving consolidation under the Title IX Policy, the Conservatory requires a substantial factual overlap with the allegations of the specific matter at hand before this Title IX Policy will be utilized.*

Intimate Partner Violence

Intimate partner violence, also referred to as dating violence, domestic violence, or relationship violence, includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual or dating relationship with that person. It may involve one act or an ongoing pattern of behavior. Intimate partner violence can encompass a broad range of behavior, including, but not limited to threats, assault, property damage, violence or threat of violence to one's self, one's sexual or romantic partner or to the family members or friends of the sexual or romantic partner. Intimate partner violence affects individuals of all genders, gender identities, gender expressions, and sexual orientation and does not discriminate by racial, social, or economic background.

The Conservatory will not tolerate intimate partner violence of any form. The Conservatory also recognizes that certain forms of sexual harassment, sexual assault, sexual exploitation, stalking, harm to others, emotional and psychological abuse, harassing conduct, and retaliation may all be forms of intimate partner violence when committed by a person who is or has been involved in a sexual, dating or other social relationship of a romantic or intimate nature with the reporting party. In such situations, all potential charges may be included.

**Intimate Partner Violence will typically be considered under the Conservatory's Title IX Policy unless certain jurisdictional criteria is not met. In those situations, the Conservatory has the discretion to consider such conduct under its GBM Policy.*

Pregnancy and Lactation Discrimination

Individuals that are pregnant, have given birth, or have related issues (including lactation) may request a reasonable accommodation to enable them to attend school and/or perform their job. If an individual believes that they were discriminated against because of any of these issues or other related issues, that could violate the GBM Policy.

Sexual Harassment

Sexual harassment is a form of discriminatory harassment occurring within an employment or educational context that federal and state law addresses with very specific provisions. In cases where sexual harassment is alleged, the Conservatory has a duty to act promptly, so as to assure that if such harassment is, in fact, occurring or has occurred, corrective action is taken and further harm is prevented.

Unwelcome sexual advances, requests of sexual favors, and/or other verbal or physical contact of a sexual nature constitute sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic or employment success (also known as *quid pro quo* harassment),
- submission to or rejection of such conduct by an individual is used as the basis for academic or employment evaluation and decisions affecting such an individual (also known as *quid pro quo* harassment), or
- such conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile, or offensive living, learning, or work environment (also known as the creation of a hostile environment).

The effect of sexual harassment will be evaluated based on the perspective of a reasonable person in the position of a Reporting Party. A single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to provide a hostile environment, particularly if the harassment is physical. However, under the new federal regulations, behavior must be severe and pervasive, as well as subjectively and objectively offensive. That is, not only must the Reporting Party feel that the behavior is offensive, but a reasonable person similarly situated must also consider such behavior to be offensive.

**Sexual Harassment will typically be considered under the Conservatory's Title IX Policy unless certain jurisdictional criteria is not met. In those situations, the Conservatory has the discretion to consider such conduct under its GBM Policy.*

Stalking

A course of conduct directed at a specific person that would cause a reasonable person to: fear for their safety or the safety of others; or suffer substantial emotional distress. This includes

cyber-stalking, a particular form of stalking in which electronic media is used to pursue, harass, or make unwelcome contact with another person. Stalking may involve individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals not known to one another.

**Stalking will typically be considered under the Conservatory's Title IX Policy unless certain jurisdictional criteria is not met. In those situations, the Conservatory has the discretion to consider such conduct under its GBM Policy.*

Retaliation

Acts or attempts to retaliate or seek retribution against the reporting party, responding party, or any individual or group of individuals involved in the investigation and/or resolution of an allegation; including subjecting a person to an adverse employment or educational action because they made a complaint under any portion of the Title IX Policy or the GBM Policy, or responded to, assisted or participated in any manner in an investigation under either Policy. Any individual or group of individuals, not just a responding party or reporting party, can be guilty of retaliation. Retaliation may include continued abuse or violence and other forms of harassment.

Retaliation allegations may be consolidated with other forms of prohibited conduct defined in this section if the facts and circumstances significantly overlap. If the facts and circumstances do not significantly overlap, then the Conservatory retains discretion to adjudicate the allegation under a different but appropriate policy. For example, if a Responding Party retaliates against a Reporting Party with regard to the filing of a complaint, that behavior could be consolidated with the other prohibited conduct alleged, provided appropriate notice is afforded. On the other hand, if the retaliatory conduct is committed by one of the parties' friend group who are not otherwise subject to a grievance under this Title IX Policy, that behavior could be adjudicated under another student or employee conduct policy which prohibits such behavior.

Prohibited Sexual Relations with Students

No employee shall request or accept sexual favors from, or initiate or engage in a romantic or sexual relationship with, any student of any status at NEC. Unless specific written permission is provided in extremely limited circumstances¹ to be discussed with NEC's Human Resources office, this is an absolute prohibition.

**This form of relationship is prohibited behavior that will typically be addressed through the Conservatory's GBM Policy unless it is alleged to be a form of sexual harassment, in which case NEC reserves the right to use its Title IX Policy. NEC also reserves the right to consolidate this*

¹ NEC requires notice of any existing relationships that may exist, and the factors that NEC will consider in granting permission to continue such a relationship will be extremely fact specific and limited. For example, if an individual was married to a faculty member and decided to return to NEC to pursue a degree opportunity, that factor would be considered but the individuals may still be restricted from providing academic or professional opportunities to each other to avoid the risk of impropriety.

form of prohibited conduct with other forms of Title IX prohibited conduct in this section. In those situations involving consolidation under the Title IX Policy, the Conservatory requires a substantial factual overlap with the allegations of the specific matter at hand before this Title IX Policy will be utilized.

Relationships between Individuals of Different Conservatory Status

Amorous relationships between individuals of different Conservatory status that occur outside the instructional context can also lead to difficulties. In a personal relationship between an instructor or other faculty or staff member, and an individual for whom the instructor or other faculty or staff member has no current professional responsibility, the instructor or other faculty or staff member should be sensitive to the possibility that he or she may unexpectedly be placed in a position of responsibility for that individual's instruction or evaluation. This could involve being called upon to write a letter of recommendation or to serve on an admissions or selection committee involving the individual. In addition, one should be aware that others may speculate that a specific power differential exists even when there is none, giving rise to assumptions of inequitable academic or professional advantage for the student involved. Although graduate students, teaching fellows, tutors, and undergraduate course assistants may be less accustomed than Faculty members to thinking of themselves as being in a position of greater authority by virtue of their professional responsibilities, they should recognize that they might be viewed as more powerful than they perceive themselves to be. Unless specific written permission is provided in extremely limited circumstances to be discussed with NEC's Human Resources office, this is an absolute prohibition. **This form of relationship is also prohibited behavior that will typically be addressed through the Conservatory's GBM Policy unless it is alleged to be a form of sexual harassment, in which case NEC reserves the right to use its Title IX Policy. NEC also reserves the right to consolidate this form of prohibited conduct with other forms of Title IX prohibited conduct in this section. In those situations involving consolidation under the Title IX Policy, the Conservatory requires a substantial factual overlap with the allegations of the specific matter at hand before this Title IX Policy will be utilized.*

Other Prohibited Forms of Sex Discrimination

This includes forms of different treatment on the basis of sex (including on the basis of sexual orientation, gender identity, and/or gender expression) that is not otherwise set forth as Prohibited Conduct (above). Such conduct will be treated under NEC's GBM Policy unless the Title IX Coordinator, in consultation with appropriate Conservatory officials, determines otherwise.

PROCESS

The following is the process by which the New England Conservatory will investigate a violation of its Gender Based Misconduct Policy ("GBM Policy"). The conduct prohibited by this GBM Policy, as well as other helpful definitions, can be found in the [Definitions section](#). Please also review the Conservatory's [Title IX Sexual Misconduct Policy](#). While the Title IX Policy and the GBM Policy have similar processes, there are also important difference that are based on the

federal regulations. If you are unclear about any of the provisions below and would like to get more information, you may speak on a non-confidential basis with the Title IX Officer:

Nick Macke, Title IX Coordinator
Office of Human Resources
St. Botolph Building, room 203
nick.macke@necmusic.edu
617-585-1229

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1. Initial Steps

After receiving a report of conduct that could fall under the GBM Policy, the Title IX Officer² will take a number of initial steps; these initial steps are not an investigation. Rather, these initial steps will enable the Conservatory to assess the need to take any immediate action to address the safety and health needs of the parties involved in a matter, to help the parties determine the next appropriate steps, whether under this GBM Policy or a referral to another Conservatory policy.

These initial steps may include, but are not limited to, the following:

- A. The Title IX Officer will contact the party making the initial allegation (the “Reporting Party”) and encourage them to meet virtually or in person to discuss the nature and circumstances of the reported conduct, review relevant documentation that is available, and describe the various options available to them.
- B. Regardless of whether a Reporting Party decides to participate in an adjudication process, they may be entitled to supportive measures. Supportive measures, as defined in the [Definitions section](#) of this Policy, are non-disciplinary, non-punitive individualized services, offered as appropriate, as reasonably available, and without fee or charge to either the Reporting Party or the Responding Party before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures are designed to restore or preserve equal access to Conservatory’s educational programs or activities, and they will be designed so as not to unreasonably burden the other party. Supportive measures may include, but are not limited to, the following: counseling; academic accommodations, such as extensions of deadlines or other course-related adjustments; course changes or drops; modifications of work or class schedules; campus escort services; mutual restrictions on contact between the parties; residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate; changes in work locations; leaves of

² Note: where the Title IX Officer is listed as the point of contact for any role in the GBM Policy, they may designate a Deputy Title IX Officer or another qualified member of the Conservatory community to assume the role, as necessary and appropriate.

absence; increased security and monitoring of certain areas of the campus; and no trespass notices, among others. Factors to be considered in determining reasonable supportive measure may include the following:

- the specific need expressed by the requesting party;
- the burden of the measure, if any, on the other party;
- the severity and/or pervasiveness of the allegations;
- whether the parties share the same residence hall, dining hall, class, performing or practice spaces, extracurricular activities, transportation and/or job location; and
- whether other judicial measures have been taken to protect a party or the parties.

The decision to impose supportive measures or any interim restrictions will be communicated by the Title IX Officer in writing. The Conservatory will seek to be transparent with regard to the supportive measures provided to the parties and which impact both parties. The Conservatory may be limited in certain situations when student or employee privacy issues prevent disclosures.

- C. The Title IX Officer will explain the GBM Policy and the different options and protections available to the parties. The Title IX Officer will also explain the right to report and the right to delay or decline to report the matter to the Conservatory. The parties may choose to report to such conduct to local law enforcement if the conduct is potentially criminal in nature. Such a report will not change the Conservatory's obligation to potentially investigate the matter, but it may briefly delay the timing of the investigation if a law enforcement agency requests that the Conservatory delay its process for a reasonable amount of time to allow it to gather evidence of criminal conduct. The Conservatory will typically not consider a criminal proceeding on the same facts in its process because the Conservatory does not use the same process or standard of proof as a criminal process. Typically, the Conservatory will only inquire about criminal processes if they impact an individual's ability to access or utilize the Conservatory's process. In no instance will a concurrent criminal proceeding, by itself, lead to an adverse inference against the Responding Party.
- D. The Title IX Officer will also discuss the next steps in terms of formally reporting allegations of sexual misconduct. If the Reporting Party wishes to move forward with a formal complaint under this Policy, the Reporting Party must provide a statement of allegations in writing. If, at this time, the Reporting Party requests that the process not move forward or move forward under a different policy, the Conservatory will weigh that request against the obligation to address any risk of harm to the Reporting Party or other individuals in the community given the nature of the incident. The Conservatory reserves the right to move forward with a formal complaint process unilaterally by signing a complaint or statement of allegations against another party. This will be utilized in limited situations in which the Conservatory has a concern related to the

safety of the broader community. In such situations, the Conservatory is not a party and will provide notice, as set forth below, to both the Reporting and Responding Party

- E. Upon reviewing any written complaint materials, if the Title IX Officer determines that the conduct would, if proven, be prohibited by this Policy, it will move to the next phase of this process. If the conduct, if proven, would not implicate this Policy, the Title IX Officer may dismiss the matter without limiting the individual's ability to provide additional information, or the Title IX Officer may refer the matter directly to the staff that is charged with executing any other relevant policy that may be implicated. For example, a claim of harassment that is based on race or disability status, even if proven, may not violate the GBM Policy. The Conservatory could, in that circumstance, refer the matter directly to the process prohibiting general discrimination and harassment.

2. The Investigation Phase

- A. **Notice of an Investigation.** If it is determined that an investigation will begin, the Title IX Officer will prepare a written notice to both parties that will include a description of the allegations as they are understood at the time and including the name(s) of the parties, the date and location of the conduct in question, the allegations and the portions of the policy that are alleged to have been violated, any interim measures in place that either party must be made aware, and a statement that the Responding Party is presumed not responsible for the alleged conduct. This written notice does not constitute a finding or a determination of responsibility. Further, the written notice will be updated or amended if new allegations are raised by either party and accepted for investigation.
- B. **Information about Advisors in Connection with this Policy.** In connection with an allegation of sexual misconduct, as defined in the [Definitions section](#) of this Policy, each party may have a single advisor of their choice present during any formal disciplinary proceeding, including any related meeting, interview, or hearing, held pursuant to the GBM Policy. Advisors may advise their respective party privately, but cannot act as a speaking advocate at a meeting. Conservatory staff and internal/external investigators may delay or terminate meetings, remove or dismiss advisors, and/or proceed with the investigation if an advisor is disruptive or otherwise refuses to comply with the requirements of this Policy. An advisor is subject to the same confidentiality expectations applicable to others in attendance as outlined in the Student Handbook. Accommodations, including scheduling of interviews or reviews, generally will not be made for any advisors if they unduly delay the process. The advisor is not permitted to attend a meeting or proceeding without the party they are advising being present without the prior approval of the Title IX Officer. The Conservatory reserves the right to take appropriate action regarding any advisor who disrupts the process or who does not abide by the rules regarding their participation.

- C. **Designation of Investigator.** The Title IX Officer will designate at least one investigator to conduct a prompt, fair, and impartial investigation of the reported conduct and prepare a report of investigative findings (the “Investigative Report”). All investigators will be selected from a group of qualified and trained individuals employed by or engaged by the Conservatory for the purpose of conducting investigations under the GBM Policy. The Title IX Officer will provide the parties with the name of the person(s) assigned to investigate the reported conduct. As soon as possible, but no later than three (3) calendar days after delivery of the identity of the Investigator(s), the parties shall inform the Title IX Officer (in writing) of any conflicts of interest with regard to the selected Investigator(s). The Title IX Officer will consider the nature of the conflict and determine if different individuals should be assigned as Investigator(s). The Title IX Officer’s decision regarding any conflicts is final. The Title IX Officer may consult with other Conservatory personnel to discuss any conflicts of interest.
- D. **Nature of the Investigation.** The investigation provides an opportunity for fact-finding and will include separate interviews with the reporting party, the responding party, and any relevant witnesses. The Investigator(s) will provide the parties with advance notice of meetings at which their presence is required.
- E. **The Parties’ Identification of Potential Witness and Documentation.** The parties have the opportunity (and are expected) to provide the Investigator(s) with the identification of potential witnesses who have specific information about the reported conduct and with whom they would like the Investigator(s) to speak. The parties also have the opportunity (and are expected) to provide the Investigator(s) any documentation or other items or questions they would like to be considered. All information described in this section must be presented to the Investigator(s) in writing and include a brief description as to how the persons, documents, and/or items are relevant to the reported conduct. This information must be provided to the Investigator(s) during the Investigation Phase and without delay upon becoming aware of it. The Investigator(s) will exercise discretion in their determination of what information to consider and which potential witnesses can provide relevant information to the investigation. The Conservatory reserves the right to limit the submission of evidence and information that was within the party’s possession or knowledge during the investigative phase if the Conservatory determines that the information was withheld for strategic advantage. Furthermore, the Conservatory reserves the right to interview any member of the Conservatory community that may have specific information about the incident that has been reported.
- F. **Investigation Prohibitions.** At no point will the investigation require both parties to be in the same room. At no point will either party be permitted to question or cross-examine the other party or any witness directly during the investigation, determination, or appeal process. Additionally, the Investigator(s) will not consider information related to either party’s sexual history unless deemed relevant to the incident in question.

G. **Other Informal Processes.** At any time prior to convening a Determination Panel, either party may request an informal resolution of a complaint rather than an investigation and/or hearing by contacting the Title IX Officer. The Title IX Officer will assess the request for informal resolution against the severity of the alleged violation and the potential risks to campus community members. All parties and the Title IX Officer must agree in writing to informal resolution for this option to be used. The Title IX Officer will designate a Conservatory representative or outside service provider to facilitate a dialogue with the parties in an attempt to reach a resolution. The Title IX Officer can end such a process if it becomes unproductive and/or abusive. The allegation will only be deemed resolved when the parties expressly agree to an outcome that is acceptable to them and which is approved by the Title IX Officer in consultation with other appropriate Conservatory administrators. Either party may withdraw from the informal resolution process at any time. The informal resolution process will be conducted in accordance with procedures specified by the Title IX Officer, as determined in his/her sole discretion.

3. Investigative Report and Determination of Responsibility by Determination Panel

A. **Content of the Investigative Report.** At the conclusion of the Investigation Phase, the Investigator(s) will prepare an Investigative Report, which should include a summary of the factual information presented during the Investigation Phase, a separate section where the Investigator(s) point out relevant consistencies or inconsistencies (if any) between all sources of information. Attached to the Investigative Report or made available with the Investigative Report, the Investigator will provide any relevant evidence gathered, whether inculpatory (*i.e.*, proving the responsibility of a party) or exculpatory (*i.e.*, proving that a party did not commit the conduct alleged). The Investigative Report will not include a determination as to whether a party has violated the GBM Policy or what sanctions may be appropriate. These determinations will be made by the Determination Panel, as described below.

B. **Review by the Parties.** Both parties will be informed of their opportunity to review the entire Investigative Report and that they may submit written comments and/or questions about the content of the Investigative Report to the Investigator(s) within ten (10) calendar days of the date they are notified that the Investigative Report is available for review. This review will take place at a secure location and in a secure manner determined by the Conservatory. The time to submit written comments can be extended for a brief period if the Title IX Officer concludes, in their sole discretion, that the additional time is warranted. In circumstances where an extension is provided to one party, it will be provided to the other party, as well. Likewise, the secure location and manner of reviewing the Investigative Report can be modified if the Title IX Officer deems it necessary and appropriate. Each party may have their advisor present as they review the Investigative Report, but the Conservatory reserves the right to monitor the review or create appropriate procedures to protect the privacy and sensitivity of the materials in question.

1. Photographs or any other copies of the Investigative Report are not allowed by either party or advisor. The comments submitted by the parties may not exceed ten (10) double spaced pages unless a higher page limit is otherwise determined to be necessary and appropriate in the sole discretion of the Title IX Officer. After reviewing the submissions, if any, from the parties, the Investigator(s) may determine that either additional investigation is required or no further investigation is needed. The investigator has the sole discretion to determine if any information submitted is irrelevant and therefore not to be considered and/or will be redacted. If further investigation is conducted, the Investigator(s) will include any additional relevant information in the Investigative Report.
 2. The Investigative Report will then be submitted to the Title IX Officer. Any submissions made by either party pursuant to this section, as well as any other documentation deemed relevant by the Investigator(s), will be attached to the Investigative Report.
- C. **Assigning the Determination Panel.** The Title IX Office will inform the parties of the identity of the Determination Panel, which will typically include between one and three employees of the Conservatory.³ Students may not serve on a Determination Panel. No later than three (3) calendar days after delivery of the identity of the assigned Determination Panel, the Parties should inform the Title IX Officer (in writing) of any conflicts of interest in regard to the selected Determination Panel member(s). If a conflict of interest is raised regarding any individual assigned, the Title IX Officer will consider the nature of the conflict and determine if different individual(s) should be assigned to hear the matter. This decision regarding any conflicts is final. The Title IX Officer will then provide the Determination Panel with the Investigative Report and set a subsequent date for a meeting to consider the report, interview the parties, and determine responsibility.
- D. **Review and Determination by the Determination Panel.** The Determination Panel will make a determination as to whether or not the Responding Party is responsible for violating the GBM Policy by having engaged in some or all of the reported conduct. The Determination Panel has the authority to accept the Investigative Report without seeking additional investigation, or to ask the Investigator(s) to conduct additional investigation on specific points prior to the hearing. If further investigation is required, the information learned will be conveyed to the parties at least five (5) days prior to the convening of the Determination Panel.

³ Typically the Determination Panel will include more than one individual. However, in circumstances in which only limited facts are in dispute, the Conservatory reserves the right to utilize a single Determination Panel member.

- E. **Notification of Investigation Outcome.** The Title IX Officer will inform the parties simultaneously and in writing of (i) the outcome of the disciplinary proceeding; and (ii) the procedures for either party to appeal the result of the disciplinary proceeding.

4. Appeals

- A. The following process applies to all appeals. Within five (5) calendar days of the delivery of the decision, either party may appeal the decision by submitting to the Title IX Officer a letter stating why they believe the decision was inappropriate. A party may only appeal on the following grounds:
- Procedural error that materially prejudiced the findings/outcome.
 - Newly discovered material information that was not known/available and which likely could have changed the finding of responsibility or the sanction imposed had it been available.
 - Bias or a conflict of interest with regard to the Title IX Officer, Investigator(s), or Determination Panel that materially impacted the outcome or the sanction.
- B. The party submitting the appeal must set forth in detail the grounds for review and must attach all materials that they wish to have considered in the appeal process. The Title IX Officer will provide a copy of the appeal to the other party, at which time they may provide a written response if they choose.
- C. The Appellate Officer(s): The Title IX Officer will provide both parties with the names of the Appellate Officer(s) for their case.⁴ As soon as possible, but no later than three (3) calendar days after delivery of the identity of the Appellate Officer(s), the parties should inform the Title IX Officer in writing of any conflicts of interest in regard to the assigned. The Title IX Officer will consider the nature of the conflict and determine if different individual(s) should be assigned to review the appeal.
- D. Sanctions of all types may be imposed while an appeal is pending at the sole discretion of the Conservatory.

5. Additional Issues

- A. **Disability Accommodations.** The Conservatory is committed to ensuring that all community members, and applicants, have an equal opportunity to participate in all of its programs and activities. If any person requires an accommodation because of

⁴ The Conservatory reserves the right to assign one or up to three individuals, who may be internal or external actors, to review the appeal. This decision will typically be made based on the individual claims investigated, the length or complexity of the factual record, and the specific challenges raised on appeal.

disability to access any part of this process they may make that request to the Dean of Students or the Director of Human Resources. Any accommodations will be provided in consult with the Title IX Officer to ensure it does not impact the rights or protections of any party or witness.

- B. **Duty of Honesty.** All parties and witnesses are obligated to be completely honest during the course of the entire process set forth in this Policy. Any person who knowingly makes a false statement – either explicitly or by omission – in connection with any part of the process may be subject to separate disciplinary action. A report made in good faith, however, is not considered false merely because the evidence does not ultimately support the allegation of violation of the Policy.
- C. **Duty of Cooperation.** All parties and witnesses are obligated to cooperate with the Title IX Officer and any persons charged with implementing the Policy. Any person who knowingly interferes with the actions taken to implement the reporting, investigation, or resolution of matters under the Policy may be subject to separate and/or additional disciplinary action. Please note that the Duty of Cooperation will not be utilized to undermine an individual’s decision not to take part in this process if it would force them to forfeit any constitutional rights in a criminal investigation involving the same or similar facts and circumstances.
- D. **Special Situations.** The Conservatory retains the right to determine, in its sole discretion, if it will address a report of conduct under this Policy administratively and outside of the process described herein when the safety of the Conservatory community is at risk, if there are extenuating circumstances involving either of the parties, or if the Title IX Officer, in consultation with appropriate administrators, determines it is in the best interest of the Conservatory and/or the Conservatory community to do so. If the Conservatory utilizes this provision to alter the process set forth in this Policy, it will clearly communicate changes to the parties in a reasonable and timely manner.
- E. **Delegation.** Where the Title IX Officer or any other Conservatory official or employee is listed as the designated point of contact for any role in the Policy, the Title IX Officer may designate another qualified member of the Conservatory community or an external actor to assume the role at issue, as necessary and appropriate.