

**POLICY ON SEXUAL AND GENDER-BASED HARASSMENT,
SEXUAL ASSAULT, AND OTHER FORMS OF INTERPERSONAL VIOLENCE**

Revised: January 2017

I. Statement of Policy

The members of Brite Divinity School (“Brite”) hold each other and the institution to the highest standards of personal and professional conduct and behavior. Brite does not discriminate on the basis of sex or gender in its education or employment programs or activities, and seeks to provide a community free of discrimination, harassment in various forms, abuses of power at personal and institutional levels, and other behavior that demeans individuals or diminishes human integrity. Sexual harassment, including sexual assault, is a form of sex discrimination and is prohibited by Title IX of the Education Amendments of 1972 (“Title IX”). This policy prohibits behavior that violates Title IX and Title VII of the Civil Rights Act of 1964 (“Title VII”). Brite is also required to fulfill certain obligations when such prohibited behavior occurs under the Violence Against Women Reauthorization Act of 2013 (“VAWA”) and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”).

Brite prohibits Sexual and Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, and Retaliation as those terms are defined herein. It is also a violation of this policy to assist or encourage another person in the commission of any act prohibited by this policy. The conduct prohibited by this policy is unlawful and inconsistent with the mission and values of Brite, and will not be tolerated.

II. Policy Application

This policy applies to all Brite students, Brite employees, applicants for admission and employment, and contractors, vendors, visitors, and guests of Brite relating to conduct prohibited by this policy, when such conduct (1) occurs on Brite’s campus or other property owned or controlled by Brite, (2) occurs in the context of a Brite employment or education activity or program, or (3) occurs outside the context of a Brite education or employment program or activity but has continuing negative effects on Brite’s students, employees, or others while on Brite property or while engaged in a Brite education or employment program or activity or otherwise affects a substantial interest of Brite.

Brite’s Equal Opportunity and Harassment Policy addresses all other forms of harassment and discrimination. It is located at 2.013 of the Brite Support Manual, Policy 1.005 in the Appendix of the Brite Governance Manual, and Section 3.4 of the Student Handbook of General Information.

III. Responsibility

The Title IX Coordinator is responsible for monitoring and overseeing Brite’s compliance with Title IX, coordinating Brite’s response, investigation and resolution of all reports made under this policy, and ensuring Brite takes appropriate actions to eliminate, prevent the recurrence of, and remedy the effects of conduct prohibited by this policy. The Title IX Coordinator is also responsible for ensuring appropriate education and training.

The Title IX Coordinator at Brite Divinity School is:

Joretta L. Marshall
Executive Vice President and Dean
2925 Princeton St.
Fort Worth, TX 76129
Phone: 817.257.7577
Email: j.marshall@tcu.edu

The Title IX Coordinator is available to meet with any student, employee or third-party to discuss this policy or the applicable procedures. The Title IX Coordinator may be contacted in person or by telephone or email during regular office hours.

The Title IX Coordinator receives appropriate training to ensure the responsibilities are discharged in compliance with the law. Concerns about Brite’s compliance with Title IX, VAWA, Title VII, or the Clery Act may be addressed to the Title IX Coordinator. Additionally, concerns may also be addressed to the following:

U.S. Department of Education	U.S. Equal Employment Opportunity Commission
Dallas Office	Dallas Office
Office for Civil Rights	207 S. Houston St., 3 rd Floor
U.S. Department of Education	Dallas, TX 75202
1999 Bryan Street, Suite 1620	Tele: 1-800-669-4000
Dallas, Texas 75201-6810	Fax: 214-253-2720
Telephone: 214/661-9600 or 800-421-3481	TTY: 1-800-669-6820
FAX: 214/661-9587; TDD: 800-877-8339	www.eeoc.gov
OCR.Dallas@ed.gov	

IV. **Prohibited Conduct**

1. **Sexual and Gender-based Harassment.**

Sexual Harassment is any unwelcome sexual advance, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, physical, visual, or written (in writing or electronically) when (1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, academic standing, or participation in a Brite program or activity or is used as the basis for Brite’s decisions affecting the individual (“quid pro quo” harassment) or (2) such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creates an intimidating, hostile, or offensive environment for work, academics or other participation in a Brite program or activity. Sexual harassment can involve any person(s) regardless of gender or gender identity.

Gender-based Harassment is harassment based on an individual’s gender, gender identity, gender expression, or sexual orientation, and may include verbal, non-verbal, physical, visual or written (in writing or electronically) conduct, when (1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, academic standing, or participation in a Brite program or activity or is used as the basis for Brite’s decisions affecting the individual (“quid pro quo” harassment) or (2) such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creates an intimidating, hostile, or offensive environment for work, academics or other participation in a Brite program or activity. Gender-based harassment may include acts of aggression or intimidation, and does not have to include acts of a sexual nature.

Examples of sexual and gender-based harassment that violate this policy include verbal or written conduct (comments about personal behavior, body, jokes, organized hate activity), physical conduct (rape, assault, inappropriate touching), nonverbal conduct (derogatory gestures or facial expressions, stalking), or visual displays (drawings, inappropriate screensavers, epithets or phrases with implicit content of sexual nature). The following are illustrative; this is not an exhaustive list:

- Making offensive, derogatory or degrading comments related to an individual’s gender, gender identity, or sexual orientation
- Touching in a way that may make someone feel uncomfortable, such as patting, pinching, or intentional brushing against another’s body
- Telling sexual jokes or jokes about someone’s gender, gender expression, or sexual orientation
- Sending, forwarding, or soliciting sexually suggestive letters, notes, emails, or images
- Sexually derogatory words, phrases, epithets, characterizations, negative stereotypes

- Physical assaults of a sexual nature, such as rape, including acquaintance or date rape, or attempts to commit such an assault, and unwelcome physical conduct or conduct of a sexual nature, such as unwanted touching, impeding or blocking another person's movements, brushing against, leering at, or making sexual gestures to another person
- Threatening or engaging in reprisals or retaliation after such an overture is rejected
- Implying or threatening that submission to sexual advances or conduct will have an impact on academic admission, grades, reference letters, participation in any Brite program or activity, employment, salary increase or decrease, or promotion

2. Sexual Assault

Sexual Assault includes (1) **Non-consensual sexual contact** and (2) **Non-consensual sexual intercourse**.

Non-consensual sexual contact means any intentional sexual contact, however slight, with any body part or object, by a person upon another person without consent, including instances where that person is incapable of giving consent and/or is by force. Sexual contact includes (1) intentional contact with the breasts, groin, genitals, or buttocks, whether clothed or unclothed, or mouth, or touching another with any of these body parts, or (2) making another touch you or themselves with or on any of these body parts.

Non-consensual sexual intercourse means any sexual intercourse, however slight, with any object by a person upon another person that is without consent and/or by force.

Sexual intercourse includes: Vaginal or anal penetration by a penis, tongue, finger or object, or any contact between the mouth of one person and the genitals of another person, no matter how slight the penetration or contact.

Sexual assault includes an offense that meets the following definitions of rape, fondling, incest, or statutory rape:

Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.

Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape: Sexual intercourse with a person who is younger than 17 years of age and is not a spouse of the Respondent.

Consent to sexual activity is defined as knowing, active, and voluntary permission between the participants, clearly expressed by words or by actions, to engage in mutually agreed upon sexual activity. Consent to some sexual acts does not constitute consent to others, nor does past consent constitute present or future consent. Consent can be revoked at any time. Silence by itself cannot constitute consent. Consent cannot be given by a person who the other person knows, or reasonably should know, is asleep, unconscious, or physically unable to resist. Consent cannot be given by a person who, because of a mental disease or defect, or intoxication due to alcohol, drugs, or some other intoxicants, a sedative, or "date-rape" drug, is known by the other person to be incapable of appraising the nature of the act, making informed, rational judgments about whether or not to engage in sexual activity or resisting sexual activity.

Consent cannot be compelled by coercion, intimidation, deception, force, or threat of force. Consent given under such circumstances does not constitute willing and voluntary agreement. Consent cannot be given where an individual has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge. Consent cannot be given if it is coerced by supervisory or disciplinary authority. Consent cannot be given by a person younger than 17 years of age.

3. Intimate Partner Violence (IPV) includes any act or threatened act of abuse or violence that occurs between individuals who are or have been involved in a dating, domestic, spousal or other intimate relationship. IPV includes "dating violence" and "domestic violence," as defined by VAWA:

Dating Violence is abuse or violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or threat of such abuse, and does not include acts covered under the definition of domestic violence.

Domestic Violence is abuse or violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person with whom the Complainant is cohabitating (or has cohabitated) as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws in the State of Texas, 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 State of Texas.

IPV may also include other forms of conduct prohibited by this policy, including Sexual Assault and Stalking.

4. Stalking occurs if a person engages in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for his/her own safety or the safety of others, or 2) would cause that person to suffer substantial emotional distress. A "course of conduct" means two or more acts in which a person directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about another person or interferes with a person's property. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the Complainant. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

5. Sexual Exploitation refers to a situation in which a person intentionally takes non-consensual sexual advantage of another. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed).
- Invasion of sexual privacy.
- Taking pictures or video or audio recording another in a sexual act or in any other private activity without the consent of all involved in the activity, (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
- Administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent (assuming the act is not completed).
- Exposing one's genitals in non-consensual circumstances.
- Exposing another person to a sexually transmitted infection or virus without the other person's knowledge.

6. Retaliation means any adverse action taken against a person who in good faith makes a report of or opposes conduct of the type prohibited by this policy or who has testified, assisted, or participates in an investigation or proceeding under this policy. Retaliation includes conduct that would

dissuade a reasonable person from making a report of prohibited conduct or otherwise engaging in an activity protected by this policy. Retaliation includes acts of intimidation and threats.

V. Available Resources

There are a number of resources available to provide support and guidance to students and employees who experience incidents of conduct prohibited by this policy, including sexual assault, interpersonal violence, and stalking. These include medical, law enforcement, and counseling resources, as well as other resources provided by Brite.

1. Medical Assistance

An individual who has been sexually assaulted or subject to any other form of interpersonal violence is strongly encouraged to seek immediate medical care.

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| * John Peter Smith Hospital | 1500 S. Main Street
Fort Worth, Texas 76104
(817) 702-3431 |
| * Texas Health Resources –
Harris Methodist Hospital | 6100 Harris Pkwy.
Fort Worth, Texas 76132
(817) 433-5000 |

At John Peter Smith Hospital or Texas Health Resources – Harris Methodist Hospital, a certified Sexual Assault Nurse Examiner (SANE Nurse) can provide medical care, assess injuries related to physical and can, within 72 hours after a sexual assault, conduct a forensic exam. The SANE Nurse collects and documents evidence, and may also collect urine and blood samples for toxicology testing. It is not necessary to report an incident to law enforcement or Brite in order to receive medical attention or a forensic exam. A support person can be present throughout the exam. Even if you decide not to contact law enforcement, medical care is important. Regardless of whether a forensic exam is obtained, individuals are encouraged to seek medical care from a medical provider to address any medical concerns, including concerns of sexually transmitted diseases and pregnancy. Brite students may also seek medical assistance at the TCU Health Center.

- * These resources are available 24 hours/7 days a week.

2. Law Enforcement

Individuals are encouraged to report any criminal conduct to local law enforcement (the Police) immediately. The Police may be able to obtain and execute search warrants, collect forensic evidence, make arrests if there is probable cause to do so, and assist in seeking protective orders.

For immediate assistance: A person who feels physically threatened or who has been the victim of violence, including sexual assault, intimate partner violence, or stalking, should call 911.

Local police can also be reached at the following numbers:

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|--------------------------|----------------|
| * Fort Worth Police | (817) 335-4222 |
| * Tarrant County Sheriff | (817) 884-3099 |
| * TCU Police | (817) 257-7777 |

- * The Police are available 24 hours/7 days a week.

Individuals can notify law enforcement but can also decline to do so. Brite will assist any individual with notifying law enforcement if they choose to do so. For additional information about the criminal laws in Texas regarding sexual assault, stalking, dating violence and domestic violence, see Section VII. below.

3. Confidential Support and Counseling Services

Students and employees are also encouraged to seek immediate and ongoing emotional support after an incident of sexual assault, interpersonal violence, or stalking. Available resources include the following:

A. Emergency Support Services:

- * Rape Crisis and Victim Services (817) 972-2737
- * Safe Haven (877) 701-7233
- * TCU Counseling Helpline (817) 257-7233

B. Ongoing Support Services:

- * Rape Crisis and Victim Services (817) 972-2737
- * Safe Haven (877) 701-7233
- * TCU Counseling Helpline (817) 257-7233
- TCU Counseling Center (817) 257-7863
- Certified Confidential Advocate (817) 257-5225
- Assistant Dean for Common Life (817) 257-7513

* These resources are available 24 hours/7 days a week.

Confidential counselors can provide trauma-informed support and information about other services and reporting options. Information provided to confidential sources will not be reported to the Title IX Coordinator (or anyone else) for investigation and resolution without consent. However, in some cases, information can be disclosed without consent (for example, when allegations involve abuse of a minor).

4. Brite Resources, Remedial and Protective Support

Individuals are strongly encouraged to report violations of this policy to the Title IX Coordinator or to an employee who will report the information to the Title IX Coordinator. All reports of conduct prohibited by this policy should be directed to the Title IX Coordinator by telephone, email or in person during regular office hours. If the report is against the Title IX Coordinator, it should be directed to Brite's President. If the Title IX Coordinator is not immediately available, the matter should be referred to the President of Brite. Likewise, if the allegation is against the Title IX Coordinator, the President of Brite should be notified immediately and will function as the Title IX officer.

As used in this policy, "Complainant" means a student, employee, or third party who presents as the victim of any conduct prohibited by this policy. "Respondent" means the student, employee, or third party who has been accused of engaging in conduct in violation of this policy.

If a Complainant asks that their identity not be shared with the Respondent, that no investigation be pursued, and that no disciplinary action be taken, Brite will attempt to honor this request unless there is a health or safety risk to the Complainant or any other member of the Brite community.

A. Remedial and Protective Measures

Brite offers a number of resources for all students and employees in response to a report of conduct prohibited by this policy. Upon receiving a report of conduct prohibited by this policy, the Title IX Coordinator will determine whether reasonable supportive, remedial (to address a Complainant's continued access to Brite's programs and activities) and/or protective (action against a Respondent) measures may be helpful and appropriate. Brite will provide support and guidance throughout the process to students and employees, whether as Complainant or Respondent.

Brite will provide reasonable remedial and protective measures to third parties as available, depending on the nature of the relationship between Brite and the third party.

The availability of remedial and/or protective measures will be determined on a case by case basis, keeping in mind the needs of the individual seeking the remedial and/or protective measures, the severity of the alleged conduct, whether the Complainant and Respondent share any classes, residence hall, dining hall, etc., and whether there are any continuing effects on the Complainant. Brite will attempt to

minimize the burden on the individual the remedial and/or protective measures. When allegations involve employees, the Title IX Coordinator may work with others, including TCU's HR Department, to determine appropriate supportive, remedial and/or protective measures.

Remedial and protective measures may be temporary or permanent, and may be modified by Brite as appropriate. Brite will maintain the privacy of remedial or protective measures to the extent practicable. Examples of such measures include, but are not limited to:

- issuing a No Contact Order;
- arranging access to counseling or medical services and assisting with setting up the initial appointments;
- academic support;
- modifying housing, transportation, parking and employment arrangements;
- visa and immigration assistance;
- safety planning; and
- imposing interim disciplinary sanctions against a Respondent.

Reports of conduct prohibited by this policy should be made as soon as possible after an incident. While there is no time limit for making a report under this policy, delays in reporting may limit Brite's ability to respond to a report. If the Respondent is no longer a student or employee, Brite will provide reasonably appropriate remedial measures and take reasonable steps to eliminate the conduct, prevent its recurrence, and remedy its effects.

A Complainant may choose to make a report to law enforcement, to Brite, to both, or to neither. A Complainant may also wish to disclose the incident to a Confidential Employee or seek other available resources.

Bystanders are encouraged to offer help and assistance to others in need.

B. Maintaining Privacy and Confidentiality

It is important to understand that reporting an allegation of conduct prohibited by this policy may trigger a different action based on the status of the person to whom the report is made. Also, privacy and confidentiality have different meanings under this policy.

Privacy means that information shared or learned in connection with a report of conduct prohibited by this policy will be shared with a limited number of Brite employees or outside investigators hired by Brite in order to assist in the assessment, investigation and resolution of the report of prohibited conduct. The privacy of records will be protected in accordance with applicable stated and federal privacy laws, including the Family Educational Rights and Privacy Act ("FERPA") and the Health Insurance Portability and Accountability Act ("HIPAA").

Confidentiality relates to communications made in the context of certain relationships, including medical care providers, mental health providers, counselors, and ordained clergy, who may engage in confidential communications under the law. Brite has designated individuals who may engage in confidential communications as "Confidential Employees." When information is shared with a Confidential Employee, he or she will not disclose the information to a third party except as authorized by law or in response to a court order. For example, information may be disclosed if there is concern of serious physical harm to self or others, or the information involves suspected abuse or neglect of a minor.

Employee's Responsibility to Report Student Disclosures or Information about Conduct Prohibited by This Policy

At Brite, an employee's responsibility to report incidents of conduct prohibited by this policy involving students depends on whether the reporting employee is a Responsible Employee or a Confidential Employee.

A **Responsible Employee** is any Brite employee who is not identified as a Confidential Employee. A Responsible Employee is required to report to the Title IX Coordinator all relevant information and details about an incident of conduct prohibited by this policy that involves a Brite student as a Complainant, Respondent, and/or witness. The information must include names of parties and witnesses, dates, times,

and locations. Responsible Employees are not required to report information disclosed at a public awareness event, such as “Take Back the Night” or other similar events.

A **Confidential Employee** is (1) an employee who is a licensed medical, clinical or mental-health professional (e.g. doctor, nurse, physiatrist, psychologist, professional counselor and social worker), when acting in his or her professional capacity in the provision of services to a patient who is a student; (2) a certified confidential advocate, (3) the Assistant Dean for Common Life, acting in her or his professional capacity or (4) an ordained clergy member, acting in his or her professional capacity. A Confidential Employee will not disclose information reported to him or her about conduct prohibited by this policy to the Title IX Coordinator without the student’s permission, except as required by law.

Employee’s Responsibility to Report Conduct Involving an Employee

Management and supervisors, including department chairs, deans, and other unit administrators, are required to report to the Title IX Coordinator all relevant details about conduct prohibited by this policy. Reporting is required when the person knows, or should have known, of such conduct.

Clery Act Reporting

Brite is required by the Clery Act to include statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifiable information about individuals involved in an incident. The Clery Act also requires Brite to issue timely warnings to its community about certain crimes that have been reported and may continue to pose a serious or continuing threat to students and employees. In accordance with the Clery Act, Brite does not disclose the names and other personally identifying information of Complainants when issuing timely warnings to Brite’s community.

VI. Investigation and Resolution Procedures for Reports of Conduct in Violation of this Policy

The response to both alleged and confirmed fractures of this policy will be guided by pastoral concern for all involved and Brite’s legal obligations. Brite’s efforts to resolve breaches of this policy are intended to be reconciling, restorative, liberating, and healing. At times, this can be accomplished by listening sympathetically and responding with apology, forgiveness, understanding, and a pledge to change behaviors not in keeping with Brite’s ethos. In other instances, reconciliation, restoration to the community, and the liberation and healing of individuals and community can occur only through confession and actions that demonstrate remorse, contrition, repentance and a desire to learn from mistakes. Some matters, however, require resolution in ways that call for accountability to an individual, or to the institution and to the community as a whole.

Upon receipt of a complaint or report alleging conduct prohibited by this policy committed by a student, Brite will take prompt, thorough, equitable and impartial action consistent with Brite’s policies and applicable laws and regulations.

Reports of conduct prohibited by this policy may be resolved by Alternate Resolution, which includes a variety of means for resolving reports and Formal Resolution, which involves an investigation, review and findings by a Hearing Committee, and imposition of sanctions, if appropriate. In cases where the Complainant requests anonymity, does not want to pursue an investigation and does not want to pursue disciplinary charges, Brite will determine if it can honor the Complainant’s request after determining whether there is a continuing danger to the Complainant or the Brite community.

PROCEDURES IF THE RESPONDENT IS A STUDENT

A. Initial Response

Upon receipt of a report alleging conduct in violation of this policy, the Title IX Coordinator will make an initial assessment to address any health or safety concerns for the Complainant and the Brite community. If the complaint has arisen in the context of a Field Education or Supervised Ministry setting, or if there is concern for the safety of persons in the setting, the Director of Field Education and Supervised Ministry will be alerted to the process and kept apprised of the decisions that emerge from the Hearing. The Title IX Coordinator, in consultation with the Director of Field Education and Supervised Ministry, will determine whether a student needs to be removed from the placement. Appropriate communication with

the supervising field supervisor will be the responsibility of the Title IX Coordinator, in consultation with the Director of Field Education and Ministry. If there is any concern for the safety and well-being of persons in the placement, the student may be removed from the placement until the matter is resolved.

The Title IX Coordinator will inform the Complainant of the right to seek medical treatment, of the importance of obtaining and preserving evidence, of the Complainant's right to contact law enforcement or decline to contact law enforcement, and/or to seek a protective order. The Title IX Coordinator will also inform the Complainant about available resources through Brite or available in the community, and about the right to seek appropriate and reasonable remedial and protective measures.

The Title IX Coordinator will also obtain sufficient information to commence an investigation, including the identity of the Complainant and Respondent and the date, time (if known), location and nature of the alleged conduct committed in violation of this policy. The Title IX Coordinator will inform the Complainant of the procedures for resolution, discuss any concerns the Complainant may have about participating in an investigation and resolution of a complaint, and explain that Brite prohibits retaliation against any person who makes a report of conduct prohibited by this policy or who participates in an investigation or proceeding under this policy.

The Title IX Coordinator will also determine if either party is a minor, and if so, will contact the appropriate child protective agency. The Title IX Coordinator will communicate with other Brite officials and/or the TCU police to determine whether the report triggers any Clery Act obligations. If a person chooses to file a complaint, he/she can pursue an alternate resolution process, when permissible, or a formal resolution process.

B. Resolution Process

The Title IX Coordinator and the Associate Dean for Academic Affairs will consult to make an initial determination of whether this policy applies. If a determination is made that this policy does not apply, the Title IX Coordinator will discuss other available options or resources with the Complainant and Respondent if appropriate.

1. If the Complainant wants to remain anonymous and does not want to pursue an investigation or disciplinary action against the Respondent. In such cases, the Title IX Coordinator and the Associate Dean for Academic Affairs will consider the following factors in determining whether the Complainant's request can be honored: (1) the totality of the circumstances, (2) whether the Respondent poses a health or safety risk to the Complainant or the Brite community, including consideration of the Respondent's prior arrest record, whether the Respondent has threatened violence, whether the allegations involve physical violence, use of a date-rape drug or other intoxicants, whether the Respondent has failed in the past to comply with Brite's protective measures or a protective order, whether the allegation involved multiple Respondents, whether the report reveals a pattern, whether the Complainant was a minor at the time of the alleged conduct, and other aggravating circumstances, (3) the potential impact on the Complainant, (4) evidence of admission or acceptance of responsibility by the Respondent, (5) independent information or evidence regarding the alleged conduct, and (6) other available and relevant information. Brite will attempt to honor the Complainant's request if it is possible to do so while protecting the health and safety of the Complainant and the Brite community.

If it is determined that Brite **can** honor the Complainant's requests, Brite may still take other appropriate measures to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the Complainant the Brite community. This may include, without limitation, remedial measures and/or targeted training or prevention programs. The Complainant, at any time, can request to pursue formal or alternate resolution (if available) and likewise, the Title IX Coordinator can reopen a report and pursue resolution under these procedures based on new or additional information.

If it is determined that Brite **cannot** honor the Complainant's requests, the Complainant will be notified, and the Title IX Coordinator will take appropriate actions, which may include, without limitation, interim protective measures and/or initiating an investigation and resolution under these procedures. In such case, Brite will

make reasonable efforts to protect the privacy of the Complainant; however, it may be necessary to speak with the Respondent and/or other witnesses, in which case the Complainant's identity may be disclosed. If the Complainant does not participate in an investigation, in the absence of independent evidence, Brite's ability to meaningfully investigate and respond may be limited

2. Alternate Resolution Process

In lieu of an investigation and the Formal Resolution Process, the Complainant may request that an alternate resolution process be used to resolve the report of conduct prohibited by this policy. Brite has the discretion to determine whether the reported conduct is appropriate for the alternate resolution and what form of alternate resolution is appropriate. If Brite determines the complaint is appropriate for alternate resolution, the Title IX Coordinator will notify the Respondent of the allegation and that the Complainant has elected to use the alternate resolution process to resolve the matter. If it is determined that the alternate resolution process is appropriate, the Title IX Coordinator, in consultation with the Associate Dean for Academic Affairs, will determine the type of alternate resolution process that is appropriate in the specific case. There are a variety of response options for resolving reports under this policy. For example, it may be determined that a particular allegation might be resolved through one-on-one communication or extended conversation with those involved. This may include situations where the Complainant feels like a situation is clearly a matter of misunderstanding or differing interpretation. In this case, a guided conversation between the two persons may occur with a third party. The third party might be someone from the Dean's office. At this level, the Assistant Dean for Common Life may be involved in navigating the conversation. Brite will not require a Complainant to directly face a Respondent.

In cases where the Complainant is a student and the Respondent is an Employee in a position of authority over the Complainant and in cases involving any form of violence, including allegations of Sexual Assault, Intimate Partner Violence, or Stalking, forms of alternate resolution that include use of face to face meetings such as mediation between the Complainant and Respondent is not available.

Alternate resolution is voluntary. At any time, the Complainant or Respondent can withdraw from the alternate resolution process or Brite can cease the alternate resolution process. Pursuing an alternate resolution process does not preclude use of the Formal Resolution process if the alternate resolution process does not reach a resolution satisfactory to the parties or Brite. If the alternate resolution is terminated, any statements or disclosures made by the parties can be used during a later investigation and Formal Resolution.

During the alternate resolution process, each party can consult with an advisor of their choice. The advisor may be any person, including an attorney, who is not a party or witness to the reported incident. The parties may be accompanied by their respective advisor of choice to any meeting or proceeding. An advisor may offer support and advice to the party, but may not speak for the party or otherwise participate in, or disrupt the meetings and/or proceedings.

If a resolution acceptable to the Complainant, Respondent and Brite is reached, the terms of the Resolution Agreement will be implemented and the matter will be closed. If a resolution is not reached, the Title IX Coordinator will determine whether formal action is necessary. If a resolution is reached but the Respondent fails to comply with the Resolution Agreement, the matter may be referred for an investigation and Formal Resolution Process.

The Title IX Coordinator will maintain records of all reports and Resolution Agreements. Most forms of alternate resolution will be completed within thirty (3) days.

3. Formal Resolution Process

The Formal Resolution Process will be used when (a) a Complainant requests an investigation and disciplinary action against the Respondent, (b) the Alternate Resolution Process does not resolve a reported incident of conduct prohibited by this policy and/or in the Title IX Coordinator's discretion, an

investigation and/or formal resolution is required, or (3) despite a Complainant's request for anonymity, that no investigation be undertaken and/or no disciplinary action be pursued, it is determined that an investigation is necessary to ensure the health and safety of the Complainant and/or the Brite community.

A. Investigation

Upon commencement of a Formal Resolution, the Title IX Coordinator will designate two investigators from Brite's Investigation Committee and/or an experienced external investigator ("Investigator") to conduct a prompt, thorough, fair, and impartial investigation. All Investigators will be trained to on issues of sexual and gender-based harassment, sexual assault, interpersonal violence and how to conduct an investigation and hearing process that protects the safety of Complainants and the Brite community and promotes accountability.

a. Notice. The Title IX Coordinator will notify the Complainant and the Respondent that an investigation has been commenced. The notice will identify the parties to the complaint, the date, time (if know), location, and nature of the alleged conduct, the potential policy violation(s), the Investigator, information about this policy and these procedures, explain that retaliation is prohibited, instruct the parties to preserve potential evidence, inform the parties how to object to an Investigator due to bias or a conflict of interest, and will include a copy of this policy and these procedures.

b. Investigation Overview. During the investigation, both parties will have equal opportunities to be heard, to submit information and evidence, to identify witnesses with relevant information, and to submit questions to be directed to the other party or to a witness. The Investigator will meet separately with each party and witness, and will attempt to gather other relevant available information and evidence, including but not limited to electronic or other communications, photographs, and medical records, subject to the consent of the applicable party. The Investigator may also visit relevant sites, consult experts when expertise on a topic is needed for a complete understanding of the issues under investigation, and coordinate with law enforcement.

The Investigator should ordinarily schedule interviews promptly unless the report is received shortly before or while Brite is closed for holidays. Interviews are usually scheduled in one of Brite's building, and preferably in a more-secluded space (i.e., not a classroom, a faculty member's office on a main floor, etc.).

c. Timing. The investigation will typically be completed within forty-five (45) days, unless extended for good cause. The parties will be notified if the investigation will be delayed and will be provided the reasons for the delay. The time from commencement of an investigation through resolution will ordinarily not exceed sixty (60) days. This time frame may be extended for good cause, which may include a delay at the request of law enforcement if an external law enforcement agency is gathering evidence, and the Investigator will notify the parties in writing of any extension of this time frame and the reason for any extension.

d. Advisors. During the process, the Complainant and the Respondent may each consult with an advisor of their choice, which may be an attorney. The advisor may be a friend, spouse, relative, co-worker, or a faculty or staff person not on the committee. These individuals are not there to provide legal advice or counseling, but to be supportive and present during the process. They cannot answer questions during any meetings, nor can they provide any information to the Investigator. The Assistant Dean for Common Life cannot be an advisor because of the confidential nature of that position within the institution.

If persons involved in the situation choose to have legal counsel, Brite Divinity School also has the right to have legal counsel present if it so chooses. The Title IX Coordinator should be notified as soon as possible if anyone chooses to involved legal counsel. Legal counsel is not to communicate directly with the Investigator. Neither party, witnesses, advisors, nor legal counsel may attend the interviews of others involved in conversation with the Investigators.

e. Presumption and Standard of Proof. The investigation is a neutral fact-finding process. The presumption is that the Respondent is not responsible, and this presumption may only be overcome

when the Investigator concludes there is a preponderance of the evidence to support a finding that the Respondent violated the policy. Neither party is required to participate in the investigation or in any resolution proceeding. No negative inference will be drawn from a decision by either party not to participate.

f. Relevancy of Evidence. The Investigator will determine whether evidence presented is relevant and whether to include or exclude certain types of evidence. Typically, statements of reputation or character will not be considered. Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. The Investigator will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant. The sexual history of either party will never be considered to prove character or reputation. However, in limited circumstances, the prior sexual history may be relevant. The Investigator will determine if such information is considered relevant and will notify the parties if evidence of prior sexual history is deemed relevant.

g. Conduct Violates Other Policies. If a report under this policy also implicates other forms of discriminatory or harassing behavior or other conduct in violation of Brite's other policies, the Title IX Coordinator will determine whether the allegations should be investigated and resolved together. In such a case, the investigation and resolution will be conducted in accordance with these procedures.

h. Draft Investigation Report. The Investigator will prepare a draft investigation report following the investigation summarizing the factual information gathered and outlining the contested and uncontested information. The draft investigation report will not contain the Investigator's findings. The Complainant and Respondent will have a chance to review the draft investigation report, meet with the Investigator, submit additional information, identify additional witnesses, and submit additional questions they believe should be asked of the other party or any witness. A reasonable time, not to exceed five (5) calendar days will be designated by the Investigator for this review period. No additional information will be considered after this period in the absence of good cause.

i. Final Investigation Report. Provided significant additional investigation is not required, within a reasonable period not to exceed five (5) calendar days following the end of the review period, the Investigator will provide a written Final Investigation Report to the Title IX Coordinator. The Final Investigation Report will include whether the Investigator found sufficient evidence, based on a preponderance of the evidence, to support a finding that the Respondent is responsible for a violation of this policy and/or other policies, if applicable. A "preponderance of evidence" means that it is more likely than not based on the evidence that a violation occurred. The Final Investigation Report should also cite the information considered in support of the findings and the information the Investigator excluded from consideration and why. sanctions, if any.

j. Notice of Outcome. Within three (3) days from receiving the Final Investigation Report and recommended sanctions, if applicable, from the Investigators, the Title IX Coordinator will make a final determination as to the appropriate sanctions to be taken, if any and will inform the parties in of the final determination – both the findings of responsibility and the applicable sanctions. Notification to the parties will be in writing and may be delivered in person, mailed to the local or permanent address of the parties as indicated in official Brite records, or emailed to the parties' Brite-issued email address. Notice will be considered delivered upon mailing, emailing, or delivering the notice in person. The notification will include the finding on each alleged violation, any sanction Brite can share according to state or federal law, and the rationale supporting the essential findings to the extent Brite can share the information under state or federal law. The notice will also include information on the availability of appeals. The results will become final ten (10) days from the date of the Notice of Outcome letter unless either party appeals.

k. Sanctions. Sanctions are designed to eliminate the conduct prohibited by this policy, prevent the recurrence of such conduct, and remedy its effects, while supporting Brite's mission and legal obligations. Sanctions may include any of the sanctions available for violations of Brite's Code of Student Conduct for Brite Divinity School, including expulsion, suspension, suspension in abeyance, disciplinary probation, restitution, warning notice, and other sanctions as deemed appropriate.

Sanctions are effective immediately, unless otherwise specified by the Title IX Coordinator. In the event of an appeal, the Title IX Coordinator will determine whether the sanctions will be imposed during the time of the appeal.

Even when no sanctions are imposed, the Title IX Coordinator may determine that remedial measures should remain in effect to support a Complainant.

B. Appeals.

Either party may appeal the decision by sending notice of the appeal, in writing, to the Title IX Coordinator.

a. Time to File an Appeal. All appeals should be made within 10 days of the delivery of the written findings described in Paragraph j above, except in the case of new evidence.

b. Available grounds for appeal. Appeals are limited to the following grounds:

- A determination of whether substantial doubt exists as to the thoroughness, fairness and/or impartiality of the investigation
- A determination as to whether there is sufficient evidence to support the Investigator's findings of responsibility or no responsibility based on a preponderance of the evidence.
- To consider new relevant evidence, unknown or unavailable during the original investigation, that could substantially impact the original finding or sanction. Appeals based on new evidence may be considered at any time.

c. Notice of Appeal and Response. The Title IX Coordinator will provide the non-appealing party with a copy of the appeal, and that party may file a response within three (3) days or raise their own appeal within the original time period for appeals. If new grounds are raised, the original appealing party will have three (3) days to submit a written response.

d. Determination. If an appeal is not timely or is based on grounds other than that listed above, the Title IX Coordinator will dismiss the appeal and notify the parties. If an appeal is timely and is based on one or more grounds listed above, the Title IX Coordinator will forward the appeal and all responses to the President of Brite for determination. If the accusation concerns the President, the Chair of Brite's Board of Trustees will be notified at each step of the process and has the sole authority to hear an appeal.

In considering the appeal, the President may meet with and interview the Investigator, the parties, and/or any of the witnesses. The Complainant and Respondent may be accompanied to any meeting by an advisor of their choice, including an attorney, so long as the advisor is not a party or witness. The advisor may only provide support and advice to a party, but cannot otherwise participate in any meeting with the President.

If the President determines that substantial doubt exists as to the thoroughness, fairness and/or impartiality of the investigation and/or that the evidence is insufficient to support the finding, he may refer the matter back to the Title IX Coordinator for further action or reject the original findings and make alternative findings. If the President determines new evidence exists that was unknown or unavailable during the investigation that could substantially impact the finding or sanction, he will refer the matter to the Title IX Coordinator for further handling. If the President rejects the appeal, the matter will be closed.

e. Final Outcome Letter Following Appeal.

The President will simultaneously issue a final written decision to both the Complainant and the Respondent, with a copy to the Title IX Coordinator. Generally, the President will conclude the appeal and issue the letter within ten (10) days from receiving the appeal from the Title IX Coordinator. This time period

may be extended for good cause, and the parties will notified of any extension. The letter will include the finding on each alleged violation, any changes made to the original findings, any sanction Brite can share according to state or federal law, and the rationale supporting the essential findings to the extent Brite can share the information under state or federal law. In cases involving allegations of sexual assault, dating or domestic violence, or stalking, the results will include any sanctions imposed and the rationale for the findings and sanctions.

4. Records

Records of official action taken against a person, as a result of an investigation, will become part of that persons' student, faculty, or staff personnel files, and subject to applicable confidentiality and record retention policies of those files.

All other records pertaining to investigations, including the notes of the committee, will be confidentially retained in the office of the Dean until the later of the following: a) a period of five years after the conclusion of a process, or b) until the student(s), staff, or faculty members involved in the process are no longer part of Brite's community. These records are confidential and not open to other entities except where provided otherwise by law.

PROCEDURES IF THE RESPONDENT IS AN EMPLOYEE

A. Initial Response

Upon receipt of a report alleging conduct in violation of this policy, the Title IX Coordinator will make an initial assessment to address any health or safety concerns for the Complainant and the Brite community. If the complaint has arisen in the context of a Field Education or Supervised Ministry setting, or if there is concern for the safety of persons in the setting, the Director of Field Education and Supervised Ministry will be alerted to the process and kept apprised of the decisions that emerge from the Hearing. The Title IX Coordinator, in consultation with the Director of Field Education and Supervised Ministry, will determine whether a student needs to be removed from the placement. Appropriate communication with the supervising field supervisor will be the responsibility of the Title IX Coordinator, in consultation with the Director of Field Education and Ministry. If there is any concern for the safety and well-being of persons in the placement, the student may be removed from the placement until the matter is resolved.

The Title IX Coordinator will inform the Complainant of the right to seek medical treatment, of the importance of obtaining and preserving evidence, of the Complainant's right to contact law enforcement or decline to contact law enforcement, and/or to seek a protective order. The Title IX Coordinator will also inform the Complainant about available resources through Brite or available in the community, and about the right to seek appropriate and reasonable remedial and protective measures.

The Title IX Coordinator will also obtain sufficient information to commence an investigation, including the identity of the Complainant and Respondent and the date, time (if known), location and nature of the alleged conduct committed in violation of this policy. The Title IX Coordinator will inform the Complainant of the procedures for resolution, discuss any concerns the Complainant may have about participating in an investigation and resolution of a complaint, and explain that Brite prohibits retaliation against any person who makes a report of conduct prohibited by this policy or who participates in an investigation or proceeding under this policy.

The Title IX Coordinator will also determine if either party is a minor, and if so, will contact the appropriate child protective agency. The Title IX Coordinator will communicate with other Brite officials and/or the TCU police to determine whether the report triggers any Clery Act obligations. If a person chooses to file a complaint, he/she can pursue an alternate resolution process, when permissible, or a formal resolution process.

B. Resolution Process

The Title IX Coordinator and the Associate Dean for Academic Affairs will consult to make an initial determination of whether this policy applies. If a determination is made that this policy does not apply, the Title IX Coordinator will discuss other available options or resources with the Complainant and Respondent if appropriate.

1. If the Complainant wants to remain anonymous and does not want to pursue an investigation or disciplinary action against the Respondent. In such cases, the Title IX Coordinator and the Associate Dean for Academic Affairs will consider the following factors in determining whether the Complainant's request can be honored: (1) the totality of the circumstances, (2) whether the Respondent poses a health or safety risk to the Complainant or the Brite community, including consideration of the Respondent's prior arrest record, whether the Respondent has threatened violence, whether the allegations involve physical violence, use of a date-rape drug or other intoxicants, whether the Respondent has failed in the past to comply with Brite's protective measures or a protective order, whether the allegation involved multiple Respondents, whether the report reveals a pattern, whether the Complainant was a minor at the time of the alleged conduct, and other aggravating circumstances, (3) the potential impact on the Complainant, (4) evidence of admission or acceptance of responsibility by the Respondent, (5) independent information or evidence regarding the alleged conduct, and (6) other available and relevant information. Brite will attempt to honor the Complainant's request if it is possible to do so while protecting the health and safety of the Complainant and the Brite community.

If it is determined that Brite **can** honor the Complainant's requests, Brite may still take other appropriate measures to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the Complainant the Brite community. This may include, without limitation, remedial measures and/or targeted training or prevention programs. The Complainant, at any time, can request to pursue formal or alternate resolution (if available) and likewise, the Title IX Coordinator can reopen a report and pursue resolution under these procedures based on new or additional information.

If it is determined that Brite **cannot** honor the Complainant's requests, the Complainant will be notified, and the Title IX Coordinator will take appropriate actions, which may include, without limitation, interim protective measures and/or initiating an investigation and resolution under these procedures. In such case, Brite will make reasonable efforts to protect the privacy of the Complainant; however, it may be necessary to speak with the Respondent and/or other witnesses, in which case the Complainant's identity may be disclosed. If the Complainant does not participate in an investigation, in the absence of independent evidence, Brite's ability to meaningfully investigate and respond may be limited.

2. Alternate Resolution Process

In lieu of an investigation and the Formal Resolution Process, the Complainant may request that an alternate resolution process be used to resolve the report of conduct prohibited by this policy. Brite has the discretion to determine whether the reported conduct is appropriate for the alternate resolution and what form of alternate resolution is appropriate. If Brite determines the complaint is appropriate for alternate resolution, the Title IX Coordinator will notify the Respondent of the allegation and that the Complainant has elected to use the alternate resolution process to resolve the matter. If it is determined that the alternate resolution process is appropriate, the Title IX Coordinator, in consultation with the Associate Dean for Academic Affairs, will determine the type of alternate resolution process that is appropriate in the specific case. There are a variety of response options for resolving reports under this policy. For example, it may be determined that a particular allegation might be resolved through one-on one communication or extended conversation with those involved. This may include situations where the Complainant feels like a situation is clearly a matter of misunderstanding or differing interpretation. In this case, a guided conversation between the two persons may occur with a third party. The third party might be someone from the Dean's office. At this level, the Assistant Dean for Common Life may be involved in navigating the conversation. Brite will not require a Complainant to directly face a Respondent.

In cases where the Complainant is a student and the Respondent is an Employee in a position of authority over the Complainant and in cases involving any form of violence, including allegations of Sexual Assault, Intimate Partner Violence, or Stalking, forms of alternate resolution

that include use of face to face meetings such as mediation between the Complainant and Respondent is not available.

Alternate resolution is voluntary. At any time, the Complainant or Respondent can withdraw from the alternate resolution process or Brite can cease the alternate resolution process. Pursuing an alternate resolution process does not preclude use of the Formal Resolution process if the alternate resolution process does not reach a resolution satisfactory to the parties or Brite. If the alternate resolution is terminated, any statements or disclosures made by the parties can be used during a later investigation and Formal Resolution.

During the alternate resolution process, each party can consult with an advisor of their choice. The advisor may be any person, including an attorney, who is not a party or witness to the reported incident. The parties may be accompanied by their respective advisor of choice to any meeting or proceeding. An advisor may offer support and advice to the party, but may not speak for the party or otherwise participate in, or disrupt the meetings and/or proceedings.

If a resolution acceptable to the Complainant, Respondent and Brite is reached, the terms of the Resolution Agreement will be implemented and the matter will be closed. If a resolution is not reached, the Title IX Coordinator will determine whether formal action is necessary. If a resolution is reached but the Respondent fails to comply with the Resolution Agreement, the matter may be referred for an investigation and Formal Resolution Process.

The Title IX Coordinator will maintain records of all reports and Resolution Agreements. Most forms of alternate resolution will be completed within thirty (3) days.

3. Formal Resolution Process

The Formal Resolution Process will be used when (a) a Complainant requests an investigation and disciplinary action against the Respondent, (b) the Alternate Resolution Process does not resolve a reported incident of conduct prohibited by this policy and/or in the Title IX Coordinator's discretion, an investigation and/or formal resolution is required, or (3) despite a Complainant's request for anonymity, that no investigation be undertaken and/or no disciplinary action be pursued, it is determined that an investigation is necessary to ensure the health and safety of the Complainant and/or the Brite community.

A. Investigation

Upon commencement of a Formal Resolution, the Title IX Coordinator will designate two Investigators from Brite's Investigation Committee and/or an experienced external Investigator ("Investigator") to conduct a prompt, thorough, fair, and impartial investigation. All Investigators will be trained to on issues of sexual and gender-based harassment, sexual assault, interpersonal violence and how to conduct an investigation and hearing process that protects the safety of Complainants and the Brite community and promotes accountability.

a. Notice. The Title IX Coordinator will notify the Complainant and the Respondent that an investigation has been commenced. The notice will identify the parties to the complaint, the date, time (if know), location, and nature of the alleged conduct, the potential policy violation(s), the Investigator, information about this policy and these procedures, explain that retaliation is prohibited, instruct the parties to preserve potential evidence, inform the parties how to object to an Investigator due to bias or a conflict of interest, and will include a copy of this policy and these procedures.

b. Investigation Overview. During the investigation, both parties will have equal opportunities to be heard, to submit information and evidence, to identify witnesses with relevant information, and to submit questions to be directed to the other party or to a witness. The Investigator will meet separately with each party and witness, and will attempt to gather other relevant available information and evidence, including but not limited to electronic or other communications, photographs, and medical

records, subject to the consent of the applicable party. The Investigator may also visit relevant sites, consult experts when expertise on a topic is needed for a complete understanding of the issues under investigation, and coordinate with law enforcement.

The Investigator should ordinarily schedule interviews promptly unless the report is received shortly before or while Brite is closed for holidays. Interviews are usually scheduled in one of Brite's building, and preferably in a more-secluded space (i.e., not a classroom, a faculty member's office on a main floor, etc.).

c. Timing. The investigation will typically be completed within forty-five (45) days, unless extended for good cause. The parties will be notified if the investigation will be delayed and will be provided the reasons for the delay. The time from commencement of an investigation through resolution will ordinarily not exceed sixty (60) days. This time frame may be extended for good cause, which may include a delay at the request of law enforcement if an external law enforcement agency is gathering evidence, and the Investigator will notify the parties in writing of any extension of this time frame and the reason for any extension.

d. Advisors. During the process, the Complainant and the Respondent may each consult with an advisor of their choice, which may be an attorney. The advisor may be a friend, spouse, relative, co-worker, or a faculty or staff person not on the committee. These individuals are not there to provide legal advice or counseling, but to be supportive and present during the process. They cannot answer questions during any meetings, nor can they provide any information to the Investigator. The Assistant Dean for Common Life cannot be an advisor because of the confidential nature of that position.

If persons involved in the situation choose to have legal counsel, Brite Divinity School also has the right to have legal counsel present if it so chooses. The Title IX Coordinator should be notified as soon as possible if anyone chooses to involved legal counsel. Legal counsel is not to communicate directly with the Investigator. Neither party, witnesses, advisors, or legal counsel may attend the interviews of others involved in conversation with the Investigators.

e. Presumption and Standard of Proof. The investigation is a neutral fact-finding process. The presumption is that the Respondent is not responsible, and this presumption may only be overcome when the Investigator concludes there is a preponderance of the evidence to support a finding that the Respondent violated the policy. Neither party is required to participate in the investigation or in any resolution proceeding. No negative inference will be drawn from a decision by either party not to participate.

f. Relevancy of Evidence. The Investigator will determine whether evidence presented is relevant and whether to include or exclude certain types of evidence. Typically, statements of reputation or character will not be considered. Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. The Investigator will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant. The sexual history of either party will never be considered to prove character or reputation. However, in limited circumstances, the prior sexual history may be relevant. The Investigator will determine if such information is considered relevant and will notify the parties if evidence of prior sexual history is deemed relevant.

g. Conduct Violates Other Policies. If a report under this policy also implicates other forms of discriminatory or harassing behavior or other conduct in violation of Brite's other policies, the Title IX Coordinator will determine whether the allegations should be investigated and resolved together. In such a case, the investigation and resolution will be conducted in accordance with these procedures.

h. Draft Investigation Report. The Investigator will prepare a draft investigation report following the investigation summarizing the factual information gathered and outlining the contested and uncontested information. The draft investigation report will not contain the Investigator's findings. The Complainant and Respondent will have a chance to review the draft investigation report, meet with the Investigator, submit additional information, identify additional witnesses, and submit additional questions they believe should be asked of the other party or any witness. A reasonable time, not to exceed five (5)

calendar days will be designated by the Investigator for this review period. No additional information will be considered after this period in the absence of good cause.

i. Final Investigation Report. Provided significant additional investigation is not required, within a reasonable period not to exceed five (5) calendar days following the end of the review period, the Investigator will provide a written Final Investigation Report to the Title IX Coordinator. The Final Investigation Report will include whether the Investigator found sufficient evidence, based on a preponderance of the evidence, to support a finding that the Respondent is responsible for a violation of this policy and/or other policies, if applicable. A “preponderance of evidence” means that it is more likely than not based on the evidence that a violation occurred. The Final Investigation Report should also cite the information considered in support of the findings and the information the Investigator excluded from consideration and why.

If the Investigator finds there is sufficient evidence to find the Respondent violated this policy and/or other policies, the Investigator will also recommend in a separate report to the Title IX Coordinator appropriate sanctions, if any.

j. Notice of Outcome. Within three (3) days from receiving the Final Investigation Report and recommended sanctions, if applicable, from the Investigators, the Title IX Coordinator will make a final determination as to the appropriate sanctions to be taken, if any and will inform the parties in of the final determination – both the findings of responsibility and the applicable sanctions. Notification to the parties will be in writing and may be delivered in person, mailed to the local or permanent address of the parties as indicated in official Brite records, or emailed to the parties’ Brite-issued email address. Notice will be considered delivered upon mailing, emailing, or delivering the notice in person. The notification will include the finding on each alleged violation, any sanction Brite can share according to state or federal law, and the rationale supporting the essential findings to the extent Brite can share the information under state or federal law. The notice will also include information on the availability of appeals. The results will become final ten (10) days from the date of the Notice of Outcome letter unless either party appeals.

k. Sanctions. Sanctions are designed to eliminate the conduct prohibited by this policy, prevent the recurrence of such conduct, and remedy its effects, while supporting Brite’s mission and legal obligations. Sanctions may include any of the sanctions available for violations of Brite’s Code of Student Conduct for Brite Divinity School, including expulsion, suspension, suspension in abeyance, disciplinary probation, restitution, warning notice, and other sanctions as deemed appropriate.

Sanctions are effective immediately, unless otherwise specified by the Title IX Coordinator. In the event of an appeal, the Title IX Coordinator will determine whether the sanctions will be imposed during the time of the appeal.

Even when no sanctions are imposed, the Title IX Coordinator may determine that remedial measures should remain in effect to support a Complainant.

B. Appeals.

Either party may appeal the decision by sending notice of the appeal, in writing, to the Title IX Coordinator.

a. Time to File an Appeal. All appeals should be made within 10 days of the delivery of the written findings described in Paragraph j above, except in the case of new evidence.

b. Available grounds for appeal. Appeals are limited to the following grounds:

- A determination of whether substantial doubt exists as to the thoroughness, fairness and/or impartiality of the investigation
- A determination as to whether there is sufficient evidence to support the Investigator’s findings of responsibility or no responsibility based on a preponderance of the evidence.

- To consider new relevant evidence, unknown or unavailable during the original investigation, that could substantially impact the original finding or sanction. Appeals based on new evidence may be considered at any time.

c. Notice of Appeal and Response. The Title IX Coordinator will provide the non-appealing party with a copy of the appeal, and that party may file a response within three (3) days or raise their own appeal within the original time period for appeals. If new grounds are raised, the original appealing party will have three (3) days to submit a written response.

d. Determination. If an appeal is not timely or is based on grounds other than that listed above, the Title IX Coordinator will dismiss the appeal and notify the parties. If an appeal is timely and is based on one or more grounds listed above, the Title IX Coordinator will forward the appeal and all responses to the President of Brite for determination.

If the accusation concerns the President, the Chair of Brite's Board of Trustees will be notified at each step of the process and has the sole authority to hear an appeal.

In considering the appeal, the President may meet with and interview the Investigator, the parties, and/or any of the witnesses. The Complainant and Respondent may be accompanied to any meeting by an advisor of their choice, including an attorney, so long as the advisor is not a party or witness. The advisor may only provide support and advice to a party, but cannot otherwise participate in any meeting with the President.

If the President determines that substantial doubt exists as to the thoroughness, fairness and/or impartiality of the investigation and/or that the evidence is insufficient to support the finding, he may refer the matter back to the Title IX Coordinator for further action or reject the original findings and make alternative findings. If the President determines new evidence exists that was unknown or unavailable during the investigation that could substantially impact the finding or sanction, he will refer the matter to the Title IX Coordinator for further handling. If the President rejects the appeal, the matter will be closed.

e. Final Outcome Letter Following Appeal.

The President will simultaneously issue a final written decision to both the Complainant and the Respondent, with a copy to the Title IX Coordinator. Generally, the President will conclude the appeal and issue the letter within ten (10) days from receiving the appeal from the Title IX Coordinator. This time period may be extended for good cause, and the parties will be notified of any extension. The letter will include the finding on each alleged violation, any changes made to the original findings, any sanction Brite can share according to state or federal law, and the rationale supporting the essential findings to the extent Brite can share the information under state or federal law. In cases involving allegations of sexual assault, dating or domestic violence, or stalking, the results will include any sanctions imposed and the rationale for the findings and sanctions.

4. Records

Records of official action taken against a person, as a result of an investigation, will become part of that person's student, faculty, or staff personnel files, and subject to applicable confidentiality and record retention policies of those files.

All other records pertaining to investigations, including the notes of the committee, will be confidentially retained in the office of the Dean until the later of the following: a) a period of five years after the conclusion of a process, or b) until the student(s), staff, or faculty members involved in the process are no longer part of Brite's community. These records are confidential and not open to other entities except where provided otherwise by law.

PROCEDURES IF THE RESPONDENT IS A THIRD PARTY

If the Respondent is a third party, Brite's ability to take corrective action will be determined by the Title IX Coordinator based on the relationship between Brite and the third party, consistent with federal law, federal guidance, and this policy

VII. Texas Criminal Laws

If an individual would like to press criminal charges for alleged dating violence, domestic violence, sexual assault, or stalking, the definitions found in the Texas Family Code or the Texas Penal Code would apply.

Dating violence: "an act, other than a defensive measure to protect oneself, by an actor that is committed against a victim or applicant for a protective order with whom the actor has or has had a dating relationship; or because of the victim's or applicant's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim or applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault. 'Dating relationship' means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of the length of the relationship; the nature of the relationship; and the frequency and type of interaction between the persons involved in the relationship. A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a 'dating relationship.'" Texas Family Code Section 71.0021.

Domestic (Family) violence: "an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; abuse, as that term is defined by Sections 261.001 (1) (C), (E), (G), (H), (I), (J), and (K), by a member of a family or household toward a child of the family or household; or dating violence." Texas Family Code Section 71.004.

Sexual assault: "Occurs if a person (1) intentionally or knowingly causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or (2) intentionally or knowingly causes the penetration of the anus or sexual organ of a child by any means; causes the penetration of the mouth of a child by the sexual organ of the actor; causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

A sexual assault is without the consent of the other person if: the actor compels the other person to submit or participate by the use of physical force or violence; the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat; the actor is a public servant who coerces the other person to submit or participate; the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor; the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; or the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each

other. 'Child' means a person younger than 17 years of age. 'Spouse' means a person who is legally married to another." Texas Penal Code Section 22.001.

Stalking: "a person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that (1) constitutes an offense of harassment under Texas Penal Code Section 42.07 or that the actor knows or reasonably should know the other person will regard as threatening bodily injury or death for the other person; bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or that an offense will be committed against the other person's property; and (2) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and (3) would cause a reasonable person to fear bodily injury or death for himself or herself; fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship; fear that an offense will be committed against the person's property; or feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended. A trier of fact may find that different types of conduct described above, if engaged in on more than one occasion, constitute conduct that is engaged in pursuant to the same scheme or course of conduct." Texas Penal Code Section 47.072.

Harassment: "A person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, the person: (1) initiates communication and in the course of the communication makes a comment, request, suggestion, or proposal that is obscene; (2) threatens, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property; (3) conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury; (4) causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another; (5) makes a telephone call and intentionally fails to hang up or disengage the connection; (6) knowingly permits a telephone under the person's control to be used by another to commit an offense under this section; or (7) sends repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another. 'Electronic communication' means a transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, and includes a communication initiated by electronic mail, instant message, network call, or facsimile machine; and a communication made to a pager. 'Obscene' means containing a patently offensive description of or a solicitation to commit an ultimate sex act, including sexual intercourse, masturbation, cunnilingus, fellatio, or anilingus, or a description of an excretory function. 'Household' means a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other.'" Texas Penal Code Section 42.07