Title IX – Internal Judicial Process

Following the report and investigation of an incident of sexual misconduct, the Title IX Coordinator will determine whether a formal resolution is necessary. The investigator may make a recommendation, but the final decision is at the discretion of the Title IX Coordinator.

Process Summary
At the conclusion of the investigation, the involved parties will be notified of the outcome of the investigation, and whether a formal hearing is being convened. The investigation will normally be concluded within 60 days of receipt of the allegation and if extended time is necessary, the parties will be notified.

Convening a Panel
- If the Title IX Coordinator makes a determination that, in fact, a formal hearing needs to be convened, s/he will notify the Complainant and the Respondent in writing, and will specify the violation being considered.
- The Complainant has the right to appeal a decision not to convene a formal hearing to the Title IX Coordinator within three business days of receipt of the notification by the Coordinator.
- In order to protect the interests and safety of the PAFA community, PAFA reserves the right to act as the Complainant in cases where the accusing individual cannot or refuses to participate as the Complainant, or even if the Complainant withdraws the complaint.

Composition of Hearing Panel
- The Dean of Students (Dean) or designee will appoint three members to comprise the Panel, one of whom will serve as the Panel Chair. The identity of these individuals will be disclosed to the Complainant and Respondent.
- If the Complainant or Respondent believes that a member of the Panel should be replaced due to conflict, that party must direct his or her concern to the Dean of Students or designee, within 24 hours of receipt of the Dean's Panel Notification.

Additional Violations – Consolidation of Hearings
- The inclusion of the specific violation being considered by the Panel in no way precludes the investigation of any additional incidents or issues that may be revealed once the process is under way.
- If additional incidents or issues are revealed that may require consideration by the Panel, the Panel Chair shall so inform the Dean of Students or designee and the Title IX Coordinator, who will decide if the new allegations should be addressed in a separate proceeding.
- The Dean of Students or designee and the Title IX Coordinator may decide that all violations should be addressed by the Panel then hearing the case, if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident. In this case, the parties will be given an opportunity to respond to the new violations.
Pre-hearing Procedures

- When a hearing is deemed necessary based on the review of the investigation report, the Dean of Students, the Panel Chair and the Director of Student Services or Director of Graduate Program Services will contact the Complainant and the Respondent to schedule separate meetings with each party.
- At these pre-hearing meetings, each party will receive an explanation of the hearing process and have the opportunity to ask any questions before the hearing occurs. If the Complainant and/or Respondent have elected to have advisers or a support person throughout the hearing process, that person is encouraged to be present at this initial meeting.
- At their respective pre-hearing meetings, the Complainant and Respondent will each be permitted to review any written, signed statement submitted by the other party as part of the hearing.
- The summary of findings of the investigator and any notes he or she may have made in the course of the investigation, however, are not made available to anyone other than the Title IX Coordinator, and, if necessary, the Director of Safety and Security.
- If either party provides a written response, it must be delivered to the Panel Chair at least 48 hours before the hearing begins. These responses will be available to the Complainant and Respondent 24 hours prior to the hearing, and shared with the Panel members.

Advisors/Support Person

- The Complainant and Respondent each have the right to a support person of their choosing, which may include an attorney.
- The support person cannot be a witness in the proceedings.
- The support person is a silent and non-participating presence who is there solely to observe and provide moral support during the hearing itself. This person is not to address the Panel, except to ask for a short recess if one of the parties requires some time to compose her/himself or collect his or her thoughts.
- The Chair of the Panel has the right at all times to determine what constitutes appropriate behavior on the part of a support person and whether the person may remain at the proceedings.
- Anyone agreeing to act as a support person in a hearing must meet with the Panel Chair prior to the proceedings and sign an agreement of confidentiality. While the support person may be present to hear information, no written materials are to be shared with support people.

Attorneys

- The Complainant and Respondent have the right to consult a private attorney, at their own expense. Attorneys may serve as, and follow the rules as a support person, and cannot participate in the Hearing process.
- If the support person is an attorney, PAFA’s attorney may also attend the hearing.

Witnesses

- If either the Complainant or Respondent wishes to call witnesses at the hearing, each must submit a list of potential witnesses, with a brief description of their knowledge of the events in question, to the Panel Chair at least 24 hours prior to the beginning of the hearing. The relevance of the witnesses to the event(s) under investigation will be determined by the Panel Chair.
The hearing panel may call witnesses it deems to have relevant information, whose identity and knowledge of the events came up as part of the investigation. The Panel Chair will determine whether the witnesses will be asked to present information relevant to the proceedings and whether this should be presented in person, in writing or via electronic media. Once this determination has been made, the Panel Chair will promptly contact the witnesses. Any written statement or other information provided by a witness will be available for review by both parties at the hearing. Both parties and all Panel members may pose questions to the witnesses during the proceeding if the witnesses are present.

**Timetable**
- The formal hearing will normally begin no earlier than five (5) business days and no later than twenty (20) business days after the parties have been sent the notice. Under extenuating circumstances, this time frame may be extended.
- Once the Panel is convened, it will meet as frequently as schedules will allow until the hearing is completed.
- A Panel should conclude its work within three (3) weeks from the first date upon which a meeting is held. If the Panel determines that more time may be needed, it may petition in writing the Dean of Students, who may approve an additional extension of no more than one (1) week.
- If an investigation or a hearing involving a graduating student as the confronted party is not concluded prior to Commencement, the Dean of the School will determine whether the student may participate in graduation ceremonies. The confronted party’s diploma may be withheld pending the conclusion of the formal hearing and fulfillment of any resolutions, which may include the withholding of the diploma altogether.

**Alternative Attendance**
- A Complainant or Respondent may also request participation in the hearing by other suitable means that would not require physical proximity to the other. This can include, but is not limited to, partitioning a hearing room or using technology, such as Skype or conference call, to facilitate participation.
- The hearing panel may also allow for witnesses to appear through other technological means.
- All requests to participate in the hearing other than in person must be reviewed in advance by the Dean of Students or designee, to ensure compliance with a fair and equitable process.

**Formal Proceedings**
- The hearing will begin with introductions of all Panel members, Complainant and Respondent, and any support persons.
- Any written materials will be distributed to both parties for reference during the hearing.
- The Panel Chair will determine the most appropriate method of questioning by Panel members and the Complainant and Respondent. The parties will not be permitted or expected to directly question one another.
- The Panel will not permit questions from and to any party that are harassing or irrelevant, or that would otherwise unduly prolong or disrupt the proceedings.
- The Complainant will be permitted to speak first, summarizing and/or elaborating on his/her written statement and the response of the Respondent.
- Following the Complainant’s statement, questions may be posed by Panel members.
• After the Panel members have asked their questions, the Respondent may ask questions, guided by the Panel Chair.
• Once all questions to the Complainant have been posed, the Respondent will be asked to speak, summarizing and/or elaborating on his/her written statement and the response from the Respondent.
• Following the Respondent’s statement, questions may be posed by the Panel.
• After the Panel members have asked their questions, the Complainant may ask questions of the Respondent guided by the Panel Chair.
• Following this phase, the Panel may ask any additional questions of any of the parties to the hearing.
• At this point, any witnesses will be called in the order determined by the Panel Chair, and/or any written statements from witnesses who are not present shared with all participants.
• Each witness will be asked to summarize her/his knowledge of the events at issue in the hearing. After this, questions may be posed, first by Panel members, then, in turn, by the Complainant and Respondent until all relevant questions have been posed.
• Each party will be given the opportunity to make a closing statement, beginning with the confronting party.

**Deliberation**
After all of the information has been presented, all parties will be dismissed so that the Panel may deliberate in private. The Hearing panel will make a decision, determining if there were any violations of the Title IX or VAWA policy.

The findings of the Panel will be put in writing, detailing the findings of fact and determination of responsibility, making reference to the evidence that led to the finding.

The findings will be delivered to the Dean of the School and the Title IX Coordinator.

**Standard of Proof**
The Hearing panel will determine the Respondent’s responsibility by a preponderance of the evidence standard, which is whether the information provided at the hearing supports a finding that is “more than likely not” that the Respondent is responsible for the alleged violations.

**Resolutions/Sanctions**
• The Panel will meet privately to agree upon on a statement of violation of policy and fashion resolutions/sanctions based on and appropriate to any statement of violation.
• It should be noted that with regard to violations arising from alleged sexual harassment, including sexual violence, a student who is accused and found not responsible for the violation set forth in the Dean of Students’ original notification letter may still be found responsible for conduct that constitutes a “lesser” form of sexual misconduct.
• Once the Panel has reached agreement on a finding of violation and any resolutions, the Panel will make a recommendation in writing to the Dean of Students.
• The Dean of Students will review the recommendation, and determine the final resolution/sanction decision, and will inform the Respondent and the Complainant in writing, within twenty (20) days of receiving findings and recommendations from the Hearing Panel.
Possible Sanctions
The sanctions may include, but are not limited to, those set forth in the Student Handbook: warning, fine, loss of privileges, disciplinary probation, suspension, or dismissal.

Recordkeeping
- A note taker will take written notes of the hearing panel, but not of the panel deliberations.
- PAFA will not audio or video record the student conduct proceedings or deliberations, nor is any other individual permitted to record the proceedings.
- A report by the Chair of the Panel will be provided to the Dean of Students and the Title IX Coordinator, to include the names of the parties, the charge (original and, if relevant, as amended), the names of witnesses, the names of Panel members, the timeline for the proceedings, the finding of violation or non-violation and the resolutions, if any.

General Policies
- No party to the hearing (including witnesses) may discuss any aspect of this case with other students and/or any other members of the PAFA community. Exceptions to this proscription include students’ conversations with deans, investigators, and counselors. The Dean of Students or designee will determine whether any aspect of the proceedings or resolutions must be disclosed in accordance with law.
- No one from outside of the PAFA community, who has not serving in the capacity of a designated support person, may be present at the hearing. This includes parents, siblings, and other relatives.
- No contact is permitted with Panel members before, during and after the hearing by anyone not a direct party to the proceedings.
- Questions about any aspect of the Panel process, once convened, should be referred to the Dean of Students.
- In cases in which a Panel is convened when PAFA is not in session and/or either of the parties is not currently enrolled, every effort will be made to preserve the framework as described in preceding sections, but PAFA reserves the right to make any necessary modifications to move the proceedings forward.
- If sexual misconduct is found to have occurred, PAFA will take steps to prevent recurrence of its discriminatory effects on the Complainant and others, if appropriate.