



## *Keeping Our Campus Safe*

### **DeSales University Title IX Policy**

#### **Our Mission**

DeSales is a Catholic, Salesian university that energizes transformative learning through the liberal arts and professional studies. Fostering dynamic relationships and moral, spiritual, and intellectual virtues, we grow as a community to stand for and with others to advance their dignity and serve the common good.

*Updated August 6, 2020*

## *DeSales University's Non-Discrimination Policy*

DeSales University does not discriminate on the basis of sex, race, color, national origin, ancestry, disability, age or veteran status in the administration of its admissions policies, educational policies, employment, scholarship programs, loan programs, athletic and other school—administered programs.

Students, employees, and others can raise concerns and make reports of discrimination without fear of reprisal or retaliation. Anyone with questions, concerns, or complaints about discrimination at DeSales University including any type of sexual harassment or sexual violence, may bring these issues to the attention of the University's Title IX Professionals:

Title IX Coordinator

Andy Auguste

Director of Residence Life

Dorothy Day, Room 124

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A person who is found to be engaging in any type of unlawful discrimination, retaliation or conduct not consistent with University policy will be subject to disciplinary action, up to and including expulsion or termination of employment from the University.

The following pages address DeSales University's policies to address sexual harassment as defined by the *New Final Rule* promulgated by the Department of Education on May 6, 2020 with the specific goal to keep the campus a safe learning environment.

"When we become aware of the assault of some particular vice, let us practice as much as possible its contrary virtue and engage all the other virtues in this effort." *St. Francis de Sales*

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## ***Introduction***

DeSales University is committed to a safe, ethical, values-centered campus culture that promotes respect for persons' bodily integrity and the sacredness of human sexuality. In this way, our faculty and staff help our students to develop their minds and their characters. As a Catholic institution, DeSales University affirms the doctrine of the Catholic Church on the dignity of each person. In the tradition of Saint Francis de Sales and Saint Jane de Chantal, we seek to help all community members recognize the paramount importance of relational friendship as the cornerstone of building community and to live well.

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*The phrase “sex discrimination” as used in this Policy refers to every kind of discrimination based on sex including sexual harassment and gender-based harassment. It also includes sexual assault, dating violence, domestic violence, stalking, and any other conduct based on sex that creates a hostile campus environment.*

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Members of the DeSales community, guests, and visitors have the right to be free from all forms of sex discrimination; examples of which can include acts of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. All members of the community are expected to conduct themselves in a manner that does not infringe upon the rights of others and respects the dignity of each person. The University believes in zero tolerance for sex/gender-based misconduct. Zero tolerance means that when an allegation of misconduct is brought to the Title IX Coordinator, protective and other supportive measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the complainant and community are remedied, including serious sanctions when a responding party is found to have violated this policy.<sup>1</sup>

The University's sex discrimination Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that includes controversial or sensitive subject matters protected by academic freedom. [Insert link to Academic Freedom, Faculty Handbook, Chapter 6.](#)

All members of the DeSales University community share responsibility for maintaining a safe and welcoming educational atmosphere at our campus. The existence of sex discrimination in any form and against anyone on our campus or at an event sponsored by the University would threaten the safe environment that we work diligently to maintain. This prohibition applies to conduct by students, faculty, administrators, staff, and third parties (such as visitors and contractors on our campus).

If you believe you have been subject to sex discrimination, this document provides valuable information for you. Among other things, this document assists you in identifying what sex discrimination is, where you can report it, where you can turn for assistance and protection, how complaints are investigated, how the complaints are adjudicated, and how you and we may contribute to making DeSales a wonderful place for learning where sex discrimination does not occur.

### ***What Is Title IX?***

Title IX is part of the Education Amendments of 1972. It is a law that was enacted by the United States government to prohibit discrimination on the basis of sex in education programs or activities operated by recipients of federal financial assistance. Title IX applies to DeSales University because the University is a recipient of federal financial assistance. Title IX reads: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance."

Title IX statute protects applicants for admission and employment, students, faculty, administrators, and staff at the University. The regulations of the new Final Rule contain broad definitions of a schools "programs or activities." The law applies to every aspect of University life including admissions, academics, employment, athletics, student services, and campus residence life. This means that Title IX protects students in connection with all the academic, educational, extracurricular, athletic, and other programs of the University, whether the programs take place on campus, our online learning platforms, or any event or circumstance over which the University exercises substantial control.

In addition to seeking redress under Title IX, individuals may be provided protections from sex discrimination under other provisions of the law. For example, an employee of the University who suffers sex discrimination may be entitled to pursue relief under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000 e, *et seq.* The University recognizes any person who believes he or she was the subject of sex discrimination may seek the advice of an attorney to determine the appropriate law(s) under which relief should be sought. Relief under Title VII, Title IX, and other laws also can be sought without the assistance of an attorney. Employees with questions, concerns, or complaints about discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor, their department manager, and/or the Director of Human Resources. Employees can raise concerns and make reports of discrimination without fear of reprisal. Any University employee found to be engaging in any type of unlawful discrimination or retaliation will be subject to disciplinary action, up to and including termination of employment.

## ***Notice of Compliance***

Because Title IX is legally binding on the University and is consistent with the mission of the University, the University issues the following Policy statement and Notice of Compliance with Title IX:

*DeSales University does not tolerate any type of discrimination based upon sex at its campus or in any of its programs. Sex discrimination encompasses sexual harassment, including sexual violence and gender-based harassment. The University will respond promptly and thoroughly with the appropriate investigation and effective remedial measures to any allegation of sex discrimination. These will be done to ensure the safety of all those who partake of the University's programs, services, and facilities and to promote our faith based learning environment. The University also has a non-retaliation policy to protect those who may have been subject to sex discrimination, have reason to report sex discrimination or are witnesses to sex discrimination.*

The Title IX Coordinator is responsible for compliance with and carrying out the University's responsibilities under Title IX. This person is responsible for overseeing all Title IX complaints and appropriately addressing any campus problems identified through review of Title IX complaints or otherwise; assuring that those at the University with Title IX responsibilities receive appropriate ongoing education and training to fulfill their responsibilities. The Coordinator facilitates the necessary education and training to identify sex discrimination and to report it for investigation and remedial action under this Policy for everyone at the University whose duties include interacting with students. Complaints about sex discrimination may be made to the Title IX Coordinator and filed at any time. The Coordinator is available to meet with students and anyone else regarding Title IX subjects as needed.

The Deputy Title IX Coordinator assists the Title IX Coordinator as requested and consults as needed. This person assumes full Title IX duties in the absence of the Title IX Coordinator. Even when the Title IX Coordinator is available, complaints about sex discrimination may be made to the Deputy Coordinator and filed at any time. This person is also available to meet with students and anyone else regarding Title IX subjects as needed.

### ***Title IX Coordinator***

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Additionally, anonymous reports can be made by victims or third parties using the online reporting form posted at <http://www.desales.edu/title-ix>. Please note that these reports may prompt a need for the University to investigate.

Individuals experiencing sexual harassment or discrimination always have the right to file a formal grievance with government authorities:

Office of Civil Rights (OCR)  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline: (800) 421-3481  
Email: [OCR@ed.gov](mailto:OCR@ed.gov) / Web: <http://www.ed.gov/ocr>

### ***The Clery Act - Reporting of Crime Statistics***

The Clery Act (Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act, with its various amendments) applies at DeSales University. The Act is a federal statute designed to provide students, their families, employees, and all who have or who contemplate an association with DeSales University with accurate, complete, and timely information about safety on our campus to make informed decisions.

The Clery Act requires institutions to report specified on-campus crimes, including crimes on public property within or immediately adjacent to the campus, and in or on non-campus buildings or property that the institution owns or controls, that were reported to local police agencies or to any official of the University with significant responsibility for student and campus activities. The crimes reported are then included in the University's federal- and state-mandated Annual Security Report which is distributed each year. Copies of the annual campus security report are made available by the University Police located in the Lawless Center on campus and on the internet at [www.desales.edu/securityreport](http://www.desales.edu/securityreport).

The University notifies the campus community in a timely manner upon confirmation of any significant emergency or dangerous situation (including the commission of certain crimes) involving an imminent threat to the health or safety of students or employees on campus. The University uses integrated systems for these emergency notifications that include email, text, campus signage, and C alerts. Depending upon the nature of the emergency, notifications will be sent across email and text only, or they will be sent across all of these mediums if there is immediate danger. These notifications are authorized by University officials.

The Clery Act Coordinator for DeSales University is Susan Anthony whose office is in the Lawless Center. She can also be contacted by phone at 610-282-1100, ext. 1740 and by email at [Susan.Anthony@desales.edu](mailto:Susan.Anthony@desales.edu). She is part of the two-person "Clery Act Compliance Team" with Chief Steven Marshall of the University Police. Chief Marshall also has his office in the Lawless Center. He can be reached by phone at 610-282-1100, ext. 1837 or by email at [Steven.Marshall@desales.edu](mailto:Steven.Marshall@desales.edu).

The Clery Act designates certain University personnel as Campus Security Authorities (CSAs). These individuals perform a vital task for the University in the collection of crime data. The commission of crimes at DeSales University should be reported directly to DeSales University Police or any of the

CSAs and at the Lawless Center to either member of the Clery Act Compliance Team. The intent of making non-law enforcement personnel CSAs is to acknowledge that many reporting parties, students, in particular, are hesitant to report some crimes to the police, but may be more inclined to report incidents to other University officials. When someone tells a CSA about a crime or an incident that may be a crime, the CSA must collect the relevant information regarding the incident and promptly submit a report to a member of the Clery Act Compliance Team.

The following are the University's CSAs: designated campus officials – including but not limited to, directors, deans, all student affairs administrators, residence life staff including all Residence Advisors (RAs), all student or campus activity advisors, all University Police officers, and Public Safety officers, the Athletic Director, all athletic coaches, Title IX professionals, and the Office of Human Resources. Pastoral and professional counselors are included in those who are exempt from disclosing information revealed to them unless there is an imminent danger to the reporting party or others. Though exempt from the reporting requirements of the Clery Act, pastoral and professional counselors, acting in those roles, are encouraged to report crimes on a voluntary confidential basis for inclusion in the annual statistics, especially if the incident poses a continuous threat to the campus community.

### ***Consent***

In order to fully understand what prohibited sex discrimination at DeSales University is, it is necessary to understand the concept of consent.

In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing, and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't want. Consent cannot be inferred from silence, passivity, or lack of active resistance. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent, once given, can be withdrawn at any time. There must be a clear indication that consent is being withdrawn. By definition, there is no consent when there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. A person who is the object of sexual aggression is not required to physically or otherwise resist the aggressor. The lack of informed, freely given consent to sexual contact constitutes sexual misconduct and a violation of Title IX's prohibition against sex discrimination.<sup>2</sup>

A person incapacitated by alcohol or drug consumption, or because of age, or by any other means, or who is unconscious or asleep or otherwise physically impaired, is incapable of giving consent. A person's intoxication is not an excuse for failure to obtain mutual consent from another person before participating in any form of sexual activity with that person. Under this policy, "No"



always means “No,” and “Yes” may not always mean “Yes.” Anything but a clear, knowing, and voluntary consent to any sexual activity is equivalent to a No.”

Additionally, the University maintains a *Consensual Relations Policy* that governs appropriate relationships between student - teacher and supervisor - employee.

### ***Consensual Relations Policy***

Maintaining appropriate relationships between student-teacher, and supervisor-employee is central to the mission of DeSales University and its sense of community. Personal ties should not interfere with the professional integrity of these relationships. Romantic and/or sexual relations by individuals between these groupings may appear to be consensual, but in fact, are not always so. These situations often create a conflict of interest and can lead to abuse of power. In addition, such relationships carry the appearance of bias or preferential treatment. They can endanger the sense of community, the openness of communication, or the presumption of fairness. All of this seriously threatens the foundation of the University’s mission.

The Catholic faith clearly holds that sexual activity is appropriate only within the context of marriage, where a man and a woman, equal in status and mature in development, freely decide to share their lives in a life-long union. This is not the context of the relationship between student-teacher or supervisor-employee. Even romantic relationships that might be acceptable in other circumstances always pose the inherent risk that they will result in sex discrimination when they involve members of the University community where a significant power or status differential between the parties exists. This includes, but is not limited to, any teacher, graduate student, administrator, coach, program director, advisor, counselor, or residence-life staff member who has supervisory responsibility and/or oversight for students or employees.

Voluntary consent by a student or a subordinate in a dating relationship, even if present, is always suspect given the fundamentally asymmetrical nature of status and power. Professionalism is threatened by any relationship where one party has professional responsibility for the other. Such relationships place, or seem to place, the person with the power or status advantage in a position to favor or advance the other party’s interests at the expense of others and implicitly make, or seem to make, obtaining benefits contingent on romantic or sexual favors. Participation in such relationships can ruin the careers and reputations of both participants in the relationship. Such participation can also adversely affect the University’s sense of community and the integrity of the learning environment. Faculty and supervisors need to understand that complaints of sex discrimination can follow them years after the relationship ends. Professionalism within the University demands that those with authority neither abuse nor seem to abuse, the power with which they are entrusted.

DeSales University takes the position that all such relationships are ill-advised and inherently unethical. Therefore, the University will not tolerate them. Violation of this policy will be considered grounds for dismissal.

### ***Sex Discrimination for Title IX Purposes***

*The Final Rule* by the U.S. Department of Education defines sexual harassment broadly to include any of three types of misconduct on the basis of sex, all of which jeopardizes the equal access to education that Title IX is designed to protect:

- Any instance of *quid pro quo* harassment by a school's employee;
- Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access;
- Any instance of sexual assault, dating violence, domestic violence, or stalking.<sup>3</sup>

If a situation of sex discrimination as described here takes place at any program or activity sponsored by the University on-campus or off-campus and within the United States, the procedures below as mandated by the Department of Education will be followed. All other situations of sexual harassment affecting students or employees that falls outside Title IX jurisdiction will be addressed by Human Resources according to the faculty or employee handbooks and by the Student Conduct Officer as described in the student handbook code of conduct.

### ***Quid Pro Quo Sexual Harassment***

*Quid pro quo* sexual harassment is any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another. This constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development, or performance. This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational or employment program.<sup>4</sup>

*Example of Quid Pro Quo:* A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request.

### ***Unwelcome Conduct that Creates a Hostile Environment***

A hostile environment is created when sex discrimination is sufficiently severe, pervasive, and objectively offensive that it unreasonably interferes with, denies or limits someone's ability to

participate in or benefit from the University's educational and/or employment, social and/or residential program.

*Examples of Sex Discrimination* include, but are not limited to the following:

- A student repeatedly sends sexually oriented jokes around on an email list he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- A professor frequently engages students in her class discussions about their sexual past experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details and demands that students answer her, though they are clearly uncomfortable and hesitant.
- Male students take to calling a particular brunette student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, "sexual relations," and Weight Watchers.<sup>5</sup>

Sexual exploitation is another form of unwelcome conduct that potentially interferes with, denies or limits someone's ability to participate in or benefit from the University's educational and/or employment, social and/or residential program. Sexual exploitation is understood to be when one person takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.<sup>6</sup>

*Examples of Sexual Exploitation* include, but are not limited to:<sup>7</sup>

- Invasion of sexual privacy;
- Prostituting another person;
- Non-consensual digital, video or audio recording of nudity or sexual activity;
- Engaging in voyeurism;
- Going beyond the boundaries of consent (such as letting your friend hide in the closet to watch you have consensual sex);
- Knowingly exposing someone to or transmitting an STI, STD, or HIV to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based bullying.

## ***Sexual Assault***<sup>8</sup>

Sexual assault is defined as any sexual act directed against another person, forcibly or against that person's will, or not forcibly or not against the person's will where the victim is incapable of giving consent. *Examples of Sexual Assault* include, but are not limited to:

- *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 victim.
- *Statutory Rape*—the touching of the private body parts of another person for the purpose of sexual gratification, forcibly or against that person's will, or not forcibly or not against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity. The statutory age of consent in Pennsylvania is 16, but adults who engage in sexual acts with a person under 18 years of age may be held responsible under the "corruption of minors" criminal statute.
- *Incest*—the non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- *Fondling*—the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the individual, including instances where the individual is incapable of giving consent because of his/her age and/or because of his/her temporary or permanent mental incapacity.

## ***Domestic Violence***<sup>9</sup>

Domestic violence means causing or attempting to cause physical or sexual assault or abuse, placing another in reasonable fear of bodily injury, restraining another's liberty or freedom of movement, or stalking, whether such conduct be a felony or a misdemeanor, and where such conduct is committed by:

- A current or former spouse or intimate partner of the individual;
- A person with whom the individual shares a child;
- A person who is cohabiting or has cohabited with the individual as a spouse or intimate partner;
- A person similarly situated to a spouse of the individual; or
- Any other person against an adult or youth individual who is protected from that person's acts under Pennsylvania's domestic or family violence laws.

### ***Dating Violence<sup>10</sup>***

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the individual. The existence of such a relationship shall be determined based on such factors as the length of the relationship, the type of relationship, and the frequency of the interaction between the persons involved. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse by one of the individuals to the other.

*Example of Dating Violence:* Maria and Devon went to a house party last weekend – no parents. Devon said he'd dump Maria if they didn't hook up. Maria eventually gave into Devon's sexual demands.<sup>11</sup>

### ***Stalking<sup>12</sup>***

Stalking occurs when a person engages in a course of conduct or repeatedly commits acts toward or repeatedly communicates to another person with the intention of placing that other person in reasonable fear of bodily injury or to cause substantial emotional distress in the other person. Stalking may include repeatedly following, monitoring, harassing, threatening, intimidating, or communicating to or about another person by phone, mail, electronic communication, social media, or any other action, device or method.

*Example of Stalking:* A student repeatedly shows up at another student's on-campus residence, always notifying the front desk attendant that they are there to see the resident. Upon a call to the resident, the student informs residence hall staff that this visitor is uninvited and continuously attempts to see them, even so far as waiting for them outside of classes and showing up to their on-campus place of employment requesting that they go out on a date together.<sup>13</sup>

### ***Protecting Yourself - Risk Reduction and Rape Drugs***

When you are out with friends it is important to watch out for each other, especially if one of them becomes intoxicated in an unusually short period of time, which can be a warning sign that something may not be right. Sexual offenders will often play the part of the rescuer in these situations and offer care of your friends so you "do not have to ruin your night." Have the courage and character to disrupt a situation like this and other potentially unsafe situations. As a DeSales University community, we are called to intervene and protect one another. According to <http://www.womenshealth.gov>, nearly 11 million women in the United States have been raped while drunk, drugged, or high.<sup>2</sup> If you've been assaulted, it is **never** your fault.

Awareness of common contributing factors to sex discrimination will help you protect yourself and your friends. Here are some suggestions to help protect yourself:

- Avoid excessive use of alcohol and do not use any drugs that are not prescribed or that are prescribed to someone else. Know your limitations and be aware of your surroundings.
- Trust your instincts/gut. If an individual makes you feel uncomfortable, remove yourself from the situation. If you are concerned about a person becoming angry, it's okay to lie to get out of a situation that makes you feel uncomfortable, threatened, or pressured; an urgent phone call, needing to help a friend, and not feeling well are some excuses that can be used.
- Be assertive. Do not do anything you do not want to do. State clearly what you want and do not want. When you say "no," or any form of no, the person should stop.
- Communicate. Think about what you really want before you get into a sexual situation, and clearly communicate your boundaries and limits. If someone makes you feel uncomfortable, tell him or her that early and firmly.
- Never assume anything, especially if alcohol or drugs are involved. If there is any doubt that what you are doing is consensual, stop what you are doing.
- Dangerous people often mask their true selves behind social media and online platforms. Take time to get to know any individual whom you meet online, especially someone who is not part of the University community, before inviting that person to campus.
- Be cautious about inviting someone into your room and/or going to someone else's room.
- Avoid walking alone if you are distracted, upset, or under the influence of any substance which may impair you.
- Never accept beverages, including non-alcoholic ones, from someone you do not know or trust. Never leave your drink unattended; get a new one if you do. Always open/pour your own drink. Keep your hand covering the opening of your drink, if possible. Never drink from punch bowls or other common containers. If you are having a mixed drink, make your own.
- Avoid individuals who do not listen to you, ignore personal space boundaries, make you feel guilty, accuse you of being "uptight" for resisting sexual advances, express sexist attitudes and jokes, act jealous and/or possessive.

- Make a plan AND a backup plan. If you go to a party, especially one off campus, go with people that have earned your trust. Agree to leave together and watch out for one another. Have multiple ride-share apps on your phone, and the number of a local taxi service saved in your phone in case plans change and you need a safe ride home. If your plans do change, be sure to communicate that with other people in your group so as to not leave someone stranded. Memorize and keep a list of important phone numbers written on a piece of paper in your wallet or purse in case your phone is not working. Consider taking a portable power bank to keep your phone charged when there is no access to a wall outlet.
- Know your resources both on and off-campus (see below). Save the number for University police (610) 282-1002 on your phone. Know where the emergency call boxes are located on campus.
- Be aware of your surroundings. Consider having a friend walk with you instead of walking alone. If you must walk alone, be sure to only use headphones in one ear to remain alert and aware of your surroundings.
- If you are worried about a friend's safety—tell them.

Many sexual offenders use alcohol and/or other drugs to make it easier for them to control their victims. It is important to understand that any drug can be used as a *rape drug*. The following drugs are most commonly used to facilitate sex discrimination:

- Alcohol
- Ecstasy (Molly)
- GHB (Gamma Hydroxy Butyrate)
- Special K (Ketamine)
- Roofies (Rohypnol)

If someone adds a date rape drug to a drink, it may change the color of a clear drink or make your drink look cloudy. However, changes can be hard to see if the drink is dark (such as cola or beer) or if the room is dark. You can't always tell if a drug has been added to your drink just by looking at it or tasting it. Often date rape drugs have no color, no smell, and no taste when added to a drink or food.

Someone could use any type of drug, including marijuana, cocaine, prescription, or over-the-counter drugs like antidepressants, tranquilizers, or sleeping aids to overpower a victim or make them not remember an assault (Rape, Abuse, and Incest National Network).

Symptoms of being dosed with rape drugs include:

- Rapid intoxication
- Slurred speech
- Dizziness, confusion (can lead to unconsciousness)
- Poor motor control
- Vomiting
- Decreased sexual inhibitions
- Periods of amnesia (brown-outs or blackouts)

If you think you or someone you know has been dosed with a rape drug, get to the hospital as soon as possible. Overdoses are life-threatening. Prompt medical attention can be life-saving. It is also important to visit the hospital as soon as possible to get tested if you or someone you know may have been dosed with a rape drug or any other drug involuntarily. Rape drugs dissipate from the body quickly. You must specifically ask for a drug test because it may not be part of normal protocol. This evidence will aid in criminal prosecution if charges are filed.

Research shows that up to 3 out of 4 attackers had been drinking alcohol when they sexually assaulted someone and about half of sexual assault victims had been drinking. However, this does not mean that drinking causes sexual assault or that the assault is the victim's fault. (Abbey, A., Zawacki, T., Buck, P. O., Clinton, A. M., McAuslan, P. (n.d.). **Alcohol and sexual assault**. National Institute on Alcohol Abuse and Alcoholism.)

### ***Action to Take If You Experience Sex Discrimination***

- Get to a safe place as soon as you can. Contact someone you trust to be with you.
- ***If you are on campus***, the University Police, with its department in the Lawless Center will assist you. Contact the University Police at ext. 1250 from a campus phone or call box or direct dial at 610- 282-1002.
- ***If you are off-campus***, dial 911 in case of an emergency. You may also directly contact the closest police department for the area in which you are located. The University Police will assist you in identifying proper police departments located off-campus. Simply dial the University Police at 610- 282-1002 when you are off-campus. DeSales University is located within the jurisdiction of the Upper Saucon Township Police Department at 610-282-3064.



- ***Get medical attention as soon as possible:*** (See Medical Attention on page 18.) If you have a medical emergency, dial 911. You may also call the University Police at the numbers indicated above. The University Police will assist to get you the necessary medical services, including the provision of transportation to a medical facility.
- ***Try to preserve all physical evidence:*** Although sexual offenses often make reporting parties want to wash or get rid of anything that reminds them of the trauma, it is important to preserve evidence. Do not wash your body, brush your teeth, use mouthwash, use the toilet, change your clothing, change bed linens, or wash any of these items. Do not eat or drink anything. If you have been consuming alcohol, refrain from drinking further. Do not use tobacco products or any other drugs. Prompt reporting will assist police in collecting and preserving evidence. It is important to have the evidence collected because, although you may not want to pursue a criminal complaint, you may change your mind in the future. Prompt reporting to the police will also contribute to an immediate, thorough, and fair investigation. It is strongly recommended that you discuss with medical personnel and the police, including the University Police, preservation of your physical evidence during your first contact with them.
- ***For support and advice,*** talk with an advocate or counselor of your choosing. Consider obtaining professional assistance from the University's Counseling Center which is located in the Dorothy Day Student Union and can be contacted at 610-282-1100, ext. 1462.

### ***Medical Attention***

The following is a list of local options for medical treatment and other services which you can pursue through the University Police or on your own:

- Lehigh Valley Hospital Emergency Room, 1200 S Cedar Crest Boulevard, Allentown, PA 18103;
- Lehigh Valley Hospital Emergency Room, 1627 Chew Street, Allentown, PA 18102;
- Lehigh Valley Hospital (Muhlenberg) Emergency Room, 2545 Schoenersville Road, Bethlehem, PA 18017;

(These three emergency rooms are part of Lehigh Valley Health Network which has Sexual Assault Forensic Examiners (SAFE) Nurses on call 24 hours a day. For medical treatment and evidence collection, report to any of these listed Lehigh Valley Health Network emergency departments.)

St. Luke's Hospital, 810 Ostrum Street, Bethlehem, PA 18015. This hospital has a Sexual Assault Nurse Examiner (SANE) Program.

## ***Reporting Sex Discrimination***

In the remainder of this Policy Statement, the term ***complainant*** refers to an individual who is alleged to be the victim of conduct that could constitute sex discrimination. Similarly, the term ***respondent*** refers to an individual who has been reported to be the perpetrator of conduct that could constitute sex discrimination. Both men and women may be the complainant or respondent parties.

DeSales University encourages all individuals to report any instance of sex discrimination involving any DSU student, staff, or faculty. If you have experienced sexual assault, it is not your fault. If you have experienced or know of sex discrimination, the University urges you to report it for the safety of all concerned. You have three reporting options.

- 1. Reporting to Police:*** If you believe that you experienced sex discrimination in the form of a sex crime that was committed **on-campus**, you may file a report with the University Police at its department located in the Lawless Center on campus. You may also dial the University Police from a campus call box or campus phone at 911 for an emergency or 1250 for a non-emergency. The University Police phone number is 610-282-1002. You may also report sex discrimination in the form of a sex crime directly to the Upper Saucon Township Police Department by dialing 911 from a non-campus phone for an emergency and by dialing 610-282-3064 for a non-emergency. In either of these events, the Upper Saucon Police will decide if there should be a criminal investigation and prosecution.

If a sex crime was committed **off-campus**, contact the police department where the crime was committed. The University Police will assist you in identifying and contacting the appropriate police department if the crime was committed off-campus. The University Police will assist you with any questions you may have.

- 2. Confidential Reporting:*** There is an option for individuals to confidentially report incidents reasonably believed to be in violation of this policy. A Confidential Resource will not disclose any details of the report with anyone. At DeSales University, if a person seeks assistance from counselors at the University Counseling Center, the Health Center, University Chaplain, or off-campus resources such as the Crime Victims Council of Lehigh Valley, individuals consulted will honor the confidentiality of the person seeking assistance, unless there is an imminent danger to the reporting person or others. Sharing information with a Confidential Resource will not result in a report to DeSales University or investigatory or disciplinary action against a respondent. Statistical information about confidentially-reported incidents may still be included in the University's annual Clery Act reporting, but such statistical information will not include any identifying information about any student, faculty, or staff member.

- 3. *Reporting to Responsible Employee:*** DeSales University faculty and staff who are not listed above as Confidential Resources are considered a responsible employee and obligated to report information received relating to violations of this Policy to the Title IX Coordinator, who has been specifically trained to receive and respond to allegations of violations of this Policy. Any member of the DeSales University community who has experienced a violation of this Policy and would like the University to respond by offering supportive measures and/or investigating the incident should notify the Title IX Coordinator by completing the anonymous reporting form, which can be found at <https://www.desales.edu/title-ix>.

To the extent possible, with the reporting of sex discrimination, the University will respect a reporter's request for confidentiality or request to withhold identifying information. However, under the circumstances of given matters, the ability to honor such a request may be limited due to the University's Title IX obligation to protect everyone on campus through investigation and corrective action. Also, in a Title IX sex discrimination investigation and administrative disciplinary process, it may be necessary to share information with people, such as investigators, witnesses, and the respondent, who need to know the accumulated information for a variety of legitimate reasons. If it becomes apparent to the University at any point that it cannot honor a request for confidentiality or to withhold identifying information, the University will immediately inform the person who made the request.

The University will only notify an off-campus police department of discrimination in the form of a sex crime if the complainant gives permission to report the crime to that department. The University may conduct a Title IX investigation and take necessary corrective action upon the reporting of a sex crime. Before proceeding under Title IX with an investigation and administrative disciplinary proceeding against a respondent, however, the University will always seek the informed consent of the complainant of sex discrimination.

Reporting an incident is not the same as prosecuting a person. Even if an individual does not want to press charges, the University encourages individuals to report the incident to law enforcement authorities. All Lehigh County criminal justice agencies are required to notify the District Attorney's Office of any sexual offenses which are alleged to have occurred in the county.

### ***Amnesty for Other Potential Policy Violations***

At times, people are hesitant to report the occurrence of sex discrimination to University officials or other personnel because they are concerned that they themselves may be charged with other policy infractions, for example, alcohol or visitation violations. While these other violations are not condoned, the importance of dealing with alleged sex discrimination outweighs the

University's interest in addressing lesser violations. Accordingly, the University will not pursue disciplinary action against those who make a sex discrimination complaint or who are named as witnesses to an incident.

### ***Retaliation***

A person who is contemplating or who has filed a sex discrimination report should not feel pressured in any respect by a third party. Retaliating directly or indirectly against a person who has in good faith made a report under this Policy or participated in an investigation is prohibited. Retaliation includes but is not limited to ostracizing the person, pressuring the person to drop or not support the complaint or to provide false or misleading information, engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living, or work environment, threatening, intimidating or coercing the person, or otherwise discriminating against any person for exercising their rights or responsibilities under this Policy. Such conduct will result in administrative disciplinary proceedings by the University and, depending upon the circumstances, even criminal proceedings. A reporting party or witness who is threatened in any way should immediately report this to the University Police or to the University's Title IX Coordinators.

### ***Process to submit a "Formal Written Complaint"***

A formal complaint is defined as a document filed by a complainant or signed by the Title IX Coordinator or Deputy Coordinator alleging sex discrimination against a respondent and requesting that the school investigate the allegation. While there is no time limit for reporting a violation of this Policy, the complainant and other reporting individuals are encouraged to report any violation as soon as possible in order to maximize the University's ability to respond and investigate promptly and effectively. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the University with which the formal complaint is filed.

- Complete and sign the online form "Report/Complainant of Sex Discrimination," at <https://www.desales.edu/title-ix>.
- Send the formal complaint to one of these Title IX Professionals at any time in person, by mail, by telephone, or by electronic mail:

#### ***Title IX Coordinator***

Andy Auguste  
Director of Residence Life  
2755 Station Avenue  
Center Valley, PA 18034  
Dorothy Day, Room 124

#### ***Title IX Deputy Coordinator***

Gracia Perilli  
Associate Director of Athletics/SWA  
2755 Station Avenue  
Center Valley, PA 18034  
Billera Hall, Room 101A

610-282-1100, ext. 1411  
Andy.auguste@desales.edu

610-282-1100, ext. 1218  
[Gracia.Perilli@desales.edu](mailto:Gracia.Perilli@desales.edu)

- The Title IX Coordinator and the Deputy Coordinator have the immediate “authority to institute corrective measures” and therefore, would have “actual notice” when made aware of potential policy violations.<sup>14</sup>
- If the allegations in a formal complaint do not meet the definition of sex discrimination as defined by the Department of Education’s *New Final Rule*, or did not occur in a University-sponsored education program or activity against a person in the United States, the University will dismiss such allegations *for purposes of Title IX* but will address the allegations as a sexual misconduct matter as described in the Student, Employee, and Faculty Handbooks.
- The University may dismiss formal complaints if: the complainant withdraws the complaint; the respondent is no longer a student or employee at DeSales, or the circumstances prevent the University from gathering sufficient evidence to reach a determination.

### ***Mandatory Response of the University***

- Once a formal written complaint has been received, the Title IX Coordinator will meet with the complainant and explain these options for the next step: to begin a Title IX administrative process with the University, to initiate a criminal complaint/report with the appropriate law enforcement agency, to engage both courses of action which may take place simultaneously, to engage in an informal resolution process, or to take no action.
- The parties (complainant and respondent) and any potential witnesses will be treated with courtesy and respect, and the University will take action for the parties safety.
- The University affirms that a complainant’s request concerning whether the school investigates will be respected unless the Title IX Coordinator determines that signing a formal complaint is not clearly unreasonable in light of the known circumstances.
- When a Title IX Coordinator signs a formal complaint, the Title IX coordinator is not a complainant or a party during the grievance process, and will comply with requirements for Title IX personnel to be free from conflicts of bias.
- An administrative investigation of the complaint will begin with notice to the complainant so that the University can identify and rectify, on an ongoing basis, any dangerous conditions on campus, patterns of discrimination or systemic problems that are uncovered.

- If the incident results in criminal proceedings, the University's investigation of the complaint will still proceed but aspects of it may be temporarily suspended to accommodate the investigation in the criminal matter by the involved law enforcement agency. The University cooperates with the Lehigh County District Attorney's Office, Upper Saucon Township Police Department, and other county law enforcement agencies to make sure incidents are properly investigated, to comply with Title IX, and to promote safety for all concerned.
- Both parties will receive written notice of the details of the allegations, including the identities of the parties involved, the date and location of the incident, the specific section(s) of the policy alleged to have been violated, and the conduct that would be considered sex discrimination. In addition, both parties will receive a copy of *Keeping our Campus Safe* with its explanation of the Title IX process at DeSales University, and the supportive measures available to them. Finally, the notice will include a presumption of innocence that the responding party is not responsible for the alleged conduct until a determination is made at the conclusion of the Hearing.
- Changes may be made in the complainant and respondent's academic, living and employment situation upon request, if the University can reasonably accommodate the request. The University may make such changes on its own initiative after weighing all of the circumstances of each party, including issuing no-contact directives to the parties involved. The goals of these adjustments are the safety, well-being, and academic stability of the parties.
- ***Emergency Removal Process:*** An interim suspension from living on-campus or from the University may occur, pending final resolution of the sex discrimination complaint, after taking into account an individualized safety and risk analysis to determine whether an immediate threat to the physical health or safety of a student or other individual is present. The respondent will receive notice before the action is implemented and an opportunity to challenge the decision. Employees who are named as a respondent may be placed on administrative leave.

### ***Supportive Measures***

- The Wellness Center: Any complaint of sex discrimination and anyone concerned about these issues should consider obtaining assistance from the University's Counseling Center or Health Center, which are located in the Dorothy Day Student Union. The counselors and health professionals in this office offer a range of services to all parties. Meetings with the licensed professional counselor and her trained staff are confidential. Meetings can be scheduled by calling 610-282-1100, ext. 1462 or filing out the online form at [www.desales.edu/consultingrequest](http://www.desales.edu/consultingrequest). Office hours are Monday, Tuesday, Thursday from 9

a.m. to 8 p.m.; Wednesday from 9:00 a.m. to 7 p.m.; and Friday from 9:00 a.m. to 4:00 p.m.

- The Crime Victims Council of the Lehigh Valley/Rape Crisis Center: This off-campus agency offers assistance in a variety of ways. This includes accompanying you during any medical examinations. The individuals at the agency can be contacted by telephone at 610-437-6611. Learn more about this resource on its website at <http://cvclv.org/>
- No Contact Administrative Directive: In an attempt to prevent contact, the University can issue an administrative directive for no contact between the complainant and the respondent. An administrative directive is a written notification from the University's administration for one student or campus employee to have no contact with another student or campus employee. Failure to comply with an administrative directive could result in an administrative sanction and even criminal charges depending upon the nature of the conduct in not complying with the directive. An administrative directive is tailored by the University to take into account the parties' circumstances including class and extra-curricular schedules. Complainants and respondents can request the issuance of these directives which requests will be granted if the University can reasonably accommodate them or the circumstances warrant a directive's issuance. The University can issue an administrative directive on its own initiative in situations deemed appropriate by the relevant professional staff for the complainant and respondent involved.
- Protection from Abuse Act Order: Depending upon the nature of the conduct and relationship, if any, between the complainant and the respondent, the complainant may be able to obtain from the local court an order against the respondent under Pennsylvania's Protection from Abuse Act. Such an order, including a restraining order, could provide further protection for the complainant from sex discrimination by the respondent. The University Police can inform the complainant about how to apply for this order and all aspects of the Protection from Abuse Act.
- Chaperone Service: When requested, the University Police provides an escort for any member of the University community seven days per week and 24 hours per day. Call extension 1250 from any campus phone or dial 610-282-1002 from any non-campus phone.
- Educational Programs: The University Police and Student Life offer sexual assault education and information programs to students and employees. These are available upon request except where mandatory provision of the programs is noted below. Literature on sexual assault prevention and risk reduction is available at the Counseling Center and Health Center (both in the Dorothy Day Student Union) and the University Police

Department (in the Lawless Center). On an annual basis, the University conducts or coordinates educational initiatives in conjunction with the following:

- Health & Wellness Fair - Each fall semester, the Health Centers host a Health & Wellness community fair that welcomes various agencies, including the Crime Victims Council of the Lehigh Valley and Turning Point ([www.turningpointlv.org](http://www.turningpointlv.org)), which is an abuse counseling center and refuge.
  - First-Year Student Orientation - The University provides a mandatory program on Title IX topics including transitioning into a university community, types of sexual offenses, and the reporting of sexual offenses, for all incoming and new students. A copy of this publication, *Keeping our Campus Safe*, is available online at [www.desales.edu/title-ix](http://www.desales.edu/title-ix). Each student during Orientation receives a Title IX brochure, which explains the University policy and on-campus resources.
  - START - This online course **Student, Title IX, Alcohol, and Respect Training (START)** is to educate all University students about the elements of healthy relationships, the importance of sexual consent, the impacts of alcohol overuse and the role of “upstanders” in creating safe, healthy communities. All incoming students are required to complete this course prior to orientation.
  - PACE - **Peers Advising Counseling Educating (PACE)** is a small group of students who provide peer education programs that focus on alcohol, tobacco, violence, sexual health and safety, and justice issues. Types of programs include Walk a Mile in Her Shoes (a sexual assault awareness program) and presentations on body image, social media, mental wellness, etc.
- **Emergency Call Boxes:** Emergency call boxes are strategically located throughout campus. They are either bright yellow in color or have a steady illuminated blue light near them to allow for easy locating. When activated, these call boxes immediately connect directly to the University Police.
  - **Campus Crime Alerts:** Timely warning notices are communicated via email and text message to the campus community whenever certain sexual offenses, or other serious crimes that create an imminent threat to the community, are reported. These alerts comply with the requirements of the Clery Act. (See *Clery Act* on page 7.)
  - **Bystander / "Upstander" Intervention:** A bystander is someone other than the victim who is present when an act of sex discrimination is occurring or when a situation takes place in which a reasonable person feels as though some protective action is required to prevent a person from being subjected to sexual assault or other sex discrimination. Bystanders,



through a series of active strategies, can be "Upstanders," and can prevent harm or intervene before a situation gets worse.

Examples of "Upstander" interventions include:

- not leaving an intoxicated person in a bar/party alone;
- creating a diversion/distraction in an unsafe situation,
- walking a classmate to his/her car after class;
- calling the police when a potentially violent or abusive situation is unfolding;
- not leaving an unconscious person alone by staying with the person and alerting the University Police, emergency medical services (EMS) or a Resident Advisor (RA);
- intervening directly or indirectly when someone else is being belittled, degraded or emotionally abused;
- escorting an individual from a dangerous situation;
- and contacting others for help in any uncomfortable or dangerous situation by alerting the University Police, staff at the Counseling Center, an RA or the Vice-President for Student Life.

### ***The Investigation Process***

Once the consent of the complainant is received, the University will then conduct a prompt, thorough, and impartial investigation. The purpose of the investigation is two-fold: to determine what occurred and whether there is sufficient evidence of a Title IX Policy violation, and for the University to eliminate any circumstances which led to sex discrimination, to address any effects of the discriminatory conduct on the complainant and others, and to ensure that the University is safe for an optimum healthy learning environment.

The University will ensure that coordinators, investigators, hearing panel members, and appeal officers do not have a conflict of interest or bias for/against the complainant or respondent parties. To that end, all investigations will be conducted (for both student and employee) jointly by trained Investigators (the Assistant Dean of Students for Campus Life and Student Conduct, the Chief of the University Police or an external investigator). If there is a conflict of interest, an alternative trained investigator will be used.

- The investigation generally will take no longer than 60 days; however, complex cases, the availability of witnesses, and other exceptional circumstances may require additional time and/or the modification of the timeframes described herein. If there are delays in the investigation, the Title IX Coordinator will notify the parties in writing of the delays and explain the circumstances causing the delays.

- The complainant or respondent's past sexual history or records made or maintained by a health or mental health professional may not be referenced throughout the investigation or adjudication process unless the investigator obtains the party's voluntary, written consent to do so. Sexual history that relates to past complaints or findings of responsibility under this Policy may be considered when determining an appropriate sanction if a respondent is found responsible.
- DeSales University bears the burden of collecting evidence and proving a violation of the Title IX Policy and will use a preponderance of the evidence standard, meaning that the outcome will be based on a conclusion of what was more likely to have occurred than not.
- To the extent permitted by law, the complainant and the respondent will be afforded the same rights and opportunities throughout the investigation and adjudication process, including the opportunity to recommend witnesses (including expert witnesses), submit evidence, and appeal the outcome of any formal University disciplinary process. There are no restrictions on the ability of any party to discuss the allegations.
- Both complainant and respondent parties have a right to an advisor of their choice (including a lawyer), who may be present at all meetings, interviews, and proceedings. Any restrictions to advisor participation will be applied equally to all parties. If a party cannot obtain an advisor, the University will provide one a pool of trained advisors from which a party can choose at no cost to the party.
- All parties will be provided clear written notice before each and every interview or other meeting they are invited or expected to attend, including date, time, location, participants, and purpose of the investigative interview or meeting.
- Both complainant and respondent will have an equal opportunity to inspect and review all evidence obtained during the investigation. The parties will have at least 10 days to review and submit a written response to the evidence, which will be considered by the investigator(s) before finalizing the report.
- All parties including all witnesses interviewed or contacted during the investigation are expected to cooperate fully with the resolution of the complaint and/or investigation by providing complete, accurate, and truthful information and any potentially relevant documentation in any format. If a party or witness does not cooperate fully or knowingly provides false statements or information, appropriate disciplinary action may be taken.
- The investigators will prepare a final investigative report and will submit the report to the Title IX Coordinator. The final investigative report will include the factual determinations made as a result of the investigation. The complainant and the respondent will be informed

in writing by the Title IX Coordinator of the results of the investigation and receive a copy of the report at least 10 days before a hearing to decide whether the respondent is ultimately responsible for the alleged policy violation.

- If the result of the Title IX investigation is the conclusion that, by a preponderance of the evidence, the respondent may have engaged in a policy violation, the respondent will be required to participate in the University's Title IX administrative disciplinary process. This may include an informal resolution or a live hearing with adjudication.

### ***The Informal Resolution***

- For qualifying cases, both the complainant and respondent may request resolution of an allegation via the *informal resolution* process. This request can be made at any time before, during, or after the start of the investigation, or at any time prior to reaching a determination of responsibility. The request must be made to the Title IX Coordinator, and any party may withdraw from the informal resolution process any time prior to agreeing to a resolution.
- The following qualifications must be met before an informal resolution is used: both parties must provide voluntary written consent, both parties must be provided a written notice of the allegations and the requirements of the informal resolution process, and the facilitator must be adequately trained.
- The goals of an informal resolution are to provide an opportunity for closure through a mutually agreed-upon resolution, which does not include the possibility of sanctions or admission of a policy violation.
- The procedures for an informal resolution include, but are not limited to: both parties meet face to face, both parties will listen to each other without interruption, each will have an opportunity to speak and respond.

### ***Title IX Live Hearing Process***

If the result of the Title IX investigation is the conclusion that, by a preponderance of the evidence, the respondent may have engaged in a policy violation, and both parties do not support an informal resolution, then with the consent of the complainant, the respondent will be required to participate in the University's Title IX Hearing process.

- Within ten (10) days of the completion of the Title IX investigation, the Title IX Coordinator will set up a meeting with the complainant and a separate meeting with the

respondent. The Title IX Coordinator will explain to the parties the Hearing process and provide them with a copy of this publication, *Keeping Our Campus Safe*, which addresses all matters related to the Hearing.

- A Hearing will be scheduled within 45 days from the time both parties receive a copy of the Final Investigation Report, absent any special circumstances. The purpose of the Hearing is to determine responsibility for Title IX policy violations.
- Both parties will receive a written *Notice of Hearing* 14 days prior to the hearing that will include the time, date, place, and purpose of the meeting, the names of the Hearing Panel, and a list of witnesses. All communications related to the Hearing shall be directed to the Title IX Coordinator. Timely notice will be given for any amendments to the notice.
- The Hearing Committee shall consist of three individuals selected by the Title IX Coordinator from a list of trained individuals. One member of the panel, who has been appropriately trained, will be appointed as the chair and the “decision-maker” for the Hearing.
- Each party may challenge one member of the Hearing panel for reason such as bias by submitting a written request to the Title IX Coordinator within two weeks from the date of the Notice of Hearing. The Title IX Coordinator shall review the request and select a new member for the Hearing Panel.
- Legal Counsel will be available to meet and review with the members of the Hearing panel the procedures as outline in *Keeping Our Campus Safe*, including the purpose of the Hearing, procedure guidelines, and possible sanctions, penalties, and remedial actions that can be recommended by the Hearing Panel.
- At the request of either party, the University will provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other. Requests must be made in writing at least two weeks in advance of the hearing date to the Title IX Coordinator.
- Each party may request witnesses not listed on the Notice of Hearing by submitting the witness names and summary of the witness testimony to the Title IX Coordinator at least two weeks prior to the hearing date.

### *Procedures for a Live Hearing*

- The Chair (decision-maker during the hearing) will introduce the members of the hearing panel, read the alleged University policy violation(s), and review the goals and procedures for the hearing.
- The respondent will enter a plea of responsible or not responsible of the policy violation.
- The Title IX investigators shall appear at the hearing in a neutral capacity and present all relevant witnesses for questioning.
- The chair (in consultation with the members of the Hearing Panel) will begin by asking all relevant questions of clarification for the parties and witnesses.
- The chair will provide an opportunity for each advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those raising concerns of credibility. Such cross-examination at the hearing will be conducted directly, orally, and in real-time by the party's advisor of choice, but never by a party personally.
- The advisor may ask only relevant cross-examination and other questions of a party or witness. However, before a complainant, respondent, or witness answers a cross-examination or other question, the chair will first determine whether the question is relevant and explain why any decision to exclude a question is not relevant.
- Cross-examination may not include questions sexual of behavior or disposition unless evidence of such behavior is offered to establish consent or to demonstrate that another party is responsible for committing the violation. In other words, questions that may be excluded are those protected by rape-shield protections<sup>15</sup>, health information, and attorney-client privilege.
- If a party or witness does not submit to cross-examination at the live hearing, the hearing committee will not rely on any statement of that party or witness in reaching a determination regarding responsibility.
- Should the complainant or responding parties not appear at the Title IX Hearing, the hearing will be conducted without that party's presence and a decision will be rendered based on the evidence before the hearing panel.
- At the conclusion of the presentation of the evidence, all will be excused from the hearing room except for the Hearing panel, which will deliberate.

- Based only on the evidence presented at the hearing, the Hearing Panel will make the following recommendations by using the “preponderance of the evidence” (more likely than not) standard and by a majority vote:
  - ✓ The specific section(s) of the code alleged to have been violated,
  - ✓ A description of all the steps taken from the receipt of the formal complaint through the hearing,
  - ✓ Specific descriptions of all “findings of facts” that support the determination,
  - ✓ Conclusions regarding the application of the “findings of facts” to the alleged violations,
  - ✓ A statement and rationale with respect to each allegation, including determination, sanctions, and remedial measures.
  - ✓ Recommendations for prevention of future policy violations and to otherwise have a safe campus conducive to scholarly pursuits;
- Within 10 days of the completion of the hearing, the Hearing Committee’s written report shall be submitted to the Title IX Coordinator. The Executive Vice-President is the final decision-maker, who will render a decision within five business days from receiving the recommendations of the Hearing Committee.
- The Title IX Coordinator will send a written determination simultaneously to all parties for each alleged policy violation as defined above. In addition, both parties will have access to the audio recording and/or transcript of the live hearing.

***Possible Sanctions for Title IX Violations***

If a respondent is found by the Hearing Panel to be responsible for a University policy violation, the panel will recommend any interim and/or long term measures or combination of them:

- *Administrative Letter of Censure* – This is a letter provided by the Hearing panel to the respondent indicating that he/she was found to have committed a policy violation and that any further misconduct will result in more severe disciplinary action.
- *Community Service Hours* – Work done throughout the University for any policy violation that was found to have been committed.
- *Education Programs or Workshops* – Attendance at sessions designed to address the facts of given cases, such as a victim’s awareness education.
- *Counseling* – Designed to address respondent’s individual circumstances.

- *Loss of Privileges* – Denial of specific campus privileges for a specified period of time.
- *Residential Probation* (for student respondents only) – An official warning taking into account the seriousness of the policy violation and the respondent’s disciplinary record at the University. The warning will indicate that any future policy violations or any other disciplinary violations may result in loss of residential and visitation privileges.
- *Disciplinary Probation* (for student respondents only) – A status between good standing and suspension from the University. It is imposed for a period of not less than one semester and may affect financial aid for the following semester. It may also include such restrictions as the denial of the opportunity to represent the University as an athlete or officer of a student organization. Future policy violations and any other disciplinary violations may result in the loss of the privilege of residing in or visiting residence facilities, suspension from the University, or expulsion from the University.
- *Residential Suspension* (for student respondents only) – Loss of the right to reside in or visit University residence halls and related areas for a specified period of time.
- *Residential Eviction* (for student respondents only) – Permanent loss of the right to reside in or visit University residence halls and related areas.
- *Suspension* (for student respondents only) – Separation of the student from the University for a stated period of time (minimum of one semester). The student will be barred from all University-owned property and will be barred from all University-sponsored activity for the period of the suspension.
- *Expulsion* (for student respondents only) – Permanent separation of the student from the University. The student will be barred from all University-owned property and will be barred from all University-sponsored activities.
- *Suspension from the University with Pay* (for faculty and other employees only) – This shall be for a specified time.
- *Suspension from the University without Pay* (for faculty and other employees only) – This shall be for a specified time.
- *Termination from Employment* (for faculty and other employees only).
- *Other* – Measure(s) recommended by the Hearing panel to promote the safety of the University and to enhance the educational experience for all members of the University community.

The following is a guide and not “hard and fast” in its implementation, but serves as a template to construct reasonable sanctions for Title IX Violations at DeSales University. These are intended to be guidelines and are flexible given extenuating circumstances. A student's cumulative conduct record,

the severity of the violations, compound violations, student cooperation, and other factors may be taken into account when deciding how to apply these guidelines.

	<i>Policy Violation</i>	<i>Potential Sanctions</i>
<b>Level 1</b>	<ul style="list-style-type: none"> <li>• Unwanted touching for sexual gratification</li> <li>• Sexual Exhibitionism</li> <li>• Sexual Harassment</li> <li>• Gender-based Harassment</li> <li>• Voyeurism</li> <li>• Retaliation</li> </ul>	<ul style="list-style-type: none"> <li>• Disciplinary Probation</li> <li>• Counseling</li> <li>• Education Programs or Workshops</li> <li>• Residential Probation</li> </ul>
<b>Level 2</b>	<ul style="list-style-type: none"> <li>• Sexual Exploitation</li> <li>• Unwanted touching of private body parts for sexual gratification</li> <li>• Stalking</li> <li>• Non-consensual video taping</li> </ul>	<ul style="list-style-type: none"> <li>• Disciplinary Probation</li> <li>• Residential Suspension</li> <li>• Loss of Privileges</li> <li>• Suspension</li> </ul>
<b>Level 3</b>	<ul style="list-style-type: none"> <li>• Dating Violence</li> <li>• Domestic Violence</li> <li>• Stalking with Violence</li> </ul>	<ul style="list-style-type: none"> <li>• Suspension</li> <li>• Residential Eviction</li> </ul>
<b>Level 4</b>	<ul style="list-style-type: none"> <li>• Sexual Assault</li> <li>• Rape</li> <li>• Statutory Rape</li> <li>• Incest</li> <li>• Sex Trafficking</li> </ul>	<ul style="list-style-type: none"> <li>• Expulsion</li> <li>• Termination of Employment</li> </ul>

***The Appeal from Title IX Hearing Decision***

Both the complainant and respondent have a right to appeal the decision of the University, including the right to appeal an initial dismissal for not falling within the Title IX parameters. A party may appeal the decision by filing a written appeal within ten (10) days of that party’s receipt of a copy of the decision.

- The written appeal must be filed at the office of the Title IX Coordinator (the office is in Room 125 in the Dorothy Day Student Union) or at the office of the Assistant Title IX Coordinator (the office is in Room 101 in Billera Hall).
- The party requesting appeal must show clear error as the original finding and/or compelling justification to modify a sanction, as both finding and sanction are presumed to have been decided reasonably and appropriately during the original hearing.
- An appeal may be filed on one or more of the following grounds only:



- ✓ A procedural irregularity or substantive error occurred that significantly impacted the outcome of the hearing (ex. substantiated bias/conflict of interest or material deviation from the established procedures as outlined in this Policy).
  - ✓ Newly discovered evidence, which was not reasonably available at the time of the hearing. A summary of this new evidence and its potential impact must be explained on the appeal form.
  - ✓ The sanctions imposed fall outside the range of sanctions designated for this offense and the cumulative conduct history of the responding party.
- The appeal shall be decided by the appeals officer, who is not the Title IX coordinator, investigator, or decision-maker. The decision on an appeal shall be final.
  - If a party presents in the written appeal reason to believe that the party is entitled to relief under grounds of a procedure (or substantive) error, the appeals officer shall remand the matter to the Title IX Hearing Committee for further proceedings as the Hearing Committee determines appropriate adjustments consistent with fairness to the parties.
  - As to unreasonable sanctions, the appeals officer shall grant relief when deemed appropriate under the responsible exercise of discretion by the appeal authority taking into account the entire hearing record.
  - In rare cases where a procedural (or substantive) error cannot be cured by the original Hearing panel (ex. as in the case of bias), the Appeals Officer may order a new hearing with a new hearing panel.
  - The procedures governing the hearing of appeals include the following:<sup>16</sup>
    - ✓ All parties shall be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
    - ✓ Every opportunity to return the appeal to the original hearing body reconsideration (remand) should be pursued.
    - ✓ Appeals are not intended to be full re-hearings of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal;

- ✓ Appeals decisions are to be deferential to the original hearing, making changes to the finding only where there is clear error and to the sanction only if there is compelling justification to do so;
- ✓ An appeal is not an opportunity for appeals officers to substitute their judgment for that of the original hearing merely because they disagree with its finding and/or sanctions.
- ✓ Sanctions imposed are implemented immediately unless the Executive Vice-President stays its implementation in extraordinary circumstances, pending the outcome of the appeal.
- ✓ The appeals officer will typically render a written decision of the appeal to all parties within five (5) business days from the hearing of the appeal. The appeals officer's decision to deny an appeal request is final.

### ***Important Notice***

DeSales University students, faculty, and staff are responsible for knowing the information, policies, and procedures outlined in this document. The university has the right to make changes to this document as necessary and once those changes are posted online, they are in effect. Please check [www.desales.edu/titleix](http://www.desales.edu/titleix) for updated versions of policies and procedures. If government regulations change in a way that impacts this Policy, the document will be construed to comply with government regulations in their most recent form. Reports of sex discrimination made after the fact may raise issues of policy and procedure application if policies and procedures have changed. Unless the parties accept current policies, all reports are governed by the policies that were in place at the time of the alleged policy violation. Procedures applicable are those that are in place at the time of the resolution.

<sup>1</sup> Used with permission from ATIXA Model Policy

<sup>2</sup> Consent as defined by ATIXA in their Model Policy

<sup>3</sup> Sexual Harassment as defined by the US Department of Education in the Title IX Final Rule.

<sup>4</sup> Quid Pro Quo Harassment as defined by ATIXA's Model Policy

<sup>5</sup> Used with permission from ATIXA Model Policy

<sup>6</sup> Sexual Exploitation as defined by ATIXA Model Policy

<sup>7</sup> Used with permission from ATIXA Model Policy

<sup>8</sup> Sexual Assault as defined in the Clery Act

<sup>9</sup> Domestic Violence as defined in the Violence Against Women Act (VAWA)

<sup>10</sup> Dating Violence as defined in the VAWA

<sup>11</sup> Tracy, N. (2012, July 27). *Teenage Dating Violence: Signs, Examples of Dating Violence*, HealthyPlace. Retrieved on 2020, June 3 from <https://www.healthyplace.com/abuse/domestic-violence/teenage-dating-violence-signs-examples-of-dating-violence>.

<sup>12</sup> Stalking as defined in the VAWA

<sup>13</sup> Used with permission from ATIXA Model Policy

<sup>14</sup> Notice to a Title IX Coordinator, who is an official with authority to institute corrective measures on behalf of the University, charges a school with “actual knowledge” and triggers the school’s response obligations.

<sup>15</sup> Rape shield law, statute or court rule, introduced in the late 20th century, which limits the ability of the defendant’s counsel to introduce the accuser’s sexual history as evidence during a rape trial and therefore can prevent the accuser from being discredited by information that is not relevant to the defendant’s guilt or innocence (Britannica.com).

<sup>16</sup> Model Resolution Procedures by The NCHERM Group, LLC Partners, 2015, procedures governing the hearing of appeals.