



<b>Policy Title</b>	<b>Policy Prohibiting Discrimination and Harassment</b>
<b>Policy Category</b>	<b>Ethics, Integrity, and Legal Compliance</b>
<b>Policy Approval Date</b>	<b>August 1, 2024</b>
<b>Policies Superseded</b>	<b>Policy Prohibiting Sexual Harassment and Sexual Misconduct; Non-Discrimination and Non-Harassment Policy; Procedures for Resolution of Compliants Under the Non-Discrimination and Non-Harassment Policy and the Policy Prohibiting Sexual Harassment and Sexual Misconduct</b>
<b>Responsible Office(s)</b>	<b>Provost</b>
<b>Frequency of Review</b>	<b>1 year</b>

## 1. Purpose

Arcadia University (“Arcadia” or the “University”) has adopted this Policy Prohibiting Discrimination and Harassment (the “Policy”) in order to advance its goal of maintaining an environment free of Discrimination, Harassment, and related Retaliation. Arcadia adheres to all federal and state civil rights laws. This Policy is intended to satisfy Arcadia’s commitments under civil rights laws including, but not limited to, Title VII of the Civil Rights Act of 1964, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (“Title IX”), Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination in Employment Act of 1967 and Age Discrimination Act of 1975, the Pennsylvania Human Relations Act, the Pennsylvania Fair Educational Opportunities Act, and other federal, state, and local laws (collectively, “civil rights laws”).

Arcadia encourages individuals who have been affected by Discrimination, Harassment, and/or related Retaliation to promptly make a Report to Arcadia using any of the reporting options described in this Policy. Arcadia will respond promptly and equitably to all Reports of Discrimination, Harassment, and/or related Retaliation, and will take appropriate steps to eliminate the behavior, prevent its recurrence, and address its effects. Capitalized terms within this Policy are defined in Sections 8 and 9 below.

## 2. Scope

The behavioral expectations of this Policy apply to all Arcadia Students, employees (including faculty, staff, and employees working pursuant to Collective Bargaining Agreements), trustees, administrators, applicants for admission or employment, volunteers, independent contractors, and other individuals participating or attempting to participate in Arcadia's Education Program or Activity. The behavioral expectations of this Policy apply to any alleged Prohibited Conduct that impacts Arcadia's Education Program or Activity wherever it occurs, including on campus, off campus, and online.

### **3. Effective Date**

This Policy became effective on August 1, 2024. Arcadia has revised its policies pertaining to Discrimination, Harassment, and related Retaliation on several occasions. When a Complaint of past Discrimination, Harassment, or Retaliation is made, Arcadia will typically apply the policy in place at the time of the alleged Prohibited Conduct and the procedures which are in place at the time the Complaint is made. Final decisions regarding which policy and procedures will apply in any specific case are made by the Director of the Office of Equity and Civil Rights ("OECR")/Title IX Coordinator in their discretion and in accordance with applicable law and/or regulation, and are not appealable.

### **4. Notice of Non-Discrimination; Role of the Director of OECR/Title IX Coordinator**

#### **a. Notice of Non-Discrimination**

Arcadia does not Discriminate, nor does it permit Discrimination, including Harassment and/or related Retaliation, on the basis of race; color; sex (including sex stereotypes, sex characteristics, sexual orientation, or gender identity); Pregnancy or Related Conditions; religion; creed; ethnicity; national origin; disability; age; Parental, Marital, or Family Status; veteran or military status; genetic information; or any other protected category under applicable local, state, or federal law ("Protected Classes") in its Education Program or Activity, including with respect to applications for enrollment and/or employment. Arcadia has adopted Grievance Procedures, set forth in this Policy, which provide for the prompt and equitable resolution of Complaints alleging any action which would be prohibited by this Policy. All Complaints brought under this Policy will be addressed promptly and equitably pursuant to the processes provided for herein.

#### **b. Role of the Director of OECR/Title IX Coordinator**

Arcadia has appointed a Director of OECR/Title IX Coordinator to coordinate its compliance with civil rights laws, including Arcadia's compliance with Title IX, which provides:

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.

In this Policy, when the term "Director of OECR/Title IX Coordinator" is used, the role should be understood to include any and all of the Director of OECR/Title IX Coordinator's designees. The responsibilities of the Director of OECR/Title IX Coordinator include:

- Taking prompt and effective steps to ensure that Discrimination does not continue or recur, and to remedy its effects;
- Monitoring Arcadia's Education Program or Activity for barriers to reporting conduct that may constitute Discrimination and taking steps reasonably calculated to address such barriers;
- Facilitating the provision of a non-discriminatory environment and equal access to individuals experiencing Pregnancy or Related Conditions; and
- When notified of conduct that reasonably may constitute Discrimination,
  - Treating Complainants and Respondents equitably;
  - Offering and coordinating Supportive Measures for the Complainant and, if Informal Resolution Process or Grievance Procedures are pending, the Respondent;
  - Notifying Complainants or, if different, individuals making Reports, of the Informal Resolution Process and Grievance Procedures, as available and appropriate;
  - Notifying the Respondent of the Informal Resolution Process and Grievance Procedures, as available and appropriate, if a Complaint is made;
  - In the event of a Complaint, initiating the Grievance Procedures or, if available and appropriate and requested by all Parties, the Informal Resolution Process; and
  - In the absence of a Complaint made by a Complainant, or in the event of the withdrawal of any or all of the allegations in a Complaint, determining whether to initiate a Complaint.

**c. Reporting Prohibited Conduct to the Director of OECR/Title IX Coordinator**

The Director of OECR/Title IX Coordinator is available to receive Reports or Complaints about conduct that may constitute Discrimination, Harassment, or related Retaliation. The Director of OECR/Title IX Coordinator is also available to meet with any individual, including a Complainant, a Respondent, or a third party, to provide information, on- and off-campus resources, and various procedural options. The Director of OECR/Title IX Coordinator can be reached, and Reports and Complaints can be made, through any of the following channels:

Lailah Dunbar-Keays, Director of OECR/Title IX Coordinator

Email: [oeqr@arcadia.edu](mailto:oeqr@arcadia.edu)

Phone: (215) 517-2659

Office Address: 777 Limekiln Pike, Room 111, Suite 112, Glenside, PA 19038

<https://www.arcadia.edu/life-arcadia/diversity-inclusion/office-equity-civil-rights/>

Arcadia has established an online reporting system to receive complaints of Sex-Based Harassment and other forms of Prohibited Conduct, and the system has the option of reporting anonymously. If you would like to submit an online report, you can do so using Arcadia's Campus Conduct Reporting Hotline by phone at (1-866) 943-5787 or at the following web address: <https://report.syntrio.com/StandardCustomURL/LHILandingPage.asp>. In addition, anonymous reports can be made using this [Anonymous Reporting Form](#).

**IN THE EVENT OF EMERGENCY SITUATIONS AND MATTERS REQUIRING IMMEDIATE LAW ENFORCEMENT ASSISTANCE, PLEASE CONTACT 911.**

**d. Internal and External Inquiries**

Inquiries about the application of civil rights laws to Arcadia or questions regarding this Policy may be directed to the Director of OECR/Title IX Coordinator, and may also be directed externally to the United States Department of Education's Office for Civil Rights ("OCR"), contact for which follows.

Office for Civil Rights ("OCR")  
U.S. Department of Education  
400 Maryland Avenue, SW Washington, D.C. 20202-1100  
Phone: (800) 421-3481  
Fax: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

**5. Academic Freedom Statement**

Arcadia recognizes the critical importance of academic freedom at institutions of higher education. Arcadia maintains the [Principles of Open Expression](#), which can be located in Arcadia's [Dissent and Demonstrations Policy](#). Nothing in this Policy will be construed to negate any rights afforded by the Principles of Open Expression or the Dissent and Demonstrations Policy.

**6. Privacy and Confidentiality**

**a. Privacy**

Although often conflated, privacy and confidentiality are distinct terms with distinct meanings. Privacy refers to Arcadia's commitment to sharing information related to any Report, Complaint, Supportive Measures, Informal Resolution Process, or Grievance Procedures under this Policy only:

- To a person with a legal right to receive disclosures of information, or with prior written consent;
- When necessary to effectuate this Policy, or to otherwise address conduct which may reasonably constitute Discrimination, Harassment, or Retaliation;
- As required by Federal law or regulation, including by the terms and conditions of a Federal award (e.g., a grant award or other funding agreement); and/or
- When required or permitted by State or local law or the Family Educational Rights and Privacy Act ("FERPA").

Arcadia also provides training to personnel regarding the safeguarding of private information, instructs Parties and witnesses about the University's privacy-related expectations, and will take other reasonable steps to prevent and address any unauthorized disclosure by the Parties and, if applicable, their Advisors, of information and evidence obtained solely through the Grievance Procedures (see "Privacy of Documents," below).

In any Grievance Process, other than as provided for herein (for example, with respect to the privacy of documents, and with respect to the University's prohibition on Retaliation), Arcadia will not restrict the ability of either Party to discuss the allegations prompting a Report or Complaint, including for the purposes of obtaining and presenting evidence (such as by speaking to witnesses), consulting with family members, confidential resources, or advisors, or otherwise preparing for or participating in the Grievance Procedures.

#### **b. Privacy of Documents**

In order to preserve the privacy of the Parties and witnesses, documents prepared in connection with an investigation and adjudication (including, but not limited to, Complaints; Notices of Allegation; draft and final interview summaries; draft and final descriptions of evidence and/or investigative reports; notices of hearing; notices of outcome; notices of Disciplinary Sanctions and/or Remedies; and any appeals-related documents), as well as audio and/or audiovisual recordings or transcripts thereof made of any proceedings under this Policy, may not be disclosed by Parties or others acting on their behalf other than as provided for herein, and as may be required or authorized by law. Any violation of this provision may result in discipline.

#### **c. Confidential Employees**

Confidential communications are those exchanged with individuals belonging to certain professions (such as healthcare providers, professional counselors, or pastoral counselors) which require maintaining the confidentiality of communications disclosed to the individual in the context of providing professional services. Such individuals cannot disclose the content of those communications, or records of same, to any third party without the disclosing individual's prior written consent, or if permitted or required by law or relevant professional ethical obligations (such as "duty to warn"). These communications are privileged under Federal or State law.

Employees of Arcadia who serve in such roles ("Confidential Employees") include the following:

- Professional counselors at Arcadia University Counseling Services
  - Heinz Hall, Ground Floor
  - 215-572-2967
- Health service providers at Arcadia University Student Health Services
  - Heinz Hall, Ground Floor
  - 215-572-2966

Confidential Employees are not required to notify the Director of OECR/Title IX Coordinator when a person informs them of conduct that may constitute Prohibited Conduct, including Sex

Discrimination, if that information is provided while the Confidential Employee is functioning within the scope of their duties to which confidentiality applies.

Also included in the category of Confidential Employees are individuals who conduct human subjects-research studies that have been approved by the Institutional Review Board (“IRB”) and which are designed to gather information about Discrimination, with respect to information disclosed in the course of conducting the approved study.

Importantly, Confidential Employees still must, upon receipt of information about conduct that may constitute Prohibited Conduct:

- explain that they are a Confidential Employee;
- provide contact information for the Director of OECR/Title IX Coordinator;
- explain how to report Discrimination; and
- inform the disclosing individual that the Director of OECR/Title IX Coordinator may be able to offer and coordinate Supportive Measures, as well as initiate an Informal Resolution Process or investigation under the Grievance Procedures.

## **7. Participation In Activities Based on Gender Identity**

Under the limited circumstances in which Title IX permits different treatment or separation on the basis of sex (such as sex-separate housing or sex-related eligibility criteria for male and female athletic teams), individuals may be permitted to participate in the program or activity in a manner consistent with their gender identity, but failure to permit such participation does not constitute Sex Discrimination under Title IX or this Policy. Failure to permit participation consistent with gender identity under all other circumstances subjects an individual to more than de minimis harm and could constitute Sex Discrimination under Title IX and this Policy.

## **8. Mandatory Reporting; Requirement to Provide Information**

### **a. Mandatory Reporting**

All Arcadia employees, including faculty and staff, are Mandatory Reporters of Discrimination and Harassment, including – but not limited to – Sex-Based Harassment (including Sexual Assault, Dating Violence, Domestic Violence, and Stalking). With the exception of Confidential Employees acting in the scope of their duties to which confidentiality applies, as discussed above in Section 6 of this Policy, all Arcadia employees are obligated to promptly report incidents to the Director of OECR/Title IX Coordinator. The Report should include all relevant known details about the alleged incident, including the names of the involved Parties; the alleged conduct; and the date, time, and location of the incident. Where possible, Mandatory Reporters should make an effort to ensure that the person reporting the conduct understands the employee’s Mandatory Reporting obligation and the person’s right to share the information confidentially with Confidential Employees, or with off-campus confidential resources.

For the avoidance of doubt, Students who are also employees of the University are mandatory reporters, as are those who serve in the positions of Resident Assistant (“RA”).

### **i. Expectations of Mandatory Reporters**

A Mandatory Reporter need not have learned of the reportable information from the individual allegedly affected by Prohibited Conduct for it to be reportable. A Mandatory Reporter must report information they have received regardless of the manner of receipt, including through a third party. Mandatory Reporters are *not* permitted to make anonymous Reports in order to satisfy their obligations as a Mandatory Reporter. Mandatory Reporters must promptly report all known information. It is recommended that Mandatory Reporters be clear about their obligations before an individual discloses sensitive information. Any questions regarding Mandatory Reporting responsibilities under this Policy should be directed to the Director of OECR/Title IX Coordinator.

### **ii. Disclosures at Public Awareness Events**

Disclosures at public awareness events such as “Take Back the Night” held on campus or on an online platform sponsored by Arcadia will not prompt the Director of OECR/Title IX Coordinator to take responsive action with respect to revelations of Prohibited Conduct unless the information reveals an immediate and serious threat to the health or safety of a Complainant, any Students, employees, or other persons, or unless the individual affected by the alleged Prohibited Conduct clearly indicates that they desire responsive action be taken. Arcadia will still use the information disclosed to inform its education and prevention efforts.

### **iii. Mandatory Reporting of Known or Suspected Child Abuse**

Nothing in this Policy affects an individual’s obligations to report known or suspected child abuse, which are described in the University’s Mandatory Reporting of Suspected Child Abuse and Protection of Minors Policy, which remains in full force and effect: <https://www.arcadia.edu/about-arcadia/offices-facilities-services/office-general-counsel-secretary-university/university-policies/policy-library/mandatory-reporting-suspected-child-abuse-protection-minors-policy/>.

### **b. Requirement to Provide Information to Students Experiencing Pregnancy or Related Conditions**

As discussed further below (“Additional Provisions Pertaining to Parental, Family, or Marital Status, and Pregnancy or Related Conditions”), when any Arcadia employee is informed by a Student of that Student’s Pregnancy or Related Conditions, the employee must promptly make certain required disclosures to the Student.

## **9. Definitions of Prohibited Conduct**

The following behaviors constitute Prohibited Conduct under this Policy.

### **a. Discrimination**

Discrimination is subjecting an individual or group to adverse action - including differential treatment - on the basis of actual or perceived membership in a Protected Class under this Policy. Sex Discrimination is a form of Discrimination, but separately defined under this Policy.

**b. Harassment**

Harassment is unwelcome conduct (including oral, written, electronic, graphic, or physical conduct) on the basis of actual or perceived membership in a Protected Class under this Policy that is sufficiently severe or pervasive that it limits or denies the ability of an individual to participate in or benefit from Arcadia's Education Program or Activity by creating a Hostile Environment. This will be evaluated based on the totality of the circumstances and evaluated subjectively and objectively. Sex-Based Harassment is a form of Harassment, but separately defined under this Policy.

Determining whether conduct has created a Hostile Environment is a fact-specific inquiry which may include many factors such as, but not limited to: the degree to which the conduct affected the Complainant's ability to access the University's Education Program or Activity; the type, frequency, and duration of the conduct; the Parties' ages, roles, previous interactions, and other factors about each Party that may be Relevant to evaluating the effects of the alleged unwelcome conduct; the location and context in which the conduct occurred; and other similar conduct in the University's Education Program or Activity.

**c. Sex Discrimination**

Subjecting an individual or group to an adverse action - including, where prohibited, differential treatment - based on sex, including sex stereotypes, sex characteristics, sexual orientation, and/or gender identity; Parental, Family, or Marital Status; and/or Pregnancy or Related Conditions. Sex-Based Harassment, including Sexual Assault, Dating Violence, Domestic Violence, and Stalking, is a form of Sex Discrimination, but separately defined under this Policy.

**d. Sex-Based Harassment**

Harassment based on sex, including sex stereotypes, sex characteristics, sexual orientation, gender identity, and/or Pregnancy or Related Conditions, that falls into one or more of the following categories:

**i. Quid Pro Quo**

An employee, agent, or other person authorized by Arcadia to provide an aid, benefit, or service under the University's Education Program or Activity explicitly or implicitly conditions the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct. It does not matter whether or not the person submits.

**ii. Hostile Environment**

Unwelcome sex-based conduct (including oral, written, electronic, graphic, or physical conduct) that is sufficiently severe or pervasive that it limits or denies the ability of an individual to



participate in or benefit from Arcadia's Education Program or Activity by creating a Hostile Environment, as defined above ("Harassment").

### **iii. Sexual Assault, Dating Violence, Domestic Violence, Stalking**

Sexual Assault, Dating Violence, Domestic Violence, and Stalking are forms of Sex-Based Harassment, just as Sex-Based Harassment is a form of Sex Discrimination. These types of Prohibited Conduct are separately defined below.

#### **e. Sexual Assault**

A forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, which includes the following acts:

##### **i. Rape**

The carnal knowledge of a person without that person's consent, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity.

##### **ii. Sodomy**

Oral or anal sexual intercourse with another person without that person's consent, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity.

##### **iii. Sexual Assault With An Object**

To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person without that person's consent, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity.

##### **iv. Fondling**

The touching of the private body parts of another person for the purpose of sexual gratification without that person's consent, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity.

##### **v. Incest**

Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

##### **vi. Statutory Rape**

Nonforcible sexual intercourse with a person who is under the statutory age of consent.

## **vii. Supporting Definitions: Consent and Incapacitation**

### **a. Consent**

Consent is defined as a freely and affirmatively communicated agreement to participate in sexual activity. Consent can be given by words or by clear, unambiguous action. What is essential is that the individual has affirmatively demonstrated their willingness to participate in sexual activity and, as such, consent may *not* be inferred from silence, passivity, or lack of response or resistance. Importantly, consent must be present at all times: at any time, a person can communicate that they no longer consent to sexual activity, and sexual activity must immediately cease. Consent should be sought before initiating additional sexual acts, such that consent to *some* sexual activity (such as kissing) does not constitute consent to *other* sexual activity (such as intercourse), even if the person has previously agreed to engage in such sexual activity. Consent is not given if it results from the threat or use of physical force, intimidation, or any other factor that negates free choice. Determining whether consent was present during a sexual encounter is a fact- and circumstance-dependent inquiry which may include the larger context, if any, including Relevant (as defined by this Policy) facts regarding the relationship between the Parties.

### **b. Incapacitation**

Incapacitation is defined as the temporary or permanent inability of a person to consent to sexual activity because the person is asleep, unconscious, otherwise unaware that sexual activity is occurring, involuntarily restrained, and/or mentally and/or physically helpless. This may be, but need not be, due to voluntary or involuntary drug or alcohol consumption. Incapacitation is a state beyond intoxication. A Respondent may not be found responsible for a violation of this Policy if the Complainant was incapacitated, but the Respondent did not know this, and a reasonable person, sober and exercising sound judgment, would not have so known. Being intoxicated or otherwise impaired by drugs or alcohol is not an excuse for engaging in conduct prohibited by this Policy and does not affect the requirement to obtain Consent.

### **f. Dating Violence**

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, where the existence of such a relationship is determined based on a consideration of the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

### **g. Domestic Violence**

A felony or misdemeanor crime committed by a person who is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the Commonwealth of Pennsylvania, or a person similarly situated to a spouse of the victim; is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; shares a child in common with the

victim; or commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the Commonwealth of Pennsylvania.

#### **h. Stalking**

A course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress. Stalking must be based on a Protected Class in order to be within the scope of this Policy.

#### **i. Sexual Exploitation**

A form of Hostile Environment Sex-Based Harassment that involves taking non-consensual or abusive sexual advantage of another person for the benefit of anyone other than the person being taken advantage of. This may include, but is not limited to: observing a person in a state of undress or engaging in sexual activity without their knowledge and consent (“voyeurism”); exposing or fondling one’s own genitals without the Consent of those present and when it is sexual in nature; taking or disseminating photographs or audio, video, or audiovisual recordings, including “livestreaming,” of another person in a state of undress or engaging in sexual activity without their knowledge and consent; disseminating intimate images which were taken or received consensually but regarding which consent to share or distribute, including by online “posting,” was not given; prostituting another person; dishonesty or deception regarding the use of condoms (including internal (“female”) condoms) during sexual activity (often referred to as “stealthing”); and/or threatening to disseminate intimate images in order to force a person to take or refrain from taking any non-sexual action.

#### **j. Retaliation**

Any intimidation, threats, coercion, or discrimination directed at an individual by Arcadia, a Student or employee of Arcadia, or any other person authorized by Arcadia to provide aid, benefits, or services as part of the University’s Education Program or Activity, for the purpose of interfering with that individual’s right(s) under this Policy, or because the individual has made a Report or Complaint under this Policy; made a report or complaint to an external agency or to law enforcement; or participated or refused to participate in any investigation, adjudication, or other proceeding under this Policy, including an Informal Resolution Process or Grievance Procedures.

Retaliation includes Peer Retaliation, but also Retaliation by a student against an employee, or by an employee against a student, as well as by an employee against another employee of more or less senior role. An individual need not be a Complainant or Respondent to have committed or been affected by Retaliation.

It is not Retaliation for Arcadia to require an employee, or other person authorized by Arcadia to provide aid, benefits, or services as part of its Education Program or Activity, to participate as a witness in, or otherwise assist with, any investigation or adjudication under this Policy.

### **10. Other Definitions**

**a. Applicant**

A person who is applying for admission as a student or other participant in Arcadia's Education Program or Activity, and/or who is applying for employment at Arcadia.

**b. Complainant**

A Student, employee, or other individual who is alleged to have been subjected to conduct that could constitute Prohibited Conduct.

In the event a Complaint is brought by the Director of OECR/Title IX Coordinator, the individual affected by the alleged Prohibited Conduct that is the subject of the Complaint remains the Complainant, and the Director of OECR/Title IX Coordinator does not become the Complainant.

**c. Complaint**

An oral or written request that objectively can be understood as a request for investigation and adjudication of alleged Prohibited Conduct. It is the policy of Arcadia to confirm a request in writing prior to initiating the Grievance Procedures. A Complaint can be made by a Complainant<sup>1</sup> or the Director of OECR/Title IX Coordinator, subject to the following limitations.

- i. For Complaints of Sex-Based Harassment, a Complainant may bring a Complaint under this Policy if they were enrolled, employed, or otherwise participating or attempting to participate in Arcadia's Education Program or Activity at the time the alleged Prohibited Conduct occurred. The Complainant need not be enrolled, employed, or otherwise participating or attempting to participate in Arcadia's Education Program or Activity at the time the Complaint is made.
- ii. For Complaints of Sex Discrimination other than Sex-Based Harassment, any person, not just a Complainant (i.e., the person allegedly subjected to conduct that could constitute Prohibited Conduct), may bring a Complaint under this Policy if they were enrolled, employed, or otherwise participating or attempting to participate in Arcadia's Education Program or Activity at the time the alleged Prohibited Conduct occurred. The person need not be enrolled, employed, or otherwise participating or attempting to participate in Arcadia's Education Program or Activity at the time the Complaint is made.
- iii. For all other Complaints of Prohibited Conduct, a Complainant must have been enrolled or employed at Arcadia at the time the alleged Prohibited Conduct occurred in order to file a Complaint under this Policy. The Complainant must also be enrolled or employed at the time the Complaint is made.

**d. Day**

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<sup>1</sup> A Complaint may also be brought by a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant, where applicable.

A business day, when the University is open.

**e. Disciplinary Sanctions**

Consequences imposed on a Respondent following a determination that the Respondent is responsible for having committed Prohibited Conduct.

**f. Education Program or Activity**

Conduct that occurs in Arcadia's Education Program or Activity includes all conduct which is subject to the University's disciplinary authority and which occurred in the United States, including on-campus or, if applicable, in buildings owned or controlled by a student organization that is officially recognized by Arcadia. This is interpreted to be co-extensive with the [Jurisdiction of the Student Code of Conduct](#). Arcadia will address conduct contributing to a Hostile Environment based on a Protected Class even if the underlying conduct itself occurred outside the University's Education Program or Activity, including if it occurred outside the United States. For the avoidance of doubt, this Policy applies to conduct occurring online (via computer and internet networks or on digital platforms, including social media sites).

**g. Parental, Family, or Marital Status**

Parental Status refers to the status of a person who, with respect to another person under the age of 18, or who is 18 or older but incapable of self-care because of a physical or mental disability, is: a biological parent; adoptive parent; foster parent; stepparent; legal custodian or guardian; in loco parentis; or actively seeking legal custody, guardianship, visitation, or adoption.

Family Status refers to the configuration of a person's family or their role in a family.

Marital Status refers to whether or not a person is married.

Importantly, discrimination based on these statuses must be based on a Protected Class in order to constitute Discrimination (such as treating married women more or less favorably than married men, treating an unmarried mother more or less favorably than a married mother based on sex stereotypes, or treating a man who is married to a man more or less favorably than a woman who is married to a man).

**h. Party**

The Complainant or Respondent (collectively, the Parties).

**i. Peer Retaliation**

Retaliation by a Student against another Student.

**j. Pregnancy or Related Conditions**

Pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and/or recovery.

#### **k. Relevant**

Related to the allegations of Prohibited Conduct at issue and whether or not the alleged Prohibited Conduct occurred. Questions are Relevant if they may aid in showing whether the alleged Prohibited Conduct occurred, and evidence is Relevant if it may aid a decisionmaker in determining whether the alleged Prohibited Conduct occurred. The following evidence is impermissible (and will not be considered Relevant) even if it would otherwise be considered Relevant:

- evidence protected under a privilege recognized by federal or state law, unless the person holding the privilege has waived it voluntarily;
- records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to a Party or witness, unless the person has voluntarily consented, in writing, to the use of such records in the Grievance Procedures; and/or
- evidence and questions about the Complainant's sexual interests or prior sexual conduct, unless:
  - offered to prove that someone other than the Respondent committed the conduct alleged, or
  - if concerning specific incidents of prior sexual activity with the Respondent which are offered to prove Consent.

Such impermissible evidence will not be accessed, considered, disclosed, or used, except to determine whether one of the preceding exceptions applies.

#### **l. Remedies**

Measures provided, as appropriate, to a Complainant or other person whose equal access to the University's Education Program and/or Activity was determined to have been limited or denied by Prohibited Conduct, in order to restore or preserve that person's access to the Education Program or Activity.

#### **m. Report**

Any notice of conduct that may constitute Prohibited Conduct. A Report may come from any individual, not just a Complainant. Not every Report is or will result in a Complaint.

#### **n. Respondent**

A person who is alleged to have violated this Policy. In the event that a Complaint alleges that an Arcadia policy or practice discriminates on the basis of Protected Class, Arcadia is not considered a Respondent. In such cases, the University will follow this Policy, including the

Grievance Procedures, although the University will, necessarily, not be entitled to certain procedural rights and steps afforded to individual Respondents. In the event a Complaint against an individual Respondent is based on actions the Respondent took in accordance with an Arcadia policy or practice, the Complaint may, in the University's sole discretion, be amended to substitute the University as Respondent. This determination will be made after a consideration of factors including, but not limited to, whether the individual was, in fact, following the Arcadia policy or practice; what actions the individual took; and whether the individual could be subject to Disciplinary Sanctions.

**o. Standard of Proof**

A preponderance of the evidence, meaning that it is more likely than not, based on all Relevant evidence, that the Respondent engaged in the Prohibited Conduct.

**p. Student**

A person who has gained admission to the University.

**q. Student with a Disability**

A Student with a disability as defined by the Rehabilitation Act of 1973.

**r. Student Employee**

A person who is both a Student and an employee of the University.

**11. Anonymous Reporting**

Any individual may make an anonymous Report. This means that they may report an incident without disclosing their name, for example, or withholding certain details, including, but not limited to, the identity of the Respondent. However, depending on the information available about a reported incident, the University's ability to respond may be limited. This includes, but is not limited to, the likelihood that Arcadia will not be able to pursue Grievance Procedures against the individual alleged to have engaged in Prohibited Conduct, as typically the identity of the Complainant must be disclosed to the Respondent. When a known Complainant wishes to remain anonymous, Arcadia will seek to respect the request of the Complainant, and where it cannot do so, will explain why.

**12. Time Frame for Making a Report**

There is no time limit on making a Report, but individuals are strongly encouraged to report incidents of alleged Prohibited Conduct as soon as possible. This will enhance the University's ability to address the conduct at issue, including by extending Supportive Measures, and, if applicable, by conducting an investigation effectively, when Relevant evidence and witnesses are most available.

### **13. Amnesty for Students Who Report Prohibited Conduct**

Individuals who were drinking alcohol or using drugs at the time an incident of alleged Prohibited Conduct occurs may be hesitant to make a Report or Complaint, or participate as a Party or witness in an investigation due to concerns about being charged with disciplinary violations. In order to address these concerns, and encourage the prompt reporting of information related to known or suspected Prohibited Conduct, Arcadia will generally not pursue disciplinary action for alcohol or drug offenses when information involving alcohol or drug use is revealed as part of a Report or Complaint, or an investigation. However, Arcadia may require individuals to participate in educational interventions related to drugs and alcohol.

### **14. Presumption of Non-Responsibility and Good Faith Reporting**

#### **a. Presumption of Non-Responsibility**

A Respondent is presumed to be not responsible for alleged Prohibited Conduct unless and until the Respondent is determined to be responsible for a violation of this Policy at the conclusion of the Grievance Procedures.

#### **b. False Allegations and Statements**

A determination that a Respondent was not responsible for a Policy violation does not, without more, establish that the Complainant or any other Party or witness has made a false allegation or statement in bad faith.

Deliberately false allegations and statements are, however, a violation of Arcadia policy and individuals, including witnesses, who knowingly make false allegations, provide false statements or evidence, tamper with or destroy evidence they were instructed to preserve, or commit similar acts of dishonesty may be subject to disciplinary action.

### **15. On- and Off- Campus Resources**

The Director of OECR/Title IX Coordinator can connect individuals requesting connection to on- or off-campus resources. The following provides a brief overview of resources available to members of the University community.

#### *Law Enforcement*

- Arcadia University Department of Public Safety
  - The Department of Public safety is available 24-hours a day, year-round.
  - In an emergency, call 215-572-2999 or x 2999 from any campus phone.
  - For all other calls, dial 215-572-2800 or x 2800 from any campus phone.
- Cheltenham Township Police Department
  - Emergency: 911
  - Phone: 215-885-1600
  - Location: 8230 Old York Road, Elkins Park, PA 19027



**IN THE EVENT OF EMERGENCY SITUATIONS AND MATTERS REQUIRING IMMEDIATE LAW ENFORCEMENT ASSISTANCE, PLEASE CONTACT 911.**

*Medical*

- Abington Memorial Hospital
  - Phone: 215-481-2000 (24 hours a day, seven days a week)
  - Location: 1200 Old York Road, Abington, PA 19001
  - A medical provider at Abington Memorial Hospital (“AMH”) can provide emergency and/or follow-up medical services and provide a forum to discuss any healthcare concerns related to the incident in a confidential medical setting.
    - AMH can conduct a medical exam through a Sexual Assault Nurse Examiner (“SANE”). A medical exam will treat any injury or trauma and address concerns about sexually transmitted infections and pregnancy.
    - The University encourages individuals to consider bringing a support person for accompaniment during the exam. Public Safety is also available to transport you to a medical exam.

*On-Campus Confidential Resources*

- Professional counselors at Arcadia University Counseling Services
  - Heinz Hall, Ground Floor
  - 215-572-2967
- Health service providers at Arcadia University Student Health Services
  - Heinz Hall, Ground Floor
  - 215-572-2966

*Confidential Resource for Employees*

- Employee Assistance Program - Carebridge (free confidential counseling for Arcadia employees)
  - 1-800-437-0911
  - [www.myliferesource.com](http://www.myliferesource.com)

*Off-Campus Confidential Resources*

- Pennsylvania Victims Compensation Assistance Program
  - (1-800) 233-2339
  - [www.pccd.state.pa.us](http://www.pccd.state.pa.us) (click on “Victim Services” tab)
- National Domestic Violence Hotline
  - (1-800) 799-SAFE (7223) OR 1-800-787-3224 (TTY)
- Victim Services Center of Montgomery County, Inc.
  - (1-888) 521-0983 (24-hour crisis line)
  - (610) 277-0932
  - 325 Swede St., Norristown, PA 19401

- [www.victimservicescenter.org](http://www.victimservicescenter.org)
- Laurel House
  - (1-800) 642-3150 (24-hour Hotline)
  - (610) 277-1860
  - 180 W. Germantown Pike #2, East Norriton, PA 19401
  - [www.laurel-house.org](http://www.laurel-house.org)
- Women Organized Against Rape
  - (215) 985-3333 (24-hour Hotline)
  - (215) 985-3315
  - One Penn Center, 1617 JFK Boulevard, Suite 800, Philadelphia, PA 19103
  - [www.woar.org](http://www.woar.org)
- Legal Aid of Southeastern Pennsylvania
  - Toll free helpline: (1-877) 429-5994)
  - (610) 275-5400
  - 625 Swede Street, Norristown, PA 19401
  - [www.lasp.org](http://www.lasp.org)

## **16. Coordination Across Systems: Medical Treatment and Law Enforcement**

Complainants who wish to seek medical care and/or report to law enforcement are encouraged to do so.

### **a. Seeking Medical Treatment; Preservation of Evidence**

Medical care may address physical and mental health concerns, including, where applicable, those related to pregnancy and/or sexual transmitted infections. Medical providers may also be able to assist in the collection and preservation of evidence. The ability to collect and preserve evidence of Sexual Assault is limited in time (typically to a window of 72 hours), so it is essential that care be sought as soon as possible. Individuals should avoid showering/bathing, douching, and, if possible, urinating. In the event of oral sexual contact, individuals should avoid eating, drinking, or brushing teeth. Any soiled clothes, towels, or bedding should be retained in paper bags. Preserving physical evidence in this manner may facilitate a criminal investigation, but seeking medical treatment does not obligate an individual to pursue a criminal complaint.

### **b. Reporting to Law Enforcement and Pursuing a Criminal Complaint**

Making a report to law enforcement does not generally obligate an individual to pursue a criminal complaint, or to participate in the Arcadia disciplinary process. An individual may choose to participate in the Arcadia disciplinary process, an external criminal process, both, or neither. In the event that both criminal and disciplinary processes are at issue, Arcadia may comply with law enforcement requests for temporary delays in the disciplinary process in order to permit law enforcement to gather evidence for a criminal investigation.

## **17. University Response to Reports**

Arcadia will review and respond to all Reports of Prohibited Conduct. Upon receiving a Report, the Director of OECR/Title IX Coordinator will promptly contact the Complainant to provide information, advise them of the availability of Supportive Measures and on- and off-campus resources, and discuss the procedural options available to the Complainant under this Policy, including the Informal Resolution Process and pursuing Grievance Procedures. Arcadia will also assess whether there are any immediate threats to health or safety that must be addressed.

Importantly, if the alleged conduct, if established, would not constitute a violation of this Policy, the Director of OECR/Title IX Coordinator will inform the Complainant of any other resources and options available, which may include referring the matter for action under a separate policy. Similarly, in cases in which the Respondent is not an Arcadia affiliate and the Grievance Procedures would not be available to the Complainant, the Director of OECR/Title IX Coordinator will offer Supportive Measures and take other action as appropriate, if any, to address the behavior at issue.

At all times, Arcadia will treat Complainants and Respondents equitably.

### **18. Challenges for Bias or Conflict of Interest; Concerns About Director of OECR/Title IX Coordinator**

If a Party has concerns about bias in favor of or against a specific Complainant or Respondent, bias in favor of or against Complainants or Respondents generally, or a potential conflict of interest which involves the facilitator of an Informal Resolution Process, investigator, decisionmaker, or appeals decisionmaker, the Party should direct those concerns to the Director of OECR/Title IX Coordinator .

In the event of concerns pertaining to the conduct of the Director of OECR/Title IX Coordinator – including, but not limited to, related to bias or conflict of interest – Reports and/or Complaints may be directed to the Assistant Vice President of Access, Equity, Diversity, and Inclusion.

### **19. Consolidation of Complaints**

In cases in which allegations of Prohibited Conduct are connected to other alleged misconduct by the Respondent which would ordinarily be addressed by another Arcadia policy, the University may, in its sole discretion, address all related conduct in a consolidated manner.

Similarly, Arcadia may, in its sole discretion, consolidate Complaints of Prohibited Conduct brought against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party (“cross complaints”), where the allegations arise out of the same facts or circumstances.

### **20. Supportive Measures**

Supportive Measures are non-disciplinary, non-punitive individualized measures offered, as appropriate, as reasonably available, and without fee or charge, to a Complainant or Respondent. Supportive Measures are designed to restore or preserve a Party’s access to the University’s

Education Program or Activity, including by protecting the safety of the Party/Parties or the educational environment, and/or by providing support to the Party/Parties during the Informal Resolution Process or Grievance Procedures.

Supportive Measures are available before or after the filing of a Complaint, as well as in cases in which no Complaint is ever filed. Supportive Measures are designed to restore or preserve equal access without unreasonably burdening either Party. They may, but may not, be modified or terminated at the conclusion of the Grievance Procedures or Informal Resolution Process. Examples of Supportive Measures include, but are not limited to, the following:

- Academic accommodations (such as a change in class schedule, modified deadlines, or a leave of absence);
- Workplace accommodations (such as a change in work location or schedule);
- Housing accommodations (such as a change in residence hall assignment or access to temporary emergency housing);
- Referrals for mental or physical healthcare, spiritual and religious resources, and/or training and education programs related to Sex-Based Harassment on- and off-campus;
- Safety-related resources (such as walking escorts, assigned parking, or increased security and monitoring of certain areas of campus); and/or
- No contact orders or agreements, which may be mutual (affecting both Parties), or non-mutual (affecting only one Party), and which may include restrictions on communication in-person, electronically, and via third parties, as well as restrictions on access to Arcadia facilities or activities.

Changes in class, work, housing, extracurricular, and/or other activities may be made regardless of whether there is or is not a comparable alternative.

A Party may seek modification or reversal of decisions to provide, deny, modify, or terminate Supportive Measures applicable to that Party by contacting the Director of OECR/Title IX Coordinator. The Director of OECR/Title IX Coordinator will then refer the Party's request to the Assistant Vice President of Access, Equity, Diversity, and Inclusion, or their designee, for a determination. The decisionmaker in these circumstances will be someone other than the person who made the decision being challenged, and will have the authority to make the requested modification or reversal. In the event of a material change in circumstances affecting Supportive Measures, subsequent opportunities for review may be sought.

#### **a. Confidentiality of Supportive Measures**

Information about Supportive Measures provided to a person will not be disclosed, including informing one Party of Supportive Measures provided to another Party, except when necessary to provide the Supportive Measures, or restore or preserve a Party's access to the University's Education Program or Activity.

### **21. Accommodations for Parties with Disabilities**

If a Party is an employee or Student with a Disability, that Party is entitled to reasonable accommodations that would enable them to participate in all processes provided for under this Policy, including, but not limited to, making a Report or Complaint, participating in an Informal Resolution Process, and/or participating in an investigation and adjudication under the Grievance Procedures. If an employee or Student with a Disability requires such reasonable accommodations, they should promptly notify the Director of OECR/Title IX Coordinator. In cases in which a Party is a Student with a Disability, the Director of OECR/Title IX Coordinator may consult, as appropriate, with the Party or Disability Support Services. In cases in which a Party is an employee with a Disability, the Director of OECR/Title IX Coordinator may consult, as appropriate, with Human Resources.

A Party should not assume that the Director of OECR/Title IX Coordinator is on notice that they are an employee or Student with a Disability, even if the Party is registered to receive accommodations via Disability Support Services or another Arcadia academic or administrative unit such as Human Resources.

## **22. Emergency Removal; Administrative Leave**

### **a. Emergency Removal**

A Respondent may be removed from the University's Education Program or Activity, or certain aspects thereof (such as, but not limited to, access to Arcadia facilities, housing, classes, and/or student activities), if, after conducting an individualized safety and risk analysis, Arcadia determines that an immediate and serious threat to the health or safety of a Complainant, any Arcadia Students, employees, or other persons, arising from the alleged Prohibited Conduct, justifies removal. In the event of such a removal, the Respondent is given the opportunity to seek modification or reversal of the removal.

### **b. Administrative Leave**

With respect to employee Respondents, administrative leave from University employment is permitted during the pendency of Grievance Procedures. Administrative leave may include complete removal from the Arcadia workplace or limitations on access to the workplace, and may be imposed with or without pay. In the event administrative leave is imposed, the Respondent is given the opportunity to seek modification or reversal of the leave.

## **23. Advisors**

In all cases under this Policy, each Party is entitled to be accompanied by an Advisor of their choosing to any meeting, interview, or proceeding related to a Report or Complaint under this Policy. The Advisor is a non-speaking role present to advise and support the Party and may be, but is not required to be, an attorney. Delays will not normally be allowed due to scheduling conflicts with Advisors. If, at any point, an Advisor becomes disruptive or fails to comply with the provisions of this Policy or any additional rules of decorum provided, the University may remove the Advisor from the meeting, interview, or proceeding, and, if appropriate, any future

meetings, interviews, or proceedings. Such a removal of an Advisor is not appealable. If a Party's Advisor is removed, they may choose another Advisor.

#### **24. Informal Resolution Process**

An Informal Resolution Process may be offered at any time before a determination of whether Prohibited Conduct occurred has been made. This includes upon receipt of a Report, or during the pendency of Grievance Procedures. A Complaint need not be made in order to initiate the Informal Resolution Process. An Informal Resolution Process is not permitted if such a process would conflict with federal, state, or local law; Arcadia may also decline to permit an Informal Resolution Process when it determines that the alleged conduct presents a future risk of harm to others.

Both Parties must agree to participate in the Informal Resolution Process, and Arcadia must agree that it is appropriate. As participation is voluntary, Arcadia does not require Parties to waive the right to an investigation and adjudication as a condition of (continuing) enrollment or (continuing) employment, or the exercise of any other right. While every Informal Resolution Process will be tailored to the facts and circumstances of the individual case, in no case will the facilitator of the Informal Resolution Process be the same as the investigator or decisionmaker for Grievance Procedures involving the same matter.

Before initiating an Informal Resolution Process, Arcadia will notify the Parties of:

- the allegations;
- the requirements of the Informal Resolution Process;
- that each Party has the right to withdraw their agreement to participate in the Informal Resolution Process prior to agreeing to a resolution, and can at that time initiate or resume the Grievance Procedures, as applicable;
- that agreement to a resolution at the conclusion of the Informal Resolution Process precludes the Parties from initiating or resuming Grievance Procedures arising from the same allegations;
- the potential terms that may be requested or offered in an Informal Resolution Process agreement, including notice that an Informal Resolution Agreement is binding only on the Parties; and
- which records will be maintained as part of the Informal Resolution Process and circumstances under which such records could be shared in the event that the Informal Resolution Process is not completed, and Grievance Procedures are initiated or resumed.
  - Specifically, if the Grievance Procedures are resumed after an attempted Informal Resolution Process:
    - neither Arcadia nor a Party will access consider, disclose, or otherwise use information, including records, obtained solely through an Informal Resolution Process as part of the investigation or outcome determination, and
    - in such cases, the Informal Resolution Process facilitator could serve as a witness for purposes other than providing information obtained solely through the Informal Resolution Process.

## **25. Grievance Procedures**

### **a. University-Initiated Complaints**

As noted, in the absence of a Complaint made by a Complainant, or in the event of the withdrawal of any or all of the allegations in a Complaint, the Director of OECR/Title IX Coordinator will determine whether to initiate a Complaint. Such a determination is fact-specific and will be made in consideration of factors including, but not limited to:

- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
- The severity of the alleged Prohibited Conduct, including whether, if established, Arcadia would require the removal of the Respondent from campus or impose another Disciplinary Sanction to end the Prohibited Conduct and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee;
- The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing conduct, or conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether Prohibited Conduct occurred; and
- Whether the University could end the alleged Prohibited Conduct and prevent its recurrence without initiating the Grievance Procedures.

If, after considering these and other relevant factors, the Director of OECR/Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents Arcadia from ensuring equal access on the basis of a Protected Class to its Education Program or Activity, the Director of OECR/Title IX Coordinator may initiate a Complaint. Prior to doing so, the Director of OECR/Title IX Coordinator will notify the Complainant and appropriately address reasonable concerns about their safety or the safety of others, including by providing Supportive Measures. Regardless of whether a Complaint is initiated, the Director of OECR/Title IX Coordinator will take other appropriate prompt and effective steps to ensure that Prohibited Conduct does not continue or recur within the University's Education Program or Activity.

### **b. Dismissal**

A Complaint may be dismissed, in whole or in part, if it is determined, at any time, that:

- Arcadia cannot identify the Respondent after taking reasonable steps to do so;
- The Respondent is not, or is no longer, participating in a University Education Program or Activity and is not, or is no longer, employed by Arcadia;
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Director of OECR/Title IX Coordinator declines to initiate a Complaint, and without

the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Prohibited Conduct even if established; and/or

- The conduct alleged (after reasonable efforts to clarify have been made, as appropriate), if established, would not constitute Prohibited Conduct.

In the event of a dismissal, Supportive Measures may still be provided to the Complainant (and Respondent, if already notified of the Complaint), and the Director of OECR/Title IX Coordinator may refer the matter to another, appropriate office for review and response. Arcadia will provide written notice to the Complainant (and Respondent, if already notified of the Complaint) of the dismissal, the basis for the dismissal, and the right to appeal the dismissal.

#### **i. Withdrawal of Complaint by Complainant**

As noted, a Complaint may be dismissed if the Complainant notifies the Director of OECR/Title IX Coordinator that they would like to withdraw the Complaint. In cases involving allegations of Sex-Based Harassment, such notice must be in writing. If a Complainant requests dismissal, they can re-file the Complaint at a later date and request a continuation of the Grievance Procedures or voluntarily agree to an Informal Resolution Process.

The Director of OECR/Title IX Coordinator will consider requests in light of the factors laid out above, relating to the Director of OECR/Title IX Coordinator's decision to initiate a Complaint when the Complainant does not wish to do so ("University-Initiated Complaints"). If the Director of OECR/Title IX Coordinator refuses a request by a Complainant to dismiss a Complaint, the Director of OECR/Title IX Coordinator will notify the Complainant in writing of the decision and rationale.

#### **c. Notice of Allegations**

The Grievance Procedures begin with the sending of a Notice of Allegations to the Complainant and Respondent. If the Complaint was signed by the Director of OECR/Title IX Coordinator, the Complainant will still receive the Notice of Allegations, but is not required to participate in the investigation or related activities. The Notice of Allegations will include:

- information about the Informal Resolution Process and Grievance Procedures;
- the identities of the Parties involved in the incident(s), the conduct alleged to constitute Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s), if known;
- information about the University's prohibition on Retaliation;
- a statement that the Parties are entitled to an investigative report summarizing all Relevant evidence and retain the equal right to access such evidence upon request;
- a statement that the Respondent is presumed not responsible for the alleged Prohibited Conduct until a determination is made at the conclusion of the Grievance Procedures, after the Parties have had an opportunity to present Relevant (not otherwise impermissible) evidence to a trained, impartial decisionmaker;
- notice that knowingly making false statements or submitting false information is prohibited;



- Notice that the Parties have the right to be accompanied by an Advisor of choice, who may be but need not be an attorney;
- information about Supportive Measures;
- a statement regarding the Standard of Proof to be used in considering the facts and evidence;
- the range of possible Disciplinary Sanctions and Remedies; and
- information about the appeals process.

If, in the course of an investigation, Arcadia decides to investigate additional allegations of Prohibited Conduct not included in the original Notice of Allegations about the Respondent's conduct toward the Complainant, or which are otherwise consolidated with the ongoing investigation, notice of the additional allegations will be provided to the Parties whose identities are known. If the University has reasonable concerns for the safety of any person as a result of providing this Notice of Allegations, it may reasonably delay in providing it in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

#### **d. Acceptance of Responsibility**

At any time prior to the rendering of a finding as to responsibility by a decisionmaker, the Respondent may indicate that they do not wish to contest the disciplinary case against them and accept responsibility for all or part of the Prohibited Conduct alleged. In the event that a Respondent accepts responsibility, the Complainant will be notified in writing. The Parties will thereafter be notified simultaneously of the Disciplinary Sanctions imposed and whether Remedies will be provided. In the event that the Respondent accepts responsibility for only part of the Prohibited Conduct alleged, the remaining allegations will proceed to the decisionmaker for a finding, and Remedies and Disciplinary Sanctions for all the Prohibited Conduct at issue will be assigned at the conclusion of the matter in its entirety. This decision may be appealed as to the severity of the sanction imposed only and is otherwise final.

#### **e. Investigation**

##### **i. Time Frames**

The investigation will be adequate, reliable, and impartial, and will be completed in a reasonably prompt timeframe, typically ninety (90) Days. Any timelines provided herein create no rights for the Parties and may be extended or changed by Arcadia for good cause shown, in its sole discretion. In the event a deadline is extended or changed, both Parties will be notified in writing regarding the reason for and expected duration of, the delay.

##### **ii. Investigation**

Arcadia will charge a trained investigator – who may be the Director of OECR/Title IX Coordinator – with the task of gathering facts about the allegations raised in the Complaint, objectively evaluating the Relevance of all evidence, and preparing an investigative report which contains a fair summary of the Relevant evidence.

The investigator will meet with each Party and Relevant witnesses. The investigator will, prior to any interviews or meetings with the Parties, provide written notice of the date, time, location, and purpose of the interview or meeting, with sufficient time for the Party to prepare for the interview or meeting. Each individual interviewed will have the opportunity to review a summary of their own statement prior to its inclusion in a draft investigative report. Each Party will have the equal opportunity to gather and present Relevant evidence (both inculpatory and exculpatory) and fact witnesses to the investigator. However, the burden of gathering evidence, and satisfying the Standard of Proof, is on Arcadia.

Providing information to the investigator through an interview, through the submission of documents, or both, is voluntary. Arcadia does not compel Parties or non-employee witnesses to answer questions during the interview or submit documents, although all Parties and witnesses are encouraged to do so. A person's decision not to participate in the investigation, in whole or in part, will be documented in the investigative report. Arcadia employees, and others authorized by the University to provide aid, benefits, or services as part of an Education Program or Activity, are expected to attend all scheduled meetings and proceedings and, upon request, participate as a witness or otherwise assist with any investigation or adjudication under this Policy.

An investigative report containing a fair summary of the Relevant evidence collected during the investigation will be submitted to both Parties for their review and response. The Parties retain an equal right to access the Relevant evidence upon request.

The Parties will have five (5) Days to provide written feedback to the investigator, who will consider such responses before completing a final document. In the event that there are substantive changes as between the draft document and final version, the Parties will have five (5) Days to review any such changes and provide a final written response if they choose to do so.

#### **f. Adjudication**

Upon completion of the investigation, the Director of OECR/Title IX Coordinator reviews the investigative report and within five (5) Days determines whether Arcadia will proceed to adjudication, or dismiss the Complaint, as described above. If the matter is submitted for adjudication, the Director of OECR/Title IX Coordinator will identify, at their sole discretion, an internal or external decisionmaker who is trained and free of conflicts of interest or bias, for or against Complainants or Respondents generally, or the specific Complainant or Respondent.

##### **i. Scheduling and Preparing for the Hearing**

The Parties will be notified in writing of the date, time, and location of the hearing. The hearing may be scheduled, at the University's discretion, to take place in-person or via an online platform through which each Party, witness, their Advisors, and the decisionmaker can see and hear each other in real-time. An audio or audiovisual recording, or transcript, of any live hearing will be made; no other recording or transcription is permitted. If the matter involves more than one Respondent, the Director of OECR/Title IX Coordinator, in their discretion, may permit the hearing concerning each Respondent to be conducted either jointly or separately.

### **1. Non-Appearance of Parties or Witnesses; Refusal to Respond to Questions**

If a Party or witness, after being provided notice, does not appear at the hearing, the hearing will take place in their absence. In such a case, or in the event that a Party or witness appears at the hearing but refuses to answer questions, the decisionmaker will make its determination using the evidence available. The decisionmaker may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed Relevant (and not otherwise impermissible). The decisionmaker must not draw an inference about whether Sex-Based Harassment occurred based solely on a Party's or witness's refusal to respond to questions.

### **2. Conduct at the Hearing**

Arcadia expects all Parties, witnesses, and Advisors to refrain from abusive or disruptive behavior, and will provide notice of any additional rules of decorum, which will be applied equally to the Parties. Inappropriate behavior may result in a suspension of the hearing until the abusive or disruptive behavior has been addressed and, as noted, may involve the exclusion and replacement of an Advisor.

At the live hearing, the decisionmaker will question Parties and witnesses to adequately assess a Party's or witness's credibility, to the extent credibility is both in dispute and Relevant to evaluating the allegations of Sex-Based Harassment. Any credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness. The decisionmaker will accomplish this by asking the Parties and witnesses Relevant (not otherwise impermissible questions) and follow-up questions, including questions challenging credibility. The Parties may propose questions to the decisionmaker that the Party wants asked of any Party or witness and have those questions asked.

The decisionmaker will determine whether a proposed question is Relevant (and not otherwise impermissible) before it is answered, and will explain any decision to exclude a question as not Relevant or as otherwise impermissible. All Relevant (not otherwise impermissible) questions will be asked. Questions that are unclear or harassing of the Party or witness being questioned may be excluded, but prior to doing so, the decisionmaker will give the Party posing the question the opportunity to clarify or revise the question.

Rules of evidence, such as those applied in criminal or civil court, are not applicable to hearings conducted under this Policy. Evidence not previously provided in advance of the hearing may be accepted for consideration in the discretion of the decisionmaker.

### **3. Decisionmaking**

The decisionmaker will objectively evaluate all Relevant evidence, both inculpatory and exculpatory, and reach a determination regarding responsibility pursuant to the Standard of Proof. The decisionmaker will prepare a written decision, which will be communicated simultaneously to the Parties within ten (10) Days of the hearing including:

- a description of the alleged Sex-Based Harassment;
- information about the policy and procedures used to evaluate the allegations;
- the decisionmaker's evaluation of the Relevant (not otherwise impermissible) evidence;
- the determination of whether the Respondent was responsible or not responsible for Prohibited Conduct;
- if responsible, the specific behaviors for which Respondent was found to be responsible; and
- appeals information.

In the event the Respondent is found responsible for a violation of this Policy, the determination will include the Disciplinary Sanctions imposed and/or whether Remedies will be provided, as appropriate.

- In such cases, when the decisionmaker is an external decisionmaker (i.e., not a University employee), the decisionmaker will promptly submit the written decision to the Dean of Students or designee (for Student Respondents), Provost or designee (for faculty Respondents), or Vice President of Human Resources or designee (for staff respondents), who will, in consultation with the decisionmaker, determine any Disciplinary Sanctions imposed and/or Remedies to be provided. The decisionmaker will thereafter issue the written determination, including any such Disciplinary Sanctions imposed and/or whether Remedies will be provided, simultaneously to the Parties.
- If the decisionmaker is an internal decisionmaker (i.e., a University employee), as opposed to an external decisionmaker, the decisionmaker will make a determination as to responsibility and as to Disciplinary Sanctions and/or Remedies. The decisionmaker will thereafter issue the written determination, including any such Disciplinary Sanctions imposed and/or whether Remedies will be provided, simultaneously to the Parties.

#### **g. Disciplinary Sanctions; Remedies**

Disciplinary Sanctions are designed to stop the misconduct, prevent its recurrence, and remedy its effects, and will consider factors including the nature and gravity of the misconduct, and any record of prior misconduct, if applicable.

- For students, Disciplinary Sanctions may include, but are not limited to: educational projects/services, online training, verbal or written warning, suspension or expulsion from residence halls and/or dining facilities, suspension or exclusion from extracurricular or co-curricular activities, community service, probation, or suspension or dismissal from Arcadia.
- For employees, Disciplinary Sanctions may include, but are not limited to, online training, coaching/counseling, educational sessions, verbal or written warning, salary freeze, change of duties, probation, suspension, persona non grata status, demotion, or termination from employment.

Arcadia may continue Supportive Measures and may also provide Remedies to the Complainant or others, in the event their equal access to the University's Education Program and/or Activity

was determined to have been limited or denied by Prohibited Conduct. Remedies are designed to restore or preserve that person's access and may include, but are not limited to, measures such as the following: providing a campus escort or allowing dedicated parking; making changes to class or work schedules; making adjustments to Student housing; providing services such as counseling; providing academic resources and support; providing reimbursement for professional counseling services; making tuition adjustments; and any other Remedies the University deems appropriate.

The determination regarding responsibility becomes final either on the date that Arcadia provides the Parties with the written determination of the results of any appeals, or, if no appeal filed, the date on which an appeal would no longer be considered timely. Any Disciplinary Sanctions and/or Remedies will be implemented at this time.

#### **h. Appeals**

Dismissals and determinations regarding responsibility can be appealed based on one or more of the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the dismissal or the determination regarding responsibility that could affect the outcome of the matter;
- The Director of OECR/Title IX Coordinator, investigator(s), or decisionmaker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or an individual Party in particular, and that bias affected the outcome of the matter; and/or
- The severity of the sanction was not appropriate for the violation of the Policy for which the Respondent was found to be responsible.

Appeals must be submitted in writing to the Director of OECR/Title IX Coordinator within five (5) Days of the date of the written outcome determination or dismissal. The Director of OECR/Title IX Coordinator shall immediately provide notice of any appeal(s) to the other Party, who has five (5) Days to submit a written response, limited to the grounds alleged in the appeal. The Director of OECR/Title IX Coordinator will then submit the appeal and response, if any, to the appeals decisionmaker, who shall not be the same individual who, as applicable, conducted the investigation, issued the dismissal, and/or made the finding of responsibility.

The appeals decisionmaker's review will be based only on the written record, as well as any recordings or transcripts. Any alleged new evidence related to the grounds for the appeal should be appended to the appeal. The appeal is not an opportunity for a re-investigation or re-hearing. The decisionmaker will submit a final written decision on the appeal, including a rationale, within ten (10) Days of receipt of the appeals materials, which will be simultaneously distributed to the Parties.

For an appeal related to the dismissal of a Complaint, the decisionmaker will decide whether to approve or reject the decision and, if rejected, return the Complaint to the Director of OECR/Title IX Coordinator for further process. For an appeal of a finding of responsibility, the decisionmaker will decide whether to approve, reject, or modify the decision and/or Disciplinary

Sanctions and/or Remedies, and may remand the case for further proceedings consistent with the appeals decision. The appeals decisionmaker's decision is final.

## **26. Additional Provisions Pertaining to Parental, Family, or Marital Status, and Pregnancy or Related Conditions**

### **a. Nondiscrimination of Applicants, Students, and Employees**

In determining whether a person satisfies any Arcadia admissions policy or criterion, or in making any offer of admission, Arcadia will treat Pregnancy or Related Conditions in the same manner and under the same policies as any other temporary medical condition. Arcadia will not make pre-admission or pre-employment inquiry as to the Marital Status of an Applicant, including whether an Applicant is "Miss or Mrs." Arcadia may ask an Applicant to self-identify their sex, but only when asking this question of all Applicants. The response will not be used as a basis for discrimination.

Arcadia will not adopt or apply any policy, practice, or procedure, or take any employment action, concerning the current, potential, or past Parental, Family, or Marital Status of a Student, employee, or Applicant that treats persons differently on the basis of sex, or which is based upon whether an employee or Applicant for employment is the head of household or principal wage earner in such employee's or Applicant's family unit. Arcadia will not discriminate against, establish or follow any policy, practice, or procedure that discriminates against, or exclude from employment any person on the basis of current, potential, or past Pregnancy or Related Conditions.

### **b. Voluntary Student Participation in Separate Education Programs or Activities**

Arcadia may offer students voluntary participation in a separate portion of its Education Program or Activity when comparable to what is offered to Students who are not experiencing Pregnancy or Related Conditions.

### **c. No Requirement of Medical Certification for Student Participation**

Arcadia will not require a Student, due to Pregnancy or Related Conditions, to provide certification from a physician or other licensed healthcare provider that the Student is physically able to participate in classes, programs, or student activities unless necessary, required for all participating Students, and not used as a basis for discrimination.

### **d. Leaves of Absence**

#### **i. Student Leaves of Absence**

An Arcadia Student experiencing Pregnancy or Related Conditions is allowed a voluntary leave of absence to cover, at minimum, the period of time deemed medically necessary by the Student's physician or other licensed healthcare provider. If other Arcadia leave policy allows a greater span of time than this period, the Student is permitted to take leave under that policy.

instead. Upon return, the Student will be reinstated to the academic and, as practicable, extracurricular status that the Student held when the leave began. Additional information about student leaves of absence is available on the [Registrar's website](#).

## **ii. Employee Leaves of Absence**

In the event an Arcadia employee is not qualified for a leave, or if no leave or insufficient leave is available, Pregnancy or Related Conditions is a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment. For more information about pregnancy accommodations, please see the [Interim Pregnancy Accommodations Policy](#).

## **e. Lactation-Related Accommodations for Students and Employees**

Arcadia will provide reasonable break time for a Student or employee to express breast milk or breastfeed as needed, and make available a lactation space, other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a Student or employee for expressing breast milk or breastfeeding as needed.

## **f. Student and Employee Rights to Reasonable Modifications or Temporary Adjustments**

Students are entitled to reasonable modifications to University policies, practices, or procedures because of Pregnancy or Related Conditions on an individualized and voluntary basis depending on the Student's needs when necessary to prevent discrimination and ensure equal access, unless the modification would fundamentally alter the Education Program or Activity. These may include, but are not limited to: breaks to attend to health needs, including for expressing breast milk or breastfeeding; excused absences to attend medical appointments; access to online instruction; changes in schedule or course sequence; extensions of time for coursework; rescheduling of tests and examinations; counseling; changes in physical space or supplies; or elevator access. Such modifications will be comparable to the treatment of other temporary disabilities or conditions.

Arcadia will not require Students to provide supporting documentation unless necessary and reasonable to determine reasonable modifications. It will by definition be not necessary and reasonable when the need for the specific action is obvious; when the Student has previously provided sufficient supporting documentation; when the reasonable modification relates to drinking water, using a bigger desk, and/or the need to sit, stand, or take breaks to eat, drink, or use the restroom; when the Student has lactation needs; or when the requested specific action is available to Students for reasons other than Pregnancy or Related Conditions without the submission of supporting documentation.

For more information about pregnancy accommodations, please see the [Interim Pregnancy Accommodations Policy](#).

### **g. Requirement to Provide Information to Students Experiencing Pregnancy or Related Conditions**

When any Arcadia employee is informed by a Student of that Student's Pregnancy or Related Conditions, the employee must, unless the employee reasonably believes the Director of OECR/Title IX Coordinator has already been notified, promptly inform the Student of the Director of OECR/Title IX Coordinator's contact information and that the Director of OECR/Title IX Coordinator can coordinate specific actions to prevent Sex Discrimination and ensure equal access to the Education Program or Activity by promptly providing the Notice of Non-Discrimination and informing the student of the University's obligations. These include:

- Prohibiting Sex Discrimination, including Sex-Based Harassment;
- Allowing access, on a voluntary basis, to any separate and comparable portion of the University's Education Program or Activity;
- Referring Students experiencing Pregnancy or Related Conditions to the Director of OECR/Title IX Coordinator;
- Taking specific actions to promptly and effectively prevent Sex Discrimination and ensure equal access to the Education Program or Activity, including providing the option of making reasonable modifications to Arcadia policies, practices, or procedures because of Pregnancy or Related Conditions;
- Allowing a voluntary leave of absence;
- Ensuring the availability of lactation space; and
- Maintaining Grievance Procedures that provide for the prompt and equitable resolution of complaints of Sex Discrimination.

### **27. Recordkeeping**

There is a seven-year record retention period for:

- Reports; Complaints; and records documenting the response to Reports and Complaints, including any Supportive Measures provided, any emergency removals or administrative leave imposed, and any Informal Resolution Process or Grievance Procedures undertaken, including the resulting outcome (e.g., the result of any Informal Resolution Process, determinations of responsibility, Disciplinary Sanctions imposed on the Respondent, Remedies provided to the Complainant, appeals and the results of such appeals);
- Any records documenting action taken by Arcadia to address Reports of Sex Discrimination, prevent its recurrence, and remedy its effects; to address any barriers identified to reporting such conduct; and to educate employees about their Mandatory Reporting responsibilities;
- All materials used to provide required training;
- Any audio or audiovisual recording or transcript required to be retained; and
- Any other records documenting the actions taken to satisfy the University's obligations to prevent discrimination and ensure equal access for individuals due to Pregnancy or



Related Conditions, including facilitating reasonable modifications for Students and facilitating temporary adjustments, leave, and/or lactation time and space for employees.

## **28. Predecessor Policies**

The Policy Prohibiting Sexual Harassment and Sexual Misconduct was in effect from August 14, 2020 to July 31, 2024 and can be accessed [here](#). The Non-Discrimination and Non-Harassment Policy was in effect from August 14, 2020 to July 31, 2024 and can be accessed [here](#). The Procedures for Resolution of Complaints Under the Policy Prohibiting Sexual Harassment and Sexual Misconduct and the Non-Discrimination and Non-Harassment Policy were also in effect from August 14, 2020 to July 31, 2024 and can be accessed [here](#).

The Policy Prohibiting Sexual Misconduct, Relationship Violence, and Stalking was in effect from November 4, 2016 to August 13, 2020 and can be accessed [here](#). The Non-Discrimination and Non-Harassment Policy was in effect from November 4, 2016 through August 13, 2020 and can be accessed [here](#).