

Title IX Policy

Title IX Policy and Grievance Procedure

Bay Area Medical Academy (“BAMA” or “School”) seeks to provide an environment free of discrimination and harassment. We encourage and expect our staff and students to report any sexual misconduct which may include sexual harassment, dating violence, stalking, sexual violence, bullying, harassment, and discrimination. Title IX of the Education Amendments of 1972 (“Title IX”) protects people from discrimination based on sex in education programs or activities. Title IX states: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” BAMA prohibits any such unlawful discrimination, and its Title IX Policy (the “Policy”) prohibits sexual assault, dating and domestic violence, sexual harassment, stalking and other gender- based discrimination and harassment.

Members of the BAMA Education community, guests and visitors have the right to be free from all forms of sex or gender harassment, discrimination and misconduct, examples of which can include acts of sexual harassment, including sexual assault and violence, dating violence, domestic violence, and stalking, which is prohibited under Title IX. Individuals who have been subjected to any of these acts are strongly encouraged to report such incidents. BAMA will respond promptly and equitably to all such reports that it receives regarding the School’s education programs and activities. This includes locations, events, or circumstances over which the School exercises control or supervision. BAMA will take steps to ensure equal treatment on the basis of sex, due process of law and fundamental fairness in its response to any sexual harassment that has occurred.

Examples of sexual or gender harassment prohibited by this Policy include the following:

- A School employee conditioning an educational benefit or service upon a person’s participation in unwelcome sexual conduct (often called “quid pro quo” harassment)
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the School’s education program or activity
- Sexual assault, dating violence, domestic violence, or stalking (as those offenses are defined in the Clery Act, 20 U.S.C. § 1092(f), and the Violence Against Women Act, 34 U.S.C. § 12291(a))

Definitions under Title IX

- **Complainant:** an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- **Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- **Supportive Measures:** non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to BAMA's education program or activity without unreasonably burdening the other party, including

measures designed to protect the safety of all parties or BAMA's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. BAMA must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of BAMA to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

- **Sexual Harassment:** conduct on the basis of sex that satisfies one or more of the following:
 - An employee of BAMA conditioning the provision of an aid, benefit, or service of BAMA on an individual's participation in unwelcome sexual conduct;
 - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to BAMA's education program or activity; or
 - Sexual assault, dating violence, domestic violence or stalking as defined herein.
- **Hostile Environment:** an environment that that, through harassing conduct (including physical, verbal, graphic or written communications) based on a person's personal protected category, such as sex or gender, becomes sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of a reasonable person to participate in or benefit from the School's programs or activities.
- **Sexual Assault:** any non-consensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.
- **Stalking:** a course of conduct, including maintaining a visual or physical proximity to a person, following, monitoring or surveilling a person, directly or indirectly, by any action, method, device or means, repeatedly committing harassment against a person or repeatedly causing to be conveyed verbal or written threats, that would cause a reasonable person to be fearful of serious harm or danger to themselves or to individuals close to them.
- **Domestic Violence:** felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- **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; and
 - where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship.
 - The type of relationship.

- The frequency of interaction between the persons involved in the relationship.
- **Consent:** clear and unambiguous communication and mutual agreement for the act in which the participants are involved. Consent will be assessed objectively from the standpoint of a reasonable person in the position of the Respondent. In understanding the meaning of consent, the following principles apply:
 - A sexual interaction is considered consensual when individuals willingly and knowingly engage in the interaction.
 - Consent can be given by words or actions, as long as those words or actions express willingness to engage in sexual contact or activity. If there is confusion or ambiguity, participants in sexual activity are expected to stop and clarify each person's willingness to continue.
 - Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Previous relationships or previous consent for sexual activity is not consent to sexual activity on a different occasion. (For example, consent to certain acts at one point in an evening does not mean consent to the same acts later in the same evening.)
 - Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
 - Silence or the absence of resistance is not the same as consent.
 - Consent must be continually assessed and can be withdrawn at any time.
 - The use of alcohol or drugs does not justify or excuse behavior that violates this Policy and never makes someone at fault for being the victim of a violation of this Policy.
- **Actual Knowledge:** notice of sexual harassment or allegations of sexual harassment to BAMA's Title IX Coordinator or any official of BAMA who has authority to institute corrective measures on behalf of BAMA, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of BAMA with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of BAMA. "Notice" as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator as described in § 106.8(a).
- **Formal Complaint:** a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that BAMA investigate the allegation of sexual harassment. 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 BAMA with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator under § 106.8(a), and by any additional method designated by BAMA. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by BAMA) that contains the complainant's physical or digital signature, or otherwise indicates that the

complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party under this part.

- **Title IX Committee:** A Committee comprised of school officials, including the title IX Coordinator, who oversee the implementation and enforcement of the Title IX Policy
- **Title IX Coordinator:** refers to the Title IX Coordinator identified in this Policy for reporting violations of this Policy.
- **Hearing Administrator:** refers to any person hired or identified by BAMA to conduct formal Title IX administrative hearings or proceedings.

Scope of Policy

All members of the BAMA community are expected to conduct themselves in a manner that does not infringe upon the rights of others. This Policy applies to all members of the BAMA community, including students, faculty and staff. It also applies to contractors and other third parties in the School's control. This Policy applies to sexual harassment, sexual misconduct, sexual violence and discrimination based on sex or gender that occurs at BAMA' premises or facilities, that occurs at an BAMA' sponsored or approved program or activity, that impedes equal access to any BAMA Education's program or activity or that creates a Hostile Environment or that otherwise threatens the health or safety of a member of the BAMA community.

BAMA Education's sex/gender harassment, discrimination and misconduct policies are not meant to prevent or exclude educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by the student code of conduct and sexual harassment policies.

Prohibited Conduct

This Policy prohibits the following conduct:

A. Sexual Harassment: conduct on the basis of sex that satisfies one or more of the following:

- An employee of BAMA conditioning the provision of an aid, benefit, or service of BAMA on an individual's participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to BAMA's education program or activity; or
- Sexual assault, dating violence, domestic violence or stalking as defined herein.

B. Physical Misconduct or Sexual Assault: Any intentional, non -consensual sexual contact or conduct with an intimate body part of another or forcing another to have sexual contact without consent and any non-consensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

C. Stalking: a course of conduct, including maintaining a visual or physical proximity to a person,

following, monitoring or surveilling a person, directly or indirectly, by any action, method, device or means, repeatedly committing harassment against a person or repeatedly causing to be conveyed verbal or written threats, that would cause a reasonable person to be fearful of serious harm or danger to themselves or to individuals close to them.

Examples of stalking behavior include following a specific person or otherwise communicating with a person repeatedly in a manner likely to cause fear for safety or repeatedly engaging in behavior toward a person that a reasonable person would find annoying or alarming under similar circumstances.

D. Domestic Violence: felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

E. 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; and where the existence of such a relationship shall be determined based on a consideration of the following factors: The length of the relationship; The type of relationship; and the frequency of interaction between the persons involved in the relationship.

F. Bullying, Intimidation and Harassment: Engaging in conduct that is directed at a person that is so severe or pervasive and objectively offensive that it substantially disrupts or interferes with the rights of any student, staff member or other member of the BAMA community. Such conduct may include intimidation or threats to a person's welfare or safety, actions or communications that a reasonable person would know are insulting, demeaning, intimidating or which a reasonable person would know would result in physical or emotional harm. Prohibited conduct may include gestures, written or verbal communications, electronic communications or a physical act.

G. Invasion of Privacy Including Sexual Exploitation: Unauthorized making of an explicit or objectively offensive recording of another person; unauthorized display, publication or dissemination of explicit or objectively offensive recordings (including but not limited to photographs, video or audio) regarding another person; unauthorized intrusion on a person's property or in their communications; unauthorized use or misappropriation of a person's private information or identifying data; or, abuse or exploitation of another person's sexuality.

H. Obscene or Indecent Behavior; Exposure of one's sexual organs or the display of sexual behavior or contact that would be reasonable offensive to others or be observed by any other non-consenting persons who would be reasonably offended.

I. Aiding or Assisting: Aiding or assisting another to violate this Policy or acting in any way to further a violation of Title IX.

Reporting Conduct and the Institution's Response

BAMA has appointed Compliance Manager Angela Dombrowski as Title IX coordinator. Any questions, concerns or grievances can be directed to her at:

Title IX Coordinator:
Angela Dombrowski
Compliance Manager
530 Bush Street
Suite 201
San Francisco, CA 94108
angela@bamasf.com

Reporting and BAMA Response to Prohibited Conduct

All students, faculty, staff and third parties may report any violation of this policy to the Title IX coordinator. Once BAMA has actual knowledge of sexual harassment in an education program or activity of BAMA against a person in the United States, BAMA will respond promptly in a manner that is not deliberately indifferent. BAMA will be considered deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

For the purposes of this section, "education program or activity" includes locations, events, or circumstances over which BAMA exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by BAMA.

BAMA response will treat complainants and respondents equitably by offering supportive measures as defined herein to a complainant, and by following a grievance process as set forth below before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined herein, against a respondent.

The Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures as defined herein, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

BAMA believes in zero tolerance for sex or gender-based misconduct, discrimination, harassment and all conduct prohibited by this Policy. Zero tolerance means that when an allegation of misconduct is brought to the attention of a person in authority who has the ability to make a decision based on the information provided, BAMA will provide supportive measures and reasonably ensure that such conduct ends without retaliation and the effects on the victim and community are remedied,

including serious sanctions when a responding party is found to have violated this policy while providing a fair grievance process for those individuals whose rights have been violated. If a determination has been made that an individual has violated this Policy, appropriate sanctions or remedies may include expulsion or termination of employment.

Emergency Removal

BAMA may remove a respondent from its education program or activity on an emergency basis, provided that BAMA undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Administrative Leave

BAMA may place a non-student employee respondent on administrative leave during the pendency of a grievance process as described below. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

Filing a Formal Complaint

To file a Formal Complaint, a Complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. When filing a Formal Complaint under this Policy, Complainants must be currently participating in, or attempting to participate in, the education programs or activities of BAMA (which may include participation as a student, employee, or third party).

The Complainant's signature on the Formal Complaint indicates the Complainant's desire to have the Formal Complaint investigated and adjudicated under this Policy. In all cases, BAMA personnel will reveal information about the identities of the Parties, including the identity of the Complainant, only to those who need to know in order to carry out their duties and responsibilities and/or as necessary to comply with this Policy or applicable law. This may include the investigators assigned to the case, potential witnesses, the Respondent, and BAMA administrators involved in the disciplinary process or implementation of supportive measures.

It is not necessary to file a Formal Complaint in order to receive supportive measures under this Policy. Nothing in the Policy prevents a Complainant from seeking the assistance of State or local law enforcement alongside the appropriate on-campus process.

If a Complainant does not wish to make a Formal Complaint, the Title IX Coordinator is responsible for determining whether it is necessary for the Title IX Coordinator to initiate a complaint in order for BAMA to respond to the reported conduct of which it has actual notice in a way that is not deliberately indifferent. The Title IX Coordinator will consider various factors in this assessment, such as the availability of independent evidence of the allegations, the nature of the allegations, and/or whether there have been other similar complaints about the same Respondent. If the Title IX Coordinator initiates a Formal Complaint, BAMA will inform the Complainant of this decision in

writing. The Complainant will not be required to participate in the process but will receive all notices issued under this Policy.

The Grievance Process

In response to a formal complaint, in addition to responding as set forth in section B above, BAMA will follow a grievance process as set forth below. During the grievance process, BAMA will:

- Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process that complies with this section before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined herein, against a respondent. Remedies will be designed to restore or preserve equal access to BAMA education program or activity. Such remedies may include the same individualized services described in the definition of "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.
- Require an objective evaluation of all relevant evidence--including both inculpatory and exculpatory evidence--and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness.
- Require that any individual designated by BAMA as a Title IX Coordinator, investigator, decision-maker, or any person designated by BAMA to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. BAMA will ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment as defined herein, the scope of BAMA's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. BAMA will ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth below. BAMA will also ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth below. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints of sexual harassment.



- Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- Include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
- Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that BAMA may implement following any determination of responsibility.
- Apply the preponderance of evidence standard to all formal complaints of sexual harassment.
- Include the procedures and permissible bases for the complainant and respondent to appeal.
- Describe the range of supportive measures available to complainants and respondents.
- And not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Notice of Allegations

Upon receipt of a formal complaint, BAMA will provide the following written notice to the parties who are known:

- Notice of BAMA's grievance process that complies with this section, including any informal resolution process.
- Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined herein, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice will include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written will inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence pursuant to this section. The written notice will inform the parties of any

provision in BAMA's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

- If, in the course of an investigation, BAMA decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to this section, BAMA will provide notice of the additional allegations to the parties whose identities are known.

Dismissal of a Formal Complaint

BAMA will investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined herein even if proved, did not occur in BAMA's education program or activity, or did not occur against a person in the United States, then BAMA will dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under title IX. Such a dismissal does not preclude action under another provision of BAMA's code of conduct.

BAMA may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by BAMA; or specific circumstances prevent BAMA from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal required or permitted pursuant to this section, BAMA will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

Consolidation of Formal Complaints

BAMA may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Investigation of a Formal Complaint

A specially trained investigator (or team of investigators) will be assigned to investigate the conduct alleged to constitute prohibited conduct after the Notice of Allegations issues. The investigation will include interviewing the Complainant, Respondent, and witnesses, and gathering relevant evidence directly related to the complaint. The Title IX Coordinator will communicate with the investigators regularly to ensure that the investigation is thorough, impartial, and fair. The Title IX Coordinator will also ensure that the Parties are updated throughout the investigative process, including with timely notice of meetings where either or both Parties may be present.

Throughout the investigative process, BAMA will –

- Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on BAMA and not on the parties provided that BAMA cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless BAMA obtains that party's voluntary, written consent to do

so for a grievance process under this section (if a party is not an "eligible student," as defined in 34 CFR 99.3, then

- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding. However, BAMA may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
- Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
- Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which BAMA does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, BAMA must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report. BAMA will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
- And create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing (if a hearing is required under this section or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

Live Hearing

As part of the grievance process, BAMA will provide a live hearing. Hearing officer(s) will be appointed to make findings of facts and determinations. Those facts and determinations will then be sent to the decision-maker(s) for a written determination regarding responsibility as provided for herein. Appropriate school officials or independent third party(ies) will serve as the decision-maker(s). The decision-maker(s) will not be the same person(s) as the Title IX Coordinator or the investigator(s).

During the live hearing –

- The hearing officer(s) will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging

credibility. Such cross-examination will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of BAMA noted above to otherwise restrict the extent to which advisors may participate in the proceedings.

- At the request of either party, BAMA will provide for the hearing to occur with the parties located in separate rooms with technology enabling the hearing officer(s) and parties to simultaneously see and hear the party or the witness answering questions.
- Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- If a party does not have an advisor present at the live hearing, BAMA will provide without fee or charge to that party, an advisor of BAMA choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) will not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- Live hearings may be conducted with all parties physically present in the same geographic location or, at BAMA discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- BAMA will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

Determination Regarding Responsibility

The decision-maker(s) will issue a written determination regarding responsibility. In this determination, the decision-maker(s) will apply the preponderance of evidence standard. The written determination will include:

- Identification of the allegations potentially constituting sexual harassment as defined herein.
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
- Findings of fact supporting the determination.
- Conclusions regarding the application of the BAMA's code of conduct to the facts.

- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions BAMA imposes on the respondent, and whether remedies designed to restore or preserve equal access to the BAMA's education program or activity will be provided by BAMA to the complainant.
- And BAMA's procedures and permissible bases for the complainant and respondent to appeal.

BAMA will provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that BAMA provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Appeals

BAMA will offer both parties an appeal from a determination regarding responsibility, and from BAMA dismissal of a formal complaint or any allegations therein, on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

BAMA may offer an appeal equally to both parties on additional bases. As to all appeals, BAMA will:

- Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.
- Ensure that the decision-maker(s) for the appeal is not the same person as the decision maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- Ensure that the decision-maker(s) for the appeal complies with the standards set above.
- Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.
- Issue a written decision describing the result of the appeal and the rationale for the result.
- And provide the written decision simultaneously to both parties.

Informal Resolution

BAMA will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, BAMA will not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility BAMA may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that BAMA –

- Provides to the parties a written notice disclosing: The allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- Obtains the parties' voluntary, written consent to the informal resolution process.
- And does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Recordkeeping

BAMA will create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, BAMA will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to BAMA's education program or activity. If BAMA does not provide a complainant with supportive measures, then BAMA will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit BAMA in the future from providing additional explanations or detailing additional measures taken.

Privacy and Confidentiality

BAMA is committed to protecting the privacy of all individuals involved in a report of any violation of this Policy. All employees who are involved in the Title IX response, including the Title IX Coordinator, title IX Investigator and any individuals involved in a hearing process, will make every effort to protect the privacy of all individuals and at the same time provide a full and complete investigation of any complaints consistent with due process. Privacy means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those employees or other relevant parties who “need to know” in order to assist in the active review, investigation or resolution of the report or complaint filed. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

No Retaliation

BAMA Education prohibits any retaliation of any kind against any student, faculty or staff member who in good faith makes a report or complaint of a violation of this Policy or provides information in the course of any part of the Title IX process described herein. No employee or student who in good faith files a report, provides information for an investigation or testifies in any proceeding under this Policy shall be subjected to adverse educational or employment consequences based upon such involvement or be the subject of retaliation.