



**York University (formerly York College)  
Annual Security Report (ASR)  
Drug Free School and Campus Act (DFSCA)  
Annual Fire & Safety Report (AFSR)  
2023**



# York University

## 2023 Annual Safety Report

This document has been prepared in compliance with the various federal regulations. The annual report is provided to prospective students and employees of York University via the York University website and to all students and employees via campus email. This annual report is published and released in the fall semester. This report is available in hard copy upon request by contacting [jrjewell@york.edu](mailto:jrjewell@york.edu) and providing a physical address for mailing the materials.

### **Introduction**

The Office of Student Life, in conjunction with other departments at York University, prepares and distributes the Annual Security Report. This report serves several purposes:

- Complies with the requirements of the Jeanne Clery Disclosure of the Campus Crime Statistics Act;
- Shows how York University reports, investigates, and handles crime and emergency situations on or near University property;
- Advises the York University community of the resources that are available to assist it in emergencies;
- Provides tips to mitigate threats to the safety of the York University community; and
- Provides other safety and security information to the York University community so that informed decisions may be made.

### **Crime Statistics**

The crime statistics published in this report are also filed annually with the US Department of Education, Office of Postsecondary Education, and can be viewed at the US Dept. of Education link: <https://ope.ed.gov/campussafety/#/>



Disciplinary Action	2020			2021				2022			
	Weapons: carrying, possessing, etc.	1	1	0	0	0	0	0	0	1	0
Drug abuse violations	0	0	0	5	5	0	0	0	6	1	0
Liquor law violations	0	0	0	29	29	0	0	0	1	0	0
VAWA Offenses	2019			2020				2022			
Domestic violence	0	0	0	0	0	0	0	0	0	0	0
Dating violence	0	0	0	0	0	0	0	0	0	0	0
Stalking	0	0	0	0	0	0	0	0	0	0	0

Unfounded Crimes	2020	2021	2022
Total Unfounded Crimes	0	0	0

Please note: Crime Statistics for study Abroad are not provided for 2020, 2021, or 2022. Data sources include the York Police Department, and the Dean of Student Life. This information is subject to modification or update at any time. Statistics consist of all categories and subsets of crimes required for reporting under the Clery Act. **Zero (0) Hate Crimes were reported in 2020, 2021, and 2022.**

## **Safety**

Students assume ultimate responsibility for their own safety and security. York University is concerned about the safety and welfare of all campus members and guests, and is committed to providing a safe and secure environment. In furtherance of these objectives, and in accordance with the Clery Act, the following information is provided. Campus security measures include the following:

- Locking facilities
- Checking facilities for fire and vandalism
- Checking facilities for lights, heat, power outages, and water leak problems
- Monitoring and reporting criminal activity on Campus to the police in emergency situations and to the Vice-President of Student Life
- Summoning the York Police to help with emergency situations, if necessary
- Contacting the appropriate campus personnel

### ***Safety Tips***

- Report all suspicious activity to your Resident Director immediately.
- Sign up for York University alerts.
- Try to avoid walking alone at night; travel with friends.
- Be aware of your surroundings. Watch the cars and people around you.
- Carry your keys and ID card on you at all times. Do not lend them to anyone.
- Keep your residence hall room door closed and locked when you are not there.
- Do not prop doors open to residence halls or other protected locations.
- Lock up bicycles and motorcycles. Lock car doors and close windows when leaving your car.
- Never leave valuables unattended or in your car.

### ***Campus Support Team***

York University has trained personnel in place with procedures developed to respond to a variety of potential crisis situations. Students may access assistance through University faculty, staff or their residence hall staff. The Vice-President of Student Life serves as the chair of the Campus Support Team.

Students should contact the following individuals as needed:

- In the event of an **emergency situation** (i.e. a fire, medical emergency, an assault, campus intruder, hostage situation, bomb threat, etc.), students should contact the Vice President for Student Life, the York Police Department or dial 911.
- In the event of a **personal crisis** (i.e. threatened suicide or homicide, self-harm, addictive behavior posing a health risk, certain psychiatric disorders, hearing of or witnessing a traumatic event, and/or the death of a relative/close friend), students should contact the Resident Director, Counseling Coordinator, Vice President for Student Life, Vice President for Spiritual Life, or the Hope Crisis Center Hotline immediately.
- For other **concerns** (i.e. conflict with others, relationship concerns, financial difficulties, academic concerns, family situations, employment concerns, decisions about life goals), students should contact their academic advisor, a trusted faculty or staff member, the Vice President for Spiritual Life, and/or the Apartment or Resident Director.

<p><b>York Police Department</b> 315 N. Grant Ave. York, NE (402) 363-2640 Emergency: 911</p>	<p><b>Title IX Coordinator</b> Mrs. Roni Miller Freeman Center (402) 363-5717 titleix@york.edu</p>	<p><b>Counseling Coordinator</b> Dr. Randy Ervin Larsen House (402) 363-5701 rlervin@york.edu</p>
<p><b>Campus Minister</b> Sean Algaier McGehee – Spiritual Life Office (402) 363-5620 smalgaier@york.edu</p>	<p><b>Suicide Prevention Hotline</b> 988</p>	<p><b>Vice President for Student Life</b> Mr. John Jewell Larsen House (402) 363-5716 jrjewell@york.edu</p>
<p><b>Campus Safety Concerns</b> Contact your Residence Life staff</p>	<p><b>Hope Crisis Center</b> Michelle Kelly 117 W. 1<sup>st</sup> St. York, NE Hotline: (877) 388-4673 Office: (402) 362-7527</p>	<p><b>Medical Facilities</b> <a href="#">York Medical Clinic</a>: (402) 362-5555 <a href="#">York General ER</a>: (402) 362-6671 <a href="#">York General Quick Clinic</a>: (402) 745-1800 <a href="#">Urgent Care of York</a>: (402) 362-6279 Emergency: 911</p>

### ***Procedures for Reporting Crimes and Other Emergencies***

Students and employees are encouraged to report emergencies directly to the police, fire or ambulance services by dialing 911. Residence hall staff is available 24 hours a day if students have safety concerns. In addition, students and employees are encouraged to follow up with concerns by reporting crimes and/or safety concerns to University administrative personnel who can address these issues and keep records of incidents.

Incidents in the residence halls should be reported directly to the Resident Assistant (RA) or the Resident Director. Incidents reported to the Resident Assistant must be reported to the Resident Director who will communicate with the Office of Student Life, and file a follow-up written report with that office.

Underage drinking (less than 21 years of age) is specifically prohibited by federal law. Students are obligated to report incidences of underage drinking to the police. Anyone with knowledge of an alcohol party or an underage York University student engaging in the consumption of alcohol or a York University student engaging in alcohol consumption on campus, should report such to Residence Hall Staff. Those wishing to remain anonymous may call Crime Stoppers at (402)362-2999. On-campus or off-campus violations may be reported to Residence Hall Staff. Concerns regarding questionable activities in campus facilities should be reported to the Office of Student Life. Criminal activities should be reported to the police, in addition to the proper University officials.

### ***Crime Prevention Programs***

York University is dedicated to eliminating and/or minimizing criminal activities through the eyes and ears of the faculty, staff, students, friends and neighbors of the campus community. Crime Prevention items are discussed with parents and students during orientation sessions. Resident Assistants and Resident Directors receive training through the Office of Student Life on numerous security and crime prevention topics. These topics include, but are not limited to, sexual assault, date rape, drugs, alcohol, personal protection, suicide prevention,

fire safety, and theft. In addition, all employees receive annual training on issues pertaining to sexual misconduct, including sexual criminal assaults. Crime prevention issues are also discussed with all students annually as a part of the University's Chapel programming.

### **Relationship between York University and Local Law Enforcement**

York University cooperates with state and local law enforcement agencies and maintains an excellent working relationship with the York Police Department and the York County Sheriff's Office.

### ***Timely Reporting of Incidents Encouraged***

Everyone is encouraged to report any and all incidents related to crime or safety and security issues to the Office of Student Life immediately. A member of the department is then sent to the scene where he/she evaluates the situation and takes the appropriate action. In the event of an emergency, prompt communication is used to inform the appropriate administrators and law enforcement officials. All fires should be reported to the Office of Student Life.

### ***Missing Student Notification***

Any person who believes a York University resident student is missing should immediately notify the Director of Residence Life and Housing. Upon receiving a report and determining that the resident student has been missing for 24 hours or more, the Vice-President of Student Life will contact law enforcement officials. York University students have the option to provide the University with a confidential contact to be notified in the event the resident student is determined to be missing for more than 24 hours. However, unless the University is advised in writing to the contrary, a member of the Office of Student Life will contact parents, legal guardians, or other persons the resident student has authorized the University to contact regarding their enrollment at York University and/or emergency situations. The University is required by law to notify the parents/legal guardians of any resident student who is under the age of 18 years and not emancipated if the resident student is determined to be missing. If circumstances warrant a faster implementation, nothing in this statement precludes implementing these procedures in less than 24 hours.

### ***Right to Remove Individuals from Campus or Refuse Admission to Campus***

York University is located on private property and access to its facilities or its programs is



restricted to those individuals who have justification for being present on campus. Identification and monitoring procedures are utilized when required. York University reserves the right to remove or ban from campus any off-campus agency or individual whose presence on campus is considered to be a threat to students, faculty, or staff. The University also reserves the right to remove any individual whose influence on campus may not be conducive to the successful accomplishment of the University's mission.

### ***Unfounded Crimes***

If a reported crime is investigated by law enforcement authorities and found to be false or baseless, the crime is "unfounded." Only sworn or commissioned law enforcement personnel may unfound a crime.

### ***Drug Policy***

York University prohibits the unlawful possession, use or distribution of illegal drugs and controlled substances, including steroids. The University upholds local, state and federal laws concerning the possession, use, and distribution of illegal drugs and/or drug paraphernalia. Offenses involving on-campus possession, use or distribution of illegal drugs and controlled substances may be referred to the York police department for criminal investigation and possible filing of criminal charges. Violations of this policy are subject to the full range of disciplinary responses, including immediate dismissal from the University. Anyone suspected of, or reported to have been, using illegal drugs or controlled substances, including steroids, may be required to submit to drug testing. Any student testing positive or found in violation of Section 3-01 of the Sections of Misconduct, may be dismissed from the University. Upon documented completion of drug and alcohol counseling and with the recommendation of the Dean of Student Life, students will be welcome to re-enroll in York University. Additional sanctions may be required at this time. Students readmitted after a drug violation may be required to submit to unannounced drug testing at their expense and at the University's convenience.

### ***Alcohol Policy***

York University is an alcohol-free environment. The York University community deeply cares about the health and safety of our students and is committed to educating students of

the dangers of alcohol abuse. York University understands the heightened risks associated with alcohol use in some social settings, and thus discourages students from attending establishments such as clubs, private parties, and bars where the primary purpose is for the sale and/or consumption of alcoholic beverages. Alcohol abuse, underage drinking, and drunkenness are unhealthy and counter to our Christian values and the high expectations we have for students. The decisions students make extend far beyond the University experience, and York University is committed to challenging students to make choices that will positively affect their lives and honor God.

# Drug Free School and Campus Act

## *Introduction/Overview*

The Drug-Free Schools and Campuses Regulations (345 CFR Part 86) of the Drug-Free Schools and Communities Act (DFSCA) require an institution of higher education, such as York University, certify implemented programs to prevent the abuse of alcohol and use or distribution of illicit drugs both by York University students and employees both on its premises and as a part of any of its activities. At a minimum, each institution of higher education must annually distribute the following in writing to all students and employees:

- Standards of conduct that clearly prohibit the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees;
- A description of the legal sanctions under local, state, or federal law for the unlawful possession or distribution of illicit drugs and alcohol;
- A clear statement that the institution will impose sanctions on students and employees and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct.

York University has adopted a policy on drug and alcohol abuse in compliance with Drug-free Schools and Communities Amendments Act of 1989.

York University provides information on drug and alcohol abuse annually and offers aid and counsel to those who struggle with these issues. The University may dismiss students when appropriate as per the guidelines laid out in our Student Handbook. The institution is committed to a drug and alcohol free campus for its students.

## *State and Federal regulations for Employees and Students Regarding Alcohol and Drugs*

The illegal possession, use, or distribution of drugs or alcohol by students and employees is a violation of York University rules as well as State and Federal laws. In satisfaction of this mandate and in order to fulfill its obligations under the Drug Free Workplace Act of 1988 and the Safe and Drug-Free Schools and Communities Act of 1994, York University, in accordance to State and Federal regulations, has put in place the following guidelines for both its employees and its students which prohibit the following acts:

- use, possession, manufacture, distribution, or sale of illegal drugs or drug paraphernalia on University premises or while on University business or at University activities, or in University supplied vehicles either during or after working hours; · unauthorized use or possession or manufacture, distribution, or sale of a controlled

substance as defined by the Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., or Nebraska's Uniform Controlled Substances Act, Neb. Rev. Stat. §§ 28-401 et seq., (Reissue 2008, Cum. Supp. 2016), available at <http://nebraskalegislature.gov/laws>, on University premises, or while engaged in University business or attending University activities or in University supplied vehicles, either during or after working hours;

- unauthorized use, manufacture, distribution, possession, or sale of alcohol on University premises or while on University business, at University activities, or in University-supplied vehicles, either during or after working hours; · storing in a locker, desk, vehicle, or other place on University owned or occupied premises any unauthorized controlled substances, drug paraphernalia, or alcohol;
- possession, use, manufacture, distribution, or sale of illegal drugs off University premises that adversely affects the employee's work performance or the student's academic performance, or an employee's or student's safety or the safety of others; · violation of State or Federal laws relating to the unauthorized use, possession, manufacture, distribution, or sale of alcohol, controlled substances, or drug paraphernalia;
- in the case of employees, failure to notify an employee's supervisor of an employee's arrest or conviction under any criminal drug statute as a result of a violation of law which occurs at the University of Nebraska workplace.

## **Description of Applicable Legal Sanctions Under Federal, State or Local Law For Unlawful Possession or Distribution of Illicit Drugs and Alcohol**

The information on the following pages summarizes selected provisions of Federal, State, and local laws that provide criminal and civil penalties for unlawful possession or distribution of drugs and alcohol.

### ***Federal Penalties and Sanctions for Illegal Possession of Controlled Substances***

- 21 U.S.C. § 844(a)  
First Conviction: Up to 1 year imprisonment and fine of at least \$1,000 or both. After 1 prior drug conviction: At least 15 days in prison, not to exceed 2 years and fine of at least \$2,500. After 2 or more prior drug convictions: At least 90 days in prison, not to exceed 3 years and fine of at least \$5,000.
- 21 U.S.C. § 853(a) and 881(a)  
Forfeiture of tangible and intangible personal and real property used to possess or

to facilitate possession of a controlled substance if that offense is punishable by more than 1 year imprisonment. Forfeiture of vehicles, boats, aircraft, or any other conveyance used, or intended for use, to transport or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of controlled substances.

- 21 U.S.C. § 844(a)  
Civil fine of up to \$10,000 for each violation of 21 U.S.C. § 844 involving controlled substances listed in 21 U.S.C. § 841(b)(1)(A).
- 21 U.S.C. § 862  
Denial of Federal benefits, such as financial aid grants, contracts, student loans, and professional and commercial licenses, for individuals convicted of distributing controlled substances (drug trafficking). The denial can last up to 5 years for the first conviction and up to 10 years for the second conviction. Those who have three or more convictions will be permanently ineligible for all Federal benefits.
- 18 U.S.C. § 922(g)  
Ineligible to receive or possess a firearm or ammunition.
- Miscellaneous  
Authority to revoke certain Federal licenses and benefits, e.g. pilot licenses, public housing tenancy, etc., is vested with the officials of individual Federal agencies.

**Note:** These are only Federal penalties and sanctions. Additional State penalties and sanctions may apply.

The United States Drug Enforcement Administration publishes information that summarizes trafficking penalties under Federal law for various types of drugs; it is available at: <http://www.dea.gov/druginfo/ftp3.shtml>.

## **Description of Applicable Legal Sanctions Under State or Local Law for Unlawful Possession or Distribution of Illicit Drugs and Alcohol**

### *State Penalties and Sanctions for Illegal Possession of Controlled Substances*

The framework for the regulation of most drugs, also called controlled substances, is set out in the Uniform Controlled Substances Act. In addition, other Nebraska State laws establish penalties for various drug-related offenses as summarized below.

### ***Crimes Involving Minors***

Any person 18 years of age or older who knowingly or intentionally manufactures, distributes, delivers, dispenses, or possesses with intent to manufacture, distribute, deliver or dispense a controlled substance or a counterfeit controlled substance (i) to a person (under the age of 18 years; (ii) in, on, or within 1,000 feet of a school, University, university, or playground; or (iii) within 100 feet of a youth center, public swimming pool, or video arcade shall be punished more severely. The law also provides for an enhanced penalty for anyone 18 years of age or older to knowingly and intentionally employ, hire, use, cause, persuade, coax, induce, entice, seduce, or coerce any person under the age of 18 years to manufacture, transport, distribute, carry, deliver, dispense, prepare for delivery, offer for delivery, or possess with intent to do the same a controlled substance or a counterfeit controlled substance. See Neb. Rev. Stat. § 28-416(4) and (5) (Cum. Supp. 2016).

Persons under the age of eighteen who violate the drug laws may be subject to additional sentencing provisions found in Neb. Rev. Stat. § 28-416 (14) (Cum. Supp. 2016), these include impounding licenses or permits issued under the Motor Vehicle Operator's License Act, completion of community service, and attending drug education classes.

### ***Probation Conditions***

Any person convicted of a drug law violation, if placed on probation, shall, as a condition of probation, satisfactorily attend and complete appropriate treatment and counseling on drug abuse. Neb. Rev. Stat. § 28-416 (14) (Cum. Supp. 2016).

### ***Property Forfeiture***

Property used to manufacture, sell, or deliver controlled substances can be seized and forfeited to the State. Property subject to forfeiture may include cash, cars, boats, and airplanes, as well as drug paraphernalia, books, records, and research, including formulas, microfilm, tapes, and data. Neb. Rev. Stat. § 28-431 (Reissue 2008).

### ***Being Under the Influence of Any Controlled Substance for Unauthorized Purpose***

It is a violation of Nebraska law to be under the influence of any controlled substance for a purpose other than the treatment of a sickness or injury as prescribed or administered by a practitioner. In a prosecution, the State need not prove that the accused was under the influence of a specific controlled substance, only that the accused manifested symptoms or reactions caused by the use of any controlled substance. Neb. Rev. Stat. § 28-417(1)(g)

(Reissue 2008).

### ***Drug Paraphernalia Offenses***

It is a violation of Nebraska law to use, or to possess with intent to use, drug paraphernalia to manufacture, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Neb. Rev. Stat. § 28-441(1) (Reissue 2008).

"Drug paraphernalia" is defined to include such things as hypodermic syringes, needles, pipes, bongs, roach clips, and other items used, intended for use, or designed for use with controlled substances. Neb. Rev. Stat. § 28-439 (Reissue 2008).

It is unlawful to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances in which one should reasonably know, that it will be used to manufacture, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. This section does not apply to pharmacists who sell hypodermic syringes or needles for the prevention of the spread of infectious diseases. Neb. Rev. Stat. § 28-442 (Reissue 2008).

It is a violation of Nebraska law for a person 18 years of age or older to deliver drug paraphernalia to a person under the age of 18 who is at least 3 years his or her junior. Neb. Rev. Stat. § 28-443 (Reissue 2008).

A violation of Neb. Rev. Stat. § 28-441 (use or possession of drug paraphernalia) is punishable on the first offense by a fine of up to a maximum of \$100; a second offense within two years of the first is punishable by a fine not less than \$100 and not more than \$300; a third offense within two years of the second is punishable by a fine of not less than \$200 and not more than \$500. Neb. Rev. Stat. §§ 28-441 and 29-436 (Reissue 2008). The penalty for violation of Neb. Rev. Stat. § 28-442 (delivery or manufacture of drug paraphernalia) is not more than a 6-month imprisonment or a \$1,000 fine or both. Neb. Rev. Stat. § 28-442 (Reissue 2008) and § 28-106(1) (Reissue 2008; Cum. Supp. 2014). The penalty for violation of Neb. Rev. Stat. § 28-443 (delivery of drug paraphernalia to a minor) is imprisonment for not more than 1 year or a \$1,000 fine or both. Neb. Rev. Stat. § 28-443 (Reissue 2008) and § 28-106(1) (Cum. Supp. 2014).

### ***Imitation Controlled Substances***

It is a violation of Nebraska law to knowingly or intentionally manufacture, distribute, deliver, or possess with intent to distribute or deliver an imitation controlled substance. Neb. Rev. Stat. § 28-445 (Cum. Supp. 2014). "Imitation controlled substance" is a substance that is not a controlled substance or controlled substance analogue but which is represented to be an illicit controlled substance or controlled substance analogue. Neb. Rev. Stat. § 28-401 (29) (Cum. Supp. 2014). First offense violations of this law are punishable by a 3-month imprisonment or a \$500 fine or both. A second offense violation of this statute is punishable by not more than a 6-month imprisonment or a \$1,000 fine or both. Neb. Rev. Stat. § 28-445( Cum. Supp. 2014) and § 28-106(1) (Cum. Supp. 2014).

### ***Controlled Substance Analogue***

For purposes of Nebraska's Uniform Controlled Substance Act, controlled substance analogues (often called "designer drugs") are treated as controlled substances. Such an analogue is defined as (a) substantially similar in chemical structure to the chemical structure of a controlled substance or (b) having a stimulant, depressant, analgesic or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the effect of a controlled substance. Neb. Rev. Stat. § 28-401(30) (a) (Cum. Supp. 2014).

## **Nebraska Alcohol Offenses**

### ***Minor in Possession***

It is against the law for a person under the age of 21 years to sell, dispense, consume, or possess alcohol. Neb. Rev. Stat. § 53- 180.02 (Reissue 2010). Penalties for violation of this law may include one or more of the following: the impoundment of the offender's license for thirty days or more; the requirement to attend an alcohol education class; the requirement to complete twenty hours or more of community service; or submission to an alcohol assessment by a licensed counselor. Neb. Rev. Stat. § 53-180.05(4) and § 53-181 (Cum. Supp. 2016); § 28-106(1) (Cum. Supp. 2014).

### ***Safe Harbor***

A penalty may not be imposed on a person who otherwise violated this law if the person (i) requested emergency medical assistance in response to the possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent; (ii) was the first person to make the request for medical assistance; and (iii) when emergency medical assistance was requested for the possible alcohol overdose of another person: (A) remained



on the scene until the medical assistance arrived; and (B) cooperated with medical assistance and law enforcement personnel. Neb. Rev. Stat. § 53-180.05(4) and § 53-181 (Cum. Supp. 2014).

### ***Procuring Alcohol***

It is a violation of Nebraska law to sell, furnish, give away, exchange, deliver, or permit the sale, gift, or procuring of any alcoholic liquors to or for any minor or to any person who is mentally incompetent. Neb. Rev. Stat. § 53-180 (Cum. Supp. 2016). Violation of this law is generally punishable by not more than a 1-year imprisonment or a \$1,000 fine or both. Neb. Rev. Stat. § 53-180.05(1) (Cum. Supp. 2014) and § 28-106(1) (Cum. Supp. 2014). However, if alcohol is knowingly and intentionally provided to a minor and the minor's consumption of the alcohol or impaired condition attributed to the alcohol leads to the serious bodily injury or death of any person, the person who provided the alcohol shall be guilty of a Class IIIA felony and serve a mandatory minimum of at least 30 days' imprisonment. The penalty for a Class IIIA felony is a 3-year imprisonment and 18-month post release supervision or a \$10,000 fine or both and a minimum of a 9-month post-release supervision if imprisonment is imposed. See Neb. Rev. Stat. § 53-180.05(2) (Cum. Supp. 2014) and Neb. Rev. Stat. § 28-105(1) (Supp. 2015) available at <http://nebraskalegislature.gov/laws>.

### ***Consumption on Public Property***

It is a violation of Nebraska law for any person to consume alcoholic liquors upon property owned or controlled by the State or any governmental subdivision thereof, unless authorized by the governing bodies having jurisdiction over such properties. Neb. Rev. Stat. § 53-186 (Cum. Supp. 2014). A violation of this statute is punishable on the first offense by a fine of up to a maximum of \$100; a second offense within 2 years of the first is punishable by a fine not less than \$100 and not more than \$300; a third offense within 2 years of the second is punishable by a fine of not less than \$200 and not more than \$500. Neb. Rev. Stat. § 53-186 (Cum. Supp. 2014) and § 29-436 (Reissue 2008).

### ***Driving While Intoxicated***

Operating or being in physical control of a vehicle while under the influence of alcoholic liquors or drugs is a violation of Nebraska law when such person has a concentration of eight-hundredths (.08) of 1 gram or more by weight of alcohol per 100 milliliters of blood or per 210 liters of breath. Neb. Rev. Stat. § 60-6,196 (Reissue 2010).

Violation of this law is punishable on first offense by not more than 60 days but not less than 7 days of imprisonment and a \$500 fine. Neb. Rev. Stat. § 60-6,197.03 (Cum. Supp. 2016) and § 28-106(1) (Cum. Supp. 2014). In addition, an offender's driver's license is revoked for 6 months and the offender is ordered not to drive any motor vehicle for any purpose for a like period. Neb. Rev. Stat. § 60-6,197.03(1) (Cum. Supp. 2014). Suspended sentence or probation includes a mandatory requirement that probation or suspension be conditioned on an order that the offender will not drive any motor vehicle for any purpose for 60 days and pay a \$500 fine. Neb. Rev. Stat. § 60-6,197.03(1) (Cum. Supp. 2014).

Penalties for a second conviction include a \$500 fine and a maximum of a 6-month imprisonment, with no less than a mandatory 30-day imprisonment. Neb. Rev. Stat. § 60-6,197.03 (Cum. Supp. 2014) and § 28-106(1) Cum. Supp. 2014). As part of the judgment of conviction, the offender's operator's license is revoked for 18 months. Neb. Rev. Stat. § 60-6,197.03(3) (Reissue 2010; Cum. Supp. 2014; Supp. 2015). If an offender is placed on probation or the sentence is suspended, a mandatory condition is that the offender must not drive any motor vehicle for any purpose for a period of 18 months. Neb. Rev. Stat. § 60-6,197.03(3) (Cum. Supp. 2014). In addition, the probation order shall include as one of its conditions the payment of a \$500 fine and confinement in the city or county jail for 10 days or the imposition of not less than 240 hours of community service. Neb. Rev. Stat. § 60-6,197.03(3) (Cum. Supp. 2014).

Penalties for a third conviction include a \$1,000 fine and a maximum of a 1-year imprisonment, with a minimum 90-day imprisonment, and an order of license revocation for 15 years. Neb. Rev. Stat. § 28-106(1) (Cum. Supp. 2014) and Neb. Rev. Stat. § 60-6,197.03(4) (Cum. Supp. 2014). If an offender is placed on probation, or the sentence is suspended, a mandatory condition is that the offender's operator's license shall be revoked for a period of at least 2 years but not more than 15 years. Neb. Rev. Stat. § 60-6,197.03(4) (Reissue 2010; Cum. Supp. 2014; Supp. 2015). In addition, the probation order shall include the payment of a \$1,000 fine and as one of its conditions confinement in the city or county jail for 30 days. Neb. Rev. Stat. § 60-6,197.03(4) (Cum. Supp. 2014).

Fourth and subsequent convictions are a Class IIIA felony. Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2014). Offenders in this class will have their licenses revoked for a period of 15 years and the offender must spend at least 180 days imprisoned in a city or county jail or an adult correctional facility. Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2014). Probation or suspension of sentence must be conditioned so that the offender's license is revoked for a period of 15 years. The revocation order shall require that the offender not drive for 45 days

after which he or she may apply for an ignition interlock permit and installation of such device. Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2014). In addition, the probation order shall include as one of its conditions a \$2,000 fine and confinement in the city or county jail for 90 days with required use of a continuous alcohol monitoring device and abstention from alcohol use for no less than 90 days after release. Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2014).

Persons with a higher concentration of alcohol, fifteen-hundredths (.15) of 1 gram or more by weight of alcohol per 100 milliliters of blood or per 210 liters of breath on a first conviction and subsequent conviction, are subject to even stiffer penalties. Neb. Rev. Stat. § 60-6,197.03(2), (5), (6), (8) and (10) (Cum. Supp. 2016). Where a person has three prior convictions and then has another conviction involving this higher alcohol concentration, he or she shall be guilty of a Class IIA felony with a minimum sentence of one year of imprisonment, and has his or her license revoked for a period of 15 years. Neb. Rev. Stat. § 60-6,197.03(8) (Cum. Supp. 2016). In addition, any probation order shall be applied as previously indicated under Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2014).

Persons convicted of a DWI violation may be ordered to have an ignition interlock device installed at their expense on each motor vehicle operated by the convicted person during the period of revocation. Neb. Rev. Stat. §§ 60-6,197.03 and 60-6,211.05 (Cum. Supp. 2014). DWI convictions also have an impact on the ability of a person to obtain both automobile and life insurance coverage.

Local laws may also make it a crime to operate a motor vehicle under the influence of alcohol or to commit certain acts involving the consumption or possession of alcohol, e.g. “open container” laws.

### ***Students Found in Violation of These Policies***

Among previously stated consequences students found in violation of Campus Drug and Alcohol policies will need to complete an online course through 3rd Millennium Classrooms. These courses, Marijuana 101, Under the Influence, and Alcohol 21+ are at the student's own expense.

### ***Description of Health Risks Associated with Use of Illicit Drugs and Abuse of Alcohol***

Serious health risks are associated with the use of illicit drugs and alcohol. The National

Institute on Drug Abuse states that most drugs of abuse can alter a person's thinking and judgment, leading to health risks, including addiction, drugged driving and infectious disease. Most drugs could potentially harm an unborn baby; pregnancy-related issues are listed for drugs where there is enough scientific evidence to connect the drug use to specific negative effects. These drugs and their effects are more thoroughly described by the National Institute on Drug Abuse through charts available [here](#).

## **Assistance, University Sanctions, and Other Information**

### *Assistance*

Students needing help in dealing with drug or alcohol problems are encouraged to make voluntary use of their campus Counseling Services. Counseling Services can help by offering the following services:

- Objectively assessing the situation and referring employees or students to the proper resources.
- Supplying short-term personal counseling and problem solving.
- Providing education and training to supervisors on how to intervene with troubled employees.

### *University Sanctions*

The University complies with the federal Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act Amendments of 1989 that prohibit the unlawful manufacture, possession, use, or distribution of illicit drugs in the workplace, or while conducting University business off the premises or as part of any University-sponsored activities. As part of the terms of employment, each employee is required to abide by this prohibition. The University is an alcohol-free and smoke-free workplace. Employees who report to work, conduct University business, or take part in any University sponsored activities while under the influence of alcohol are subject to disciplinary action. Additionally, employees will be subject to disciplinary action for possessing alcoholic beverages on University property or while attending any University sponsored activities. Disciplinary action may include: enrolling in and successfully completing an approved treatment program as a condition of continued employment and/or possible termination of employment if, in the view of the University, it is warranted.

Finally, the University reserves the right to take disciplinary action against employees who commit criminal offenses related to drugs or alcohol, regardless of whether those offenses were committed during non-working hours. Drug or alcohol criminal offenses include but are not limited to: purchasing alcohol for minors, driving under the influence of alcohol, public intoxication, and possession of drugs. Any University employee convicted of a drug or alcohol related felony or using an illegal drug or alcohol in the workplace is subject to immediate dismissal. The University also prohibits smoking on University property. Employees who violate this policy are subject to disciplinary action.

### ***Review***

Biennially the University will review its Substance Abuse Policy/Program to determine its effectiveness and to ensure that the sanctions required for violations of the policy are consistently enforced.

## **Definitions**

### ***Annual Safety Report Terms***

On-campus Student Housing Facility. A dormitory or other residential facility for students that is located on the York University campus.

Non-campus property. Refers to any off-campus building or property owned or controlled by York University and which is used in direct support of York University's educational purpose, is frequently used by students, and is not within the same reasonable contiguous geographic area of York University.

Public Property. All public property, including thoroughfares, streets, sidewalks, and parking facilities within the campus or immediately adjacent to, and accessible from the campus.

Test. Regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities.

Fire. Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner.

### ***Jeanne Clery Act Definitions***

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

victim.

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

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

Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent.

### ***VAWA Definitions***

Domestic Violence. Felony or misdemeanor crimes of violence committed by a current or former spouse 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 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 in which the crime of violence occurred.

Dating Violence. Violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on the reporting party's statement and a consideration of the following facts: (i) the length of the relationship; and (ii) the type of the relationship; (iii) the frequency of interaction between the persons involved in the relationship.

Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

Sexual Assault. An offense that meets the definition of rape, fondling, incest or statutory rape as used in the Federal Bureau of Investigation's Uniform Crime Reporting system. Hate Crimes The Clery Act requires reporting of any and all incidents where the offender's bias against a person or property motivates them in whole or in part to commit the crime. This includes any crime motivated by bias against race, religion, sexual orientation, gender, gender identity, disability, ethnicity or national origin.

# Discrimination, Harassment, and Sexual Misconduct

## *Purpose*

The mission of York University is to transform lives through Christ-centered education and to equip students for lifelong service to God, family, and society.

York University believes in and promotes that the Biblical standard for consensual sex, in all of its forms, is between a man and a woman and reserved for marriage alone. Sexual expression outside of marriage is a violation of Scripture and York University's Code of Conduct.

In harmony with its mission, York University strives to provide a Christian environment that is countercultural and does not tolerate discrimination, harassment, and sexual misconduct. Discrimination, harassment, and sexual misconduct is contrary to Biblical teaching and a violation of human dignity. The students, faculty, and staff of York University have the right to work and learn free of sexual misconduct, harassment, and discrimination. The University will take action to prevent and promptly correct instances of discrimination, harassment, and sexual misconduct. The purpose of this policy is:

- To communicate the mechanisms for investigating complaints in a manner that reasonably protects the privacy of individuals involved in situations of alleged sexual misconduct, harassment and/or discrimination and grievances;
- To ensure the provision of equal employment and educational opportunities to faculty, staff, students, and applicants for such opportunities without regard to race, color, national or ethnic origin, gender, religion, or handicap;
- To protect all those involved who report or provide information related to sexual misconduct, harassment, discrimination, and/or grievances from retaliation of any kind;
- To set for guidance for preventing sexual misconduct, harassment, and/or discrimination
- To take timely corrective action when sexual misconduct, harassment, and/or discrimination is alleged to have occurred;
- To ensure that students, faculty, and staff have the opportunity to present grievances to the Office of the Title IX Coordinator regarding a certain action(s) perceived to be in violation of institutional policies by a member of the University community; and
- To establish a consistent process for resolving complaints of sexual misconduct, harassment and/or discrimination and grievances in a fair and just manner.

### ***Statement of Non-Discrimination***

York University does not discriminate on the basis of sex in its educational programs and activities, including employment and admission. Complaints of discrimination based on sex will be handled under this Sexual Misconduct Policy (Policy) or other appropriate University grievance procedures.

### ***Definitions***

Bullying and Intimidation. Bullying includes any intentional electronic, written, verbal or physical act or series of acts, directed at another student or students, that is used to cause fear, shame, and/or mental suffering. Intimidation is any verbal, written, or electronic threats of violence or other threatening behavior directed toward another person or group that reasonably leads the person or persons in the group to fear for their physical well-being. Anyone who attempts to use bullying or intimidation to retaliate against someone who reports an incident, brings a complaint, or participates in an investigation will be subject to disciplinary action as outlined in the Student Handbook, up to and including dismissal.

Dating Violence. Violence committed by a person who is or has been in a social relationship of a romantic nature with the alleged victim.

Discrimination. occurs when an individual is treated in a manner that is less than respectful based on that individual's belonging to or identity with a class protected by applicable law; specifically, in regard to the University's educational programs and activities, on-campus housing, admissions, and financial aid.

Domestic Assault. consists of intentionally or knowingly causing physical injury to an intimate partner, threatening an intimate partner with immediate physical injury, or threatening an intimate partner in a menacing manner. Engaging in any sexual act with another without that individual's expressed consent constitutes domestic assault, as does using a weapon to scare someone. Bodily injury is an injury involving physical pain or impairment. It includes less serious harm such as bruising, cuts, and abrasions.

Retaliatory Harassment. Intentional action taken by an accused individual or third party that harms a complainant, witness, reporter, or any other individual for filing or participating in a University investigation



Sexual Assault. As defined under Nebraska law 28-320. Any person who subjects another person to sexual contact (a) without consent of the victim, or (b) who knew or should have known that the victim was physically or mentally incapable of resisting or appraising the nature of his or her conduct is guilty of sexual assault.

Sexual Discrimination. As defined above, on the basis of one's gender.

Sexual Exploitation. is an act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. This includes, but is not limited to non-consensual streaming of images, video or audio of sexual activity or nudity.

Sexual Misconduct. includes sex discrimination, sexual harassment, sexual assault, domestic violence, dating violence and stalking. It can occur between members of the opposite or same sex.

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

- An employee of York University conditioning the provision of aid, benefit, or service of York University on an individual's participation in the unwelcome sexual conduct, called Quid Pro Quo Sexual 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 York University's education program or activity; or
- "Sexual assault" as defined in 20 U.S.C. § 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. §12291(a)(10), "domestic violence" as defined in 34 U.S.C. §12291(a)(8), or "stalking" as defined in 34 U.S.C. §12291(a)(30) is defined as unwelcome conduct of a sexual nature. It includes an inappropriate emphasis on sexual identity and is generally understood to include a wide range of behaviors, whether subtle or blatant. It may include but is not limited to, inappropriate jokes, intimate language, inappropriate sexual advances, requests for sexual favors, and other physical and expressive behavior of a sexual nature in which:
  - submission to such conduct becomes a term or condition of an individual's employment or education; o submission to such conduct becomes a basis for academic or employment evaluation; or
  - the conduct creates a hostile or demeaning employment or educational environment.

Note: Employees experiencing or witnessing harassment in the workplace should immediately report these situations to the Title IX Coordinator. Students should immediately report such behaviors to the Title IX Coordinator. Appropriate disciplinary responses, including suspension and dismissal or termination of employment, will be assessed against anyone found to have violated this policy. Students or employees reporting incidents of sexual harassment will be treated with compassion and confidentiality.

Stalking. Under Nebraska law, 28-311.03, any person who willfully harasses another person or a family or household member of such person with the intent to injure, terrify, threaten, or intimidate commits the offense of stalking.

Student-Employee Relationships. York University does not condone romantic relationships between students and employees of the University. It should be noted that these relationships are simply unwise. Relationships of this nature are strictly prohibited if:

- there is a disproportionate allocation of power
- any conduct of a sexual nature, even consensual conduct, between an employee and student, is strictly prohibited and will result in sanctions up to and including termination of employment

Violence. includes verbal harassment, any act of physical assault, any threat to harm or endanger the safety of themselves or others, behaviors or actions interpreted by a reasonable person as acts of aggression, any threat to destroy, or the actual destruction of property.

### ***Policy***

York University does not discriminate on the basis of sex in its educational programs and activities, including employment and admission. Complaints of discrimination based on sex will be handled under this Sexual Misconduct Policy (Policy) or other appropriate University grievance procedures.

York University does not discriminate on the basis of race, color, national or ethnic origin, gender, religion, or disability in the administration of its educational policies, admissions policies, scholarship, loan, and other financial aid programs, athletic and other University-administered programs or employment as required by federal laws, including Title VII and Title IX, except when such distinctions may be appropriate under state and federal constitutional provisions due to the religious identity of York University and its mission, as determined by its Board of Trustees and the nature of the particular employment position or activity in question. Acts of discrimination, harassment, and sexual misconduct are considered a serious violation of York University's policy. Because of the seriousness of this action, violators will be subject to disciplinary action as outlined in the Student Handbook.

Upon notification of violation of this policy, the Office of the Title IX Coordinator will determine if an investigation is warranted and will enable that office to investigate. Where appropriate, the Office of Student Life will take corrective action.

Any member of the York University community who believes himself or herself to be a victim of sexual misconduct, harassment, and/or discrimination is encouraged to report the information to the Office of the Title IX Coordinator. York University, in accordance with the federal regulations set by the United States Department of Education, requires all faculty and staff to report any information they learn about discriminatory harassment, sexual harassment, discrimination, or sexual misconduct to the Office of the Title IX Coordinator.

This policy applies to all University faculty and staff, except the following:

- Vice President for Spiritual Life
- The Counseling Coordinator
- Faculty or staff who are closely related (e.g. sibling, parent, guardian, grandparent, or spouse) to the person experiencing or reporting an incident

Note: If an individual divulges to a responsible employee that a sexual assault occurred, but requests confidentiality or that the Office of the Title IX Coordinator not investigate the incident, the responsible employee **will disclose all information** about the incident, including identifying information and the request for confidentiality to the Title IX Coordinator. The Title IX Coordinator will consider the victim's request in the context of York University's responsibility to maintain a safe, non-discriminatory environment for every student. If confidentiality is granted, the victim must understand that the Office of the Title IX Coordinator will be limited in its ability to move forward with the investigation. The Title IX Coordinator may not be able to honor every request for confidentiality.

York University will distribute this policy as well as be proactive in preventing and creating awareness of what constitutes discrimination, harassment, and sexual misconduct. This may include, but is not limited to, training videos, educational programs, and campus-wide events.

### **Scope/Eligibility**

The policy applies to all students, faculty, staff, and visitors who may come into contact with the campus of York University.

The core purpose of this policy is the prohibition of sexual harassment and retaliation. When an alleged violation of this policy is reported, the allegations are subject to resolution using York University's "Process A" or "Process B," as determined by the Title IX Coordinator, and as detailed below.

When the Respondent is a member of the York University community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the York University community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers.

The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

### ***Reporting Procedures***

The safety and well-being of members of our community is of the utmost importance to York University. Anyone who feels they have been the subject of discrimination, harassment, sexual misconduct, or retaliation directed to them by another member of the community, whether on or off-campus, should contact the Title IX Coordinator. The Office of the Title IX Coordinator will take steps to ensure an adequate, prompt, reliable, and impartial investigation.

- Roni Miller is the **Title IX Coordinator** and can be reached in person at the Freeman Center, by telephone at (402) 363- 5717 or (559) 960-2462 by mail at 1125 E. 8<sup>th</sup> St. York, NE 68467, or by email at [titleix@york.edu](mailto:titleix@york.edu).
- The Office of Civil Rights Customer Service and complaints: (800) 421-3481

The University encourages all individuals to report incidents of Sexual Misconduct or suspected Sexual Misconduct, whether they are Complainants or Witnesses. Individuals subjected to Sexual Misconduct have several reporting options. At the University, individuals can anonymously report, confidentially report, or file a formal complaint of Sexual Misconduct, as explained below. Outside the University, individuals can report Sexual Misconduct to community resource centers that specialize in providing resources to victims of Sexual Misconduct, file a criminal charge with local law enforcement, or file civil litigation against the Respondent. Some individuals will choose to pursue criminal charges (i.e., through the police and criminal courts). Others will choose to pursue University disciplinary options, if the Respondent is a York University student or employee. Some will choose a combination of the above options, and some will choose none.

Any member of York University who experiences a violation of this policy has the following options available to them:

- File criminal charges against the suspect. The complainant should contact the Title IX Coordinator for assistance in filing charges through the York Police Department. Criminal charges being filed will require the student to be interviewed by police investigators and prosecuting attorneys. Students may be required to give testimony in court proceedings.
- File a civil lawsuit or request a restraining order. (A private attorney can assist students with these options.)
- File a complaint against the alleged offender with the Title IX Coordinator. Students choosing this option can expect the following:
  - to be interviewed by Title IX Investigator(s), who will assist the student in developing a written statement and explain the student's rights in the disciplinary process;
  - to be notified in writing if the case proceeds to a Title IX Adjudicator following the preliminary investigation by Title IX Investigator(s);
  - to be accorded the rights expressed in this policy and the Student Handbook.
- Inform the Title IX Coordinator without filing formal charges. In this case the Office of the Title IX Coordinator may:
  - discuss with the accused the potential disciplinary responses if charges were to be filed; and
  - keep a record for future reference without informing the accused of the report.

Students may pursue these options concurrently or separately. The choice always belongs to the individual student. Personal counseling is available to any victim of crime through York University's Vice President for Spiritual Life the Counseling Coordinator. The Office of the Title IX Coordinator can only pursue an investigation if an official report is filed with the Title IX Coordinator or it is perceived there is an ongoing threat to the campus community. Every consideration will be afforded students to assure their safety and well-being.

### ***Confidential Resources On-Campus***

York University has designated confidential resources that are not obligated to report information that is provided to them. This allows individuals to explore their options in a supportive environment while they make informed decisions. Confidential resources will not share these communications or that these communications occurred without consent from the Complainant. There are rare exceptions where confidentiality cannot be honored; for example, in cases of court subpoena, child or elder abuse, or where harm to self or others is

probable. An individual who is not prepared to make a report or formal complaint, or who may be unsure how to label what happened, but still seeks information and support, is strongly encouraged to contact a confidential resource.

When a report or formal complaint is made to a Title IX Coordinator, York University will keep confidential the identity of any individual who has made a report or formal complaint, including any Complainant, Respondent, or Witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the procedures in this Policy. This means that York University will protect the individual's privacy but may disclose information to those who have a legitimate need to know.

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, York University will conduct record-keeping on reports of dating violence, domestic violence, stalking, and sexual assault, which excludes personally identifiable information. Confidential resources will not report Clery crimes they learn about through confidential communications for purposes of York University's compilation of campus crime statistics.

The following parties are considered Confidential Resources at York University:

- Vice President for Spiritual Life, Sam Garner (402) 363-5620
- Counseling Coordinator, Dr. Randy Ervin (402) 363-5701
- Faculty or staff who are closely related (e.g. sibling, parent, guardian, grandparent, or spouse) to the person experiencing or reporting an incident

### ***Reporting Options Outside York University***

If you are the subject of sexual misconduct, go immediately to a safe place and speak with someone you trust. York University encourages you to call the police. Seeking immediate medical attention and preserving any evidence (bed linens, undergarments, etc.) is encouraged.

Note: Victims of rape should immediately seek medical attention before showering, changing clothes, or destroying evidence in any other way.

- Emergency: 911
- Local Police non-emergency: (402) 363-2640

- York County Sheriff: (402) 362-4927
- York General Hospital: (402) 362-6671
- York Medical Clinic: (402) 362-5555
- York General Quick Clinic: (402) 745-1800
- York Urgent Care: (402) 745-6279
- Memorial Hospital (Seward, NE): (402) 643-2971
- Henderson Health Care Services (Henderson, NE): (402) 723-4512
- Hope Crisis Center Hotline: (877) 388-4673
  - Local Office: (402) 362-7527
- Rape Crisis Center Hotline: (866) 995-4422
- Voices of Hope Hotline (Lincoln, NE): (402)475-7273

Inquiries may be made externally to:

Office for Civil Rights (OCR)  
 U.S. Department of Education  
 400 Maryland Avenue, SW  
 Washington, D.C. 20202-1100

Customer Service Hotline #: (800) 421-3481

Facsimile: (202) 453-6012

TDD#: (877) 521-2172

Email: [OCR@ed.gov](mailto:OCR@ed.gov)

Web: <http://www.ed.gov/ocr>

***Complaint or Notice to the Title IX Coordinator***

Upon receipt of a complaint or notice to a Title IX Coordinator of an alleged violation of this Policy, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps the University needs to take. The Title IX Coordinator will initiate at least one of three responses:

- Offer supportive measures because the Complainant does not want to file a formal complaint; and/or
- An informal resolution process (upon submission of a formal complaint); and/or
- A formal grievance process including an investigation and a hearing (upon submission of a formal complaint).

The University uses the formal grievance process to determine whether or not the Policy has been violated. If so, York University will promptly implement effective remedies designed to help restore access to the University's educational programs and activities.

### ***Initial Meeting with the Title IX Coordinator***

When Sexual Misconduct is reported, the Title IX Coordinator meets with student and employee Complainants. The Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures, 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. The Title IX Coordinator will also explain the options for a formal grievance process (including an investigation and hearing) and an informal resolution process. At this initial meeting, the Title IX Coordinator will also explain the Complainant's and Respondent's right to an Advisor. The Complainant may bring a support person to this initial meeting with the Title IX Coordinator. The support person may also serve as the Complainant's Advisor in future meetings with University officials.

### ***Supportive Measures***

Supportive measures are 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 York University's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment or deter Sexual Misconduct. York University will 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 the University to provide the supportive measures.

During the initial meeting with the Title IX Coordinator, Complainants will have the opportunity to express what they would like in the form of supportive measures, and the Title IX Coordinator will take into account the Complainant's wishes in determining which supportive measures to offer. The Title IX Coordinator will coordinate the implementation of the supportive measures they deem appropriate.

### ***Available Supportive Measures***

The Title IX Coordinator, at their discretion, may implement supportive measures which



may be applied to the Complainant and/or the Respondent including, but not limited to:

- Access to counseling services and assistance in setting up an initial appointment, on and off-campus;
- Imposition of mutual restrictions on contact between the parties (or a one-way no-contact order when appropriate);
- Timely warnings;
- Limiting an individual's or organization's access to certain University facilities or activities pending resolution of the matter;
- Increased security and monitoring of certain areas of the campus;
- Providing an escort to ensure safe movement between classes and activities;
- Providing medical services;
- Providing pregnancy support;
- Providing academic support services, such as tutoring; and/or
- Any other actions deemed appropriate by the Title IX Coordinator.

### ***Formal Complaint of Sexual Misconduct***

A "formal complaint" is a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Misconduct against a Respondent and requesting that the University investigate the allegation. The formal complaint must be submitted to the Title IX Coordinator in person, by mail, email with a physical or digital signature or which otherwise indicates that the Complainant is the person filing the formal complaint. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in a York University education program or activity. The Title IX Coordinator coordinates formal complaints by students (regardless of the status of the Respondent) and formal complaints by employees who report Sexual Misconduct against another employee.

Requiring Complainants to file a formal complaint is meant to ensure that Complainants retain more autonomy and control over when the Complainant's reported victimization leads to a formal grievance process (which includes the investigation and hearing procedures described below). In rare circumstances, the Title IX Coordinator may determine that an investigation is necessary over the wishes of a Complainant out of concerns for the welfare and safety of the Complainant and the community (for example, to pursue a grievance process against a potential serial sexual perpetrator). If so, the Title IX Coordinator will sign a formal complaint; however, the Title IX Coordinator is not a Complainant or a party during the grievance process. When the Title IX Coordinator determines that an investigation is necessary even where the Complainant does not want such an investigation, the grievance process can proceed without the Complainant's participation; however, the

Complainant will still be treated as a party in such a grievance process, which means continuing to provide supportive measures, an invitation to participate in the investigation and hearing process, and notification of the final outcome. The decision to initiate a grievance process in situations where the Complainant does not want an investigation, or where the Complainant intends not to participate, will be made thoughtfully and intentionally, taking into account the circumstances of the situation, including the reasons why the Complainant wants or does not want the University to investigate.

When weighing a Complainant's request that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- the effect that non-participation by the Complainant may have on the availability of evidence and York University's ability to pursue the formal grievance process fairly and effectively;
- whether there have been other Sexual Misconduct complaints about the same Respondent;
- whether the Respondent has a history of arrests or records from a prior school indicating a history of violence; · whether the Respondent threatened further Sexual Misconduct or other violence against the individual or others; whether the Sexual Misconduct was committed by multiple Respondents;
- whether the Sexual Misconduct was perpetrated with a weapon;
- whether the individual is a minor (Please note the age of majority in Nebraska is 19 years old);
- whether the report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group..

The presence of one or more of these factors may lead York University to initiate its formal grievance process. If none of these factors are present, the Title IX Coordinator will typically honor the Complainant's decision not to file a formal complaint.

If the Title IX Coordinator determines that a formal investigation is necessary over the wishes of a Complainant, York University will inform the Complainant prior to starting an investigation and will offer supportive measures and informal resolution options when appropriate. When York University proceeds with the formal grievance process (including the investigation and hearing), the Complainant (or their Advisor) may have as much or as little involvement in the process as desired. The Complainant retains all rights of a

Complainant under this Policy irrespective of their level of participation. Note that York University's ability to respond to the report may be limited if the Complainant does not want to proceed with an investigation and/or hearing process or requests that their identity remain confidential. The goal is to provide the Complainant with as much control over the process as possible, while balancing York University's obligation to protect the Complainant and the community. Complainants who elect to take no action can change that decision if they decide to pursue a formal complaint at a later date. After a formal complaint is filed, both parties will be given timely notice of meetings at which the parties (one or all) may be present.

### ***Informal Resolution Process***

Informal resolution is a voluntary process that a student Complainant and a student Respondent can mutually agree to participate in as an alternative to a formal grievance process. An informal resolution process will not be offered to resolve allegations of Sexual Misconduct against a student by a York University employee. However, informal resolution may be appropriate to resolve allegations of Sexual Misconduct against an employee by another York University employee.

The informal resolution process can take 30 business days to reach a resolution; typically they are resolved earlier. The University will make a good faith effort to complete the informal resolution process as promptly as circumstances permit and will update the parties on the reason and timing of any delay.

Before initiating an informal resolution process, a Complainant first needs to submit a formal complaint. If a student Complainant or student Respondent wishes to initiate an informal resolution, they should contact the Title IX Coordinator to make this request. In cases of an employee Complainant who has made allegations against an employee Respondent, either party may initiate an informal resolution by contacting the Title IX Coordinator.

All parties must consent to the use of informal resolution. However, the Title IX Coordinator, in their sole discretion, determines whether the informal resolution process will be used in a matter. The Title IX Coordinator may appoint a facilitator with appropriate training in Title IX and informal resolution processes to work with both parties toward a resolution.

It is not necessary to pursue informal resolution first in order to pursue a formal grievance process, and any party participating in informal resolution can stop the process at any time prior to reaching resolution and begin or resume the formal grievance process.

Prior to implementing an informal resolution, the Title IX Coordinator will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in an informal resolution process, including information regarding any records that will be maintained or shared by the University. York University will obtain voluntary, written confirmation that all parties wish to resolve the matter through informal resolution before proceeding and will not pressure the parties to participate in an informal resolution.

The informal resolution agreement is not subject to appeal once all parties indicate their written agreement to all terms of the informal resolution. After the written agreement is signed by both parties, the formal grievance process is no longer available concerning the allegations raised in the formal complaint.

When the parties cannot agree on all terms of resolution, the formal grievance process will resume at the same point where it was paused. Information disclosed during the informal resolution process that is not already in the record (e.g., in the formal complaint or from any investigation or hearing conducted before the information resolution process starts) is confidential and cannot be used in the formal grievance process that resumes after the informal resolution process is terminated.

When an informal resolution is accomplished, the appropriate responsive actions and/or mutually agreed upon sanctions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the misconduct, both on the Complainant and the community. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive and/or disciplinary actions.

### ***Formal Grievance Process***

**Overview.** After a Complainant (or the Title IX Coordinator in exceptional cases) files a formal complaint against a Respondent, the Title IX Coordinator will initiate a formal grievance process that includes an investigation and a hearing. Before the investigation begins, both parties will receive a written statement of the allegations with sufficient time to prepare before meeting with a trained, professional investigator. The purpose of the investigation is to collect the relevant evidence with the equitable participation of both parties. After the investigation is complete, a final investigation report is sent to both parties. The investigation report makes no conclusions about the allegations. Both parties have the opportunity to respond in writing to the evidence related to the allegations collected by the investigator(s), and then again to the final investigation report.

The next step is to schedule a video conference hearing with both parties and their Advisors and any relevant Witnesses. The purpose of the hearing is to give both parties and Witnesses the opportunity to provide testimony and respond to the evidence at the hearing with the Decision Maker. After the hearing, the Decision Maker will make a determination of responsibility regarding the Sexual Misconduct allegation(s) and send that determination in writing to both parties.

Either party may appeal the decision to a designated University Appeal Officer who was not involved in the investigation or hearing process. The Appeal Officer's decision is final. The Title IX Coordinator will continue to work with both parties throughout this process, providing supportive measures and, if the Respondent is found responsible, remedies to the Complainant to help restore access to York University's educational programs and activities.

**Initial Assessment.** After a Complainant files a formal complaint, the Title IX Coordinator will conduct an initial assessment. The initial assessment may include determining whether the Sexual Misconduct alleged falls within the scope of Title IX. Under the Title IX regulations, York University must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- The conduct alleged in the formal complaint would not constitute Title IX "sexual harassment" as described under Title IX and Jurisdiction of the Policy, even if proved; and/or
- The alleged conduct did not occur in York University's educational programs or activities (includes locations, events, or circumstances over which York University exercises substantial control over both the Respondent and the context in which the "sexual harassment" occurs, and also includes buildings or property controlled by officially recognized student organizations); and/or
- The alleged conduct did not occur against a person in the United States; and/or
- At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education programs or activities of the University

York University may dismiss a 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 (a Complainant who decides to withdraw a complaint may later request to reinstate it or refile it); or
- The Respondent is no longer enrolled in or employed by the University; or

- Specific circumstances prevent York University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Because Sex Discrimination and Sexual Exploitation are not considered Title IX "sexual harassment," the University is not obligated to follow the procedures required by the Title IX regulations in Sex Discrimination and Sexual Exploitation cases. Formal complaints of Sex Discrimination or Sexual Exploitation by a student against another student may be resolved using the procedures in this Policy. Formal complaints of Sex Discrimination or Sexual Exploitation by a student against a York University employee may be resolved using the school's Formal Complaint form on Panethnet. Formal complaints of Sex Discrimination or Sexual

Exploitation by an employee against another employee may be resolved through the Employee Grievance Procedure in the Policies and Procedures Manual.

Upon any dismissal of the formal complaint, the Title IX Coordinator will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. In some cases, the dismissal may only be a procedural requirement under the Title IX regulations, because the regulations also allow the University to still address the allegations using the formal grievance process or the informal resolution process. Therefore, the Title IX Coordinator will indicate in the written notice if York University will continue with the informal resolution process or the formal grievance process (including the investigation and hearing) or under this Policy even though it has been dismissed as a Title IX matter. If York University proceeds using the formal grievance process, the parties will be notified of any procedural modification in the written notice of the allegations and/or the written notice of the hearing before the procedure begins (e.g., to time frames and cross-examination requirements).

The formal complaint dismissal decision is appealable to the Appeals Official on any of the following bases: 1) Procedural irregularity that affected the outcome of the matter; 2) New evidence that was not reasonably available at the time the dismissal was made which could affect the outcome of the matter; or 3) The Title IX Coordinator 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. York University will notify the other party in writing when an appeal is filed. Appeals procedures will be implemented equally for both parties, which includes the opportunity to submit a written statement in support of, or challenging, the dismissal decision. The University will issue a written decision describing the

result of the appeal and the rationale for the result, which will be provided simultaneously to both parties. The appeal process normally takes fifteen 15 business days from the time the appeal is submitted by either party. The Appeals Official will make a good faith effort to complete the appeal process as promptly as circumstances permit and will update the parties on the timing of any delay and the reasons for the delay.

**Written Notice of the Allegations.** Upon receipt of a formal complaint, the Title IX Coordinator will provide the Complainant and Respondent (or the parties who are known at the time) a written notice that includes:

- Notice of York University's formal grievance process and informal resolution process.
- Notice of the allegations of Sexual Misconduct (see Definitions), including sufficient details known at the time and with sufficient time to prepare for the initial interview. Sufficient details include the identities of the parties involved in the incident if known, the conduct allegedly constituting Sexual Misconduct, and the date and location of the alleged incident, if known.
- 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.
- A statement that the parties may have an Advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence as described in the Formal Investigation section below.
- A reference to the provision in this Policy that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- A statement about the University's policy on Retaliation.
- Information on how parties may request disability accommodations during the formal grievance (including investigation and hearing) and informal resolution processes.

If, in the course of an investigation, York University decides to investigate allegations regarding the Respondent that are not included in the original written notice, the University will provide notice of the additional allegations to the parties whose identities are known.

The written notice will be delivered by one or more of the following methods: emailed to the parties' York University email or designated accounts, in person, or mailed to the local or permanent address(es) of the parties as indicated in official University records.

### ***Formal Investigation***

**Authority and Responsibility.** Investigations are conducted by trained, professional investigators. In some cases, the University may choose to utilize the services of an outside investigator to conduct the investigation, which will follow the procedures below and be overseen by the appropriate Title IX Coordinator.

**Investigation Timeline.** Investigations are completed expeditiously, normally within 90 business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, availability and number of Witnesses, law enforcement involvement, etc. If there is a delay, the University will communicate in writing the anticipated duration of the delay and reason to the parties. Investigations are typically not delayed, altered, or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced. York University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation, including the reason for any delay.

**Participation of Witnesses in the Investigation.** Normally, interviews for parties and all Witnesses are conducted in person; however, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. In exceptional circumstances, Witnesses may also provide written statements in lieu of interviews, if deemed appropriate by the investigator(s). If a Witness submits a written statement, but is not present for cross-examination at a subsequent hearing, their written statement may not be able to be used as evidence, unless both parties agree that such statement can be used.

**Recording of Interviews.** No unauthorized audio or video recording or transcription of any kind is permitted during investigation meetings. The investigator(s) will audio and/or video record interviews, and all involved parties will be made aware of audio and/or video recording. Recordings or transcriptions of investigation meetings will not be shared with any involved party (Complainant, Respondent, Advisor, or Witnesses); however, a summary of any relevant evidence obtained in an investigation interview that is directly related to the allegations raised in the formal complaint will be shared in writing with the Complainant and Respondent and their Advisors as described below in the investigation process.

**Investigation Process.** When investigating a formal complaint, York University will:

- Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University and not on the parties. The University 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 the University obtains that party's voluntary, written consent to do so for the grievance process under this Policy.
- Provide an equal opportunity for the parties to present Witnesses and other inculpatory and exculpatory evidence. Inculpatory evidence tends to incriminate or place responsibility on someone, and exculpatory evidence tends to show a person's innocence.
- 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 investigation meeting, including the opportunity to be accompanied to any related meeting or proceeding by the Advisor of their choice. However, the Advisor cannot speak for the parties. The role of the Advisor is to accompany the parties and advise them privately.
- Provide, to a party, written notice of the date, time, location, participants, and purpose of all investigative interviews with sufficient time (normally two calendar days) 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 the University does not intend to rely on 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. York University will send to each party and the party's Advisor, if any, the evidence subject to inspection and review in an electronic format. In order to protect confidential information, the investigator will redact or remove information that is not directly related to the allegations (or that is otherwise barred from use under Title IX, such as information protected by a legally recognized privilege, or a party's treatment records if the party has not given written consent) before sending the evidence to the parties for inspection and review.

The evidence will be emailed to the parties' York University email account and the Advisors' (if any) email account provided to the University by the parties. The parties will have ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the final investigative report. The parties may

elect to waive the full ten (10) calendar days. Both parties may provide additional evidence in their response. Each party's written response, if submitted, will be shared with the other party. The investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report.

York University will make all evidence subject to the parties' inspection and review, including any written responses, available at any hearing following the investigation to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

- Create a final investigation report that includes a description of the procedural steps taken during the investigation and that fairly summarizes relevant evidence. The report will be sent to each party and the party's Advisor, if any, in an electronic format for their review. The parties will have ten (10) calendar days to submit a written response prior to the hearing. The parties may elect to waive the full ten (10) calendar days. The evidence will be emailed to the parties' York University email account and the Advisors' (if any) email account provided to the University by the parties. Both parties may provide additional evidence in their response. Each party's written response, if submitted, will be shared with the other party. Parties will have the opportunity to respond to any new evidence at the hearing.

**Evidentiary Considerations in the Investigation.** The investigation does not consider: 1) incidents not directly related to the possible violation, unless they are considered relevant because, for example, they evidence a pattern; or 2) evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such 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 evidence concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

**Sexual Misconduct Claims that are not Title IX "Sexual Harassment."** For allegations of Sexual Misconduct that fall outside the jurisdiction of Title IX, the Title IX Coordinator in collaboration with the investigator(s) reserves the right to modify the investigation procedures, including but not limited to timelines. For example, the University may reduce the number of days provided to the parties to review the related evidence and the final investigation report if it is determined that this may help provide a prompt resolution without compromising a thorough, reliable, impartial, and fair process for both parties. The

parties will be notified of any modifications in the written notice of the allegations that is sent by the Title IX Coordinator before the investigation begins.

### ***Hearing Procedures***

After the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a live hearing. The hearing will be with one Decision Maker (an administrative hearing). All hearings will be conducted via video conferencing that will allow all parties, Witnesses, and other participants simultaneously to see and hear each other.

Other than as outlined below, hearings need not adhere to formal rules of procedure or evidence followed by courts of law.

**Authority and Responsibility.** The term "Hearing Officer" is used throughout these hearing procedures to refer to the person who is the single Decision Maker of the administrative hearing.

At the hearing, the Decision Maker has the authority to hear and make determinations on all allegations of Sexual Misconduct, and/or Retaliation and may also hear and make determinations on any additional alleged policy violations by the Respondent that have occurred in connection with the Sexual Misconduct allegations (e.g., violations by the Respondent of the Alcohol and Drug policies). The Hearing Officer may designate a staff member to serve as the hearing facilitator, which includes, for example, scheduling the hearing, distributing materials to participants, ensuring that the virtual conferencing and recording technology is working as intended, and coordinating the flow of Witnesses and other participants in and out of the video conferencing as appropriate. York University will provide a transcript of the hearing to the parties for inspection and review upon request.

**Hearing Timeline.** The hearing cannot be less than ten (10) calendar days from the conclusion of the investigation, which is the date that the final investigation report is transmitted to the parties. However, all parties (the Complainant and the Respondent) and the Decision Maker may agree to an expedited timeline. Hearings may be conducted prior to, simultaneously with, or following criminal or civil proceedings. After the hearing is concluded, a written letter of determination is normally sent to both parties within three (3) business days. The time frame from the notice of the hearing to the written letter of determination is normally fifteen (15) business days. When employee Respondents are involved and sanctions are recommended by the Decision Maker, additional time may be necessary for a sanction review by the appropriate supervisor or faculty body. The sanctions are included in the written letter of determination, which concludes the hearing process. The

Hearing Officer will make a good faith effort to complete the hearing process as promptly as circumstances permit and will update the parties on the reason and timing of any delay of the hearing or the written letter of determination.

**Notice of Hearing.** No less than ten (10) calendar days prior to the hearing, the Hearing Officer will simultaneously send notice of the hearing to the parties' York University email account. The notice will contain:

- A description of the alleged violation(s) and a list of all policies allegedly violated.
- The time and date of the hearing and a reminder that attendance is mandatory, superseding all other University activities. · A description of the video conferencing technology that will be used to facilitate the hearing with the parties in separate locations and enables the Decision Maker and parties to see and hear a party or Witness answering questions. · A list of all those who will attend the hearing, along with an invitation to object to any Decision Maker on the basis of demonstrated bias. This must be raised with the Hearing Officer or the Title IX Coordinator (regarding the Hearing Officer) in writing at least seven (7) calendar days prior to the hearing.
- A copy of all the materials provided to the Decision Maker(s) about the matter, unless they have been provided already. This includes, for example, the final investigation report, the parties' written responses to the report (if submitted), and any relevant materials the Hearing Officer has approved to be reviewed at the hearing.
- An invitation to each party to identify any relevant Witnesses in the final investigation report whose testimony is sufficient in the report and does not need to present live testimony or submit to cross-examination questions by the party's Advisor at the hearing. If there is an agreement by both parties, and the credibility of live testimony of the Witness is not critical to the adjudication of the allegations, the Hearing Officer may determine that it is not necessary to require the Witness to attend the hearing, and the Decision Maker(s) will rely upon the Witness' testimony in the final investigation report in making its determination of responsibility.
- An invitation to each party to submit the cross-examination questions they intend their Advisor to ask the other party or Witnesses at the hearing so that the Hearing Officer can rule on their relevance ahead of time to avoid any delays in the hearing or to provide recommendations for more appropriate phrasing. Parties will also be given the opportunity to submit cross-examination questions during the live hearing.
- An invitation to each party to submit to the Hearing Officer an impact statement pre-hearing that the Decision Maker will review during any sanction determination.
- An invitation to contact the Office of Student Life (students) or Human Resources (employees) to arrange any disability accommodations or interpretation services that may be needed at the hearing, at least seven (7) calendar days prior to the hearing.

**Witnesses.** The Hearing Officer will schedule critical Witnesses to appear at a portion of the live hearing in order to present testimony and to respond to questions from the Decision Maker and the parties, after which they will be excused. Any Witness scheduled to participate in the hearing must have been first interviewed by the investigator(s). The Hearing Officer may make an exception to this rule if they believe the circumstances warrant such an exception.

**Evidentiary Considerations in the Hearing.** Any evidence that is first offered after the final investigation report or during the hearing will be reviewed by the Hearing Officer to determine whether circumstances warrant allowing the evidence to be considered at the hearing. If the Hearing Officer does not allow the admission of the new evidence, the Hearing Officer may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

Any evidence the Decision Maker determines relevant and credible may be considered. The Decision Maker does not consider: 1) incidents not directly related to the possible violation, unless they are considered relevant because, for example, they evidence a pattern; or 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior 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.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process during deliberation by the Decision Maker following the live hearing with the parties.

**Other Hearing Procedures.**

- The Hearing Officer will answer all questions of procedure raised before or during a hearing.

- In hearings involving more than one Respondent or in which two or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly. However, the Title IX Coordinator, in consultation with the appropriate office(s) (e.g., Human Resources), may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged Policy violation.
- The Decision Maker(s) may not draw any inference solely from a party's or Witness's absence from the hearing or refusal to answer cross-examination or other questions.
- York University will make all evidence subject to the parties' inspection and review, including any written responses, available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
- Parties may confer with their Advisor during the hearing, but if a party repeatedly confers with the Advisor every time a question is asked, the Hearing Officer may inform the party that such conduct will be considered when weighing the party's credibility. Also, the Hearing Officer reserves the right to limit the timing and length of breaks requested by parties to confer with Advisors, and any conferring must be in private so that it does not disturb the hearing and is not overheard by other participants.
- If during the course of the hearing, additional policy violations are discovered, the Respondent will be notified of the new alleged violation(s) and will be granted additional time, if needed, for an investigation to be conducted and/or to prepare a defense of the new alleged violation(s). The Respondent may waive an investigation related to the new alleged violation(s) and/or the additional time to prepare a defense, and the hearing can proceed with the new alleged violation(s) taken under consideration by the Decision Maker(s). A record will be made of the additional alleged violation(s) and whether or not the Respondent waived or requested an investigation to be conducted and/or additional preparation time.
- The University will provide a transcript of the hearing to both parties upon request for purposes of review in the event of an appeal. The parties may not record the hearing and no other unauthorized recordings are permitted.

**Cross-Examination.** The Title IX regulations require York University to permit cross-examination by each party's Advisor in order to give the Decision Maker the opportunity to observe parties and Witnesses answer questions. The Title IX regulations grant the right of cross-examination equally to Complainants and Respondents, so that either

party may direct the Decision Maker's attention to the implausibility, inconsistency, unreliability, ulterior motives, and lack of credibility in the other party's or the Witnesses statements.

At the live hearing, the Title IX regulations require that the Decision Maker must 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 at the live hearing must be conducted directly, orally, and in real-time by the party's Advisor of choice and never by a party personally. Only relevant cross-examination and other questions may be asked of a party or Witness. Before a Complainant, Respondent, or Witness answers a question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The parties or Advisors may immediately challenge any decision regarding relevance by the Hearing Officer, who may pause the hearing and consult with others before making a final ruling on the challenge. Duplicative questions are irrelevant and will not be permitted by either party.

If a party does not have an Advisor for a hearing, York University will appoint an Advisor for the limited purpose of conducting any cross-examination. A party may reject this appointment and choose their own Advisor, but a party may not proceed with the hearing without an Advisor. If the party's Advisor will not conduct cross-examination, York University will appoint an Advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. If a York University-appointed Advisor is used by a party to conduct cross-examination, the role of that Advisor is to relay any questions the party wishes to ask the other party or Witnesses. The York University-appointed Advisor will not develop questions independently on behalf of the party.

Cross-examination by Advisors must follow the hearing procedures and York University's rules of decorum, which prohibit questioning in an abusive, badgering, intimidating, or disrespectful manner. If a party's Advisor of choice refuses to comply with these rules of decorum for the hearing, the Hearing Officer may require the party to use a different Advisor. If a University-provided Advisor refuses to comply with these rules of decorum, the Hearing Officer may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

If a party or Witness chooses not to submit to cross-examination at the hearing, either

because they do not attend the hearing, or they attend but refuse to participate in questioning, then the Decision Maker may not rely on any prior statement made by that party or Witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision Maker must disregard that statement. Evidence provided that is something other than a statement by the party or Witness may be considered (e.g., video evidence of the misconduct). However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission.

**Title IX Jurisdiction.** For allegations of Sexual Misconduct that fall outside the jurisdiction of Title IX (see Title IX and Jurisdiction of the Policy), the Hearing Officer reserves the right to modify the hearing procedures, including but not limited to cross-examination. For example, in allegations of Sexual Assault occurring outside of Title IX's jurisdiction, the University may rely upon indirect cross-examination to conduct a thorough, reliable, impartial, and fair hearing process. Parties will submit cross-examination questions to the Hearing Officer who, after determining relevance, will ask the questions directly to the parties rather than having an Advisor ask the cross-examination questions. The parties will be notified of any hearing procedure modifications in the written notice of the hearing that is sent by the Hearing Officer before the hearing.

### **Hearing Order.**

- The Hearing Officer confirms that all the participants, including the Complainant, Respondent, Advisors, Decision Maker, and hearing facilitator, are present at the video conference, and invites the participants to introduce themselves. The introductions will also allow the hearing facilitator to confirm that all participants can see and hear each other.
- The Hearing Officer provides an overview of the hearing agenda and a list of the Witnesses (if any) in the order they are scheduled to participate in the hearing.
- The Hearing Officer offers both parties the opportunity to make a brief opening statement (maximum of ten (10) minutes) to the Decision Maker(s), beginning with the Complainant. Advisors are not allowed to make opening statements. · The Hearing Officer asks the parties and Witnesses to provide any relevant information beginning with the Complainant and then in the order determined by the Hearing Officer. The Decision Maker asks questions directly to the parties and Witnesses about their testimony or relevant evidence in the materials provided to the participants in advance of the hearing. The parties and Witnesses will submit to questioning by the Decision Maker(s) and then by the parties through their Advisors



("cross-examination") after the Hearing Officer reviews each question for relevance before it is asked by the Advisor. Witnesses are excused from the hearing following the cross-examination.

- The Hearing Officer offers both parties the opportunity to make a brief closing statement (maximum of five (5) minutes) to the Decision Maker. Advisors are not allowed to make closing statements.

**Determination of Responsibility.** The Decision Maker will deliberate in closed session to determine whether the Respondent is responsible for the Policy violation(s). The preponderance of the evidence standard of proof is used (whether it is more likely than not that the Respondent violated the Sexual Misconduct Policy).

When there is a finding of responsibility on one or more of the allegations, the Decision Maker may then consider the previously submitted party impact statements in recommending appropriate sanction(s). The Hearing Officer will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party. The Decision Maker will review previous disciplinary history as well.

Student Respondents. The Hearing Officer will make the final determination on appropriate sanction(s). The Hearing Officer may consult with the Title IX Coordinator for students on any appropriate remedies for the Complainant.

Employee Respondents. If the Decision Maker decides that there was a policy violation, they will recommend sanctions against the faculty or staff member. The decision and any sanction recommendations against a staff member will be forwarded to Human Resources for a decision on the recommended sanction(s). The decision and any sanction recommendations against a faculty member will be forwarded to the supervising Vice President for a decision on the recommended sanctions(s), and any other applicable procedures, will be followed prior to the sanction becoming final. After receiving the decision on the recommended sanction(s) from HR or the Vice President, the Hearing Officer will include the final sanctions in the written letter of determination. The Hearing Officer may consult with the Title IX Coordinator on any appropriate remedies for the Complainant.

Written Letter of Determination. The Hearing Officer will then prepare a written letter of determination. The letter of determination will identify the specific policy(ies) reported to have been violated and will contain a description of the procedural steps taken by the University 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. The letter will also specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts; a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the York University's education programs or activities will be provided by the University to the Complainant. The remedies are not typically shared with the Respondent unless the remedy directly relates to the Respondent. The Title IX Coordinator is responsible for the implementation of any remedies.

Finally, the letter of determination will include York University's procedures and permissible bases for the Complainant and Respondent to appeal. Any sanctions imposed as a result of the hearing remain during the appeal process. To best provide support, parties are encouraged to let the Hearing Officer know immediately if they are appealing so that the sanctions (if any) may remain and the appropriate offices may be notified.

This letter of determination will be shared with the parties simultaneously by one or more of the following methods: emailed to the parties' York University email or designated accounts, delivered in person, or mailed to the local or permanent address(es) of the parties as indicated in official University records.

The determination regarding responsibility becomes final after the time period to file an appeal has expired, or if a party does file an appeal, after the appeal decision has been sent to the parties.

### ***Appeal Process***

Both parties may appeal a determination of responsibility by the Decision Maker to the Appeals Officer.

The appeal must be submitted in writing via email form within seven (7) calendar days of the issuance date of the written letter of determination. Any sanctions imposed as a result of the hearing remain during the appeal process.

In the written appeal, the party must specifically address at least one of the following criteria:

- New evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter. The

appealing party must provide a summary of this new evidence and its impact.

- Procedural irregularity that affected the outcome of the matter. The appealing party must identify the specific investigative or hearing procedure that was not followed, along with a summary of how it affected the outcome of the matter.
- Bias or conflict of interest by the Title IX Coordinator, investigator(s) or Decision Maker for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter. The appealing party must state the basis for this belief and provide any supporting information.
- Inappropriateness of the sanction for the violation of the Policy.

The written appeal will be shared with the other party, who may submit a written response within seven (7) calendar days from the time the appeal is emailed to the student's or employee's York University account. This written response will be shared with the other party.

The appeal process normally takes twenty (20) business days from the time the appeal is submitted by either party. The Appeal Officer will make a good faith effort to complete the appeal process as promptly as circumstances permit and will update the parties on the timing of any delay and the reasons for the delay.

Generally, the appellate process does not require the Appeal Officer to make personal contact with the involved parties or the Decision Maker. The Appeal Officer may, but is not required to, convene an Advisory Committee to assist in making a recommendation regarding the appeal. The Appeal Officer will not be bound by the committee's recommendation.

The Appeal Officer may affirm, reverse, or modify the sanction. The Appeal Officer may also return the case to the Decision Maker for further consideration. The Appeal Officer's decision will be final and effective immediately. A letter describing the result of the appeal and the rationale for the decision will be emailed simultaneously to both parties' york.edu account.

### ***Retention of Records***

All records and investigations will be private and confidential to the greatest extent possible and will not be publicly disclosed except to the extent required by law. However, no member of the University's staff or faculty, or any student is promised strict or absolute confidentiality. Additionally, all records will be retained for a minimum of seven years.

Records will be stored with the Office of the Title IX Coordinator.

***Amnesty for Victims and Good Samaritans***

York University encourages the reporting of discrimination, harassment, and/or sexual misconduct; therefore, the University may offer victims immunity from disciplinary action for policy violations related to sexual misconduct. Furthermore, for students who offer assistance (by contacting medical services, the police department, and/or York University personnel) to other students in need, both on and off-campus, both parties may receive immunity from disciplinary action.

***Amendments or Termination of this Policy***

York University reserves the right to modify, amend, or terminate this policy at any time.



## **Fire Safety and Campus Security Training**

All resident students are required to attend residence hall meetings in August and January at which time they are informed of all safety and security procedures and precautions as they pertain to their specific hall. On-campus housing facilities are equipped with fire alarms, sprinkler systems, and portable fire extinguishers. All students, whether resident or non-resident, also are made aware of fire safety and campus security procedures and alcohol and drug policies via the Annual Security Report. Employees of the University also are informed of general safety and security procedures and alcohol and drug policies during the fall and spring semesters as part of employee workshops and via other means, including the Annual Security Report.

### ***Emergency Notification Systems***

In the event of an emergency, contact 911, the Office of Student Life, or your Resident Director to initiate the emergency messaging system. Emergency messaging will be used only for those situations (i.e. severe weather, chemical spills, fires, and crimes) that pose an immediate threat to the health or safety of students or employees on campus or for the closing of an entire campus. Messages about criminal activity generally will not be sent unless it is decided there is an imminent threat of danger. In those cases where a crime has been reported and it is determined that although there is no immediate threat, the crime represents a serious or ongoing threat to the campus community, an alert will be issued. Timely warning notices of crimes reported to the Office of Student Life, your Resident Director, or local police that are considered to be a threat to students and/or employees are given via daily chapel announcements, campus email, the University's telephone system, and/or the home page of the University's website ([www.york.edu](http://www.york.edu)). The emergency messaging system is provided in addition to existing emergency notification procedures and does not replace or eliminate any other emergency notification system (i.e. fire alarms). York University will provide follow-up information to the community as appropriate via campus email and chapel announcements.

## **Emergency Response Procedures**

The Office of Student Life is responsible for determining whether there is a significant emergency or dangerous situation on campus. If the Office of Student Life confirms the existence of a significant on-campus emergency or dangerous situation involving an immediate threat to the health or safety of students or employees, the emergency notification procedures will be activated to immediately notify the campus community. The Office of

Student Life is responsible for determining the appropriate segment or segments of the campus community to receive emergency messages. The emergency messaging system may be initiated from on-campus and from remote locations. York University will, without delay, and taking into account the safety of the community, determine the content of the emergency message and initiate the emergency notification procedures, unless issuing a message will, in the judgment of the Office of Student Life, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency situation.

### ***Criminal Activity***

Call 911 if you observe a crime in progress or behavior that you suspect is criminal. Do not approach or attempt to apprehend the person(s) involved. Report information, including:

1. What the person is doing
2. Location
3. Physical and clothing description
4. Weapons or tools
5. Vehicle description, and license plate number
6. Direction of travel when last seen. Stay on the phone with the police dispatcher until instructed otherwise.

### ***Medical Emergency***

1. Do not move a seriously injured person unless the person is in a life-threatening situation.
2. Remain with the victim if possible. Send someone to call 911.
3. Report:
  - a. Victim's location
  - b. Is the victim conscious? Breathing? Bleeding?
  - c. Victim's injuries
  - d. Chemicals or radioactive materials involved?

### ***Fire***

1. Activate the fire alarm if you discover fire or smoke.
2. Call 911.
3. Report:
  - a. Name

- b. Building
  - c. Floor and room number
4. If the fire is beyond control or involves potentially explosive materials, immediately evacuate the building.
  5. Close doors and windows as you leave. Leave lights on. Do not use elevators. Walk, do not run, to the nearest stairway and proceed to ground level.
  6. Feel doors before opening. If a door is hot, do not open. Backtrack to an alternate evacuation route.
  7. Alert other building occupants by loudly knocking on doors and yelling “FIRE” on your way out.
  8. If you encounter smoke, stay low. Crawl if necessary.
  7. Continue the evacuation even if the alarm stops, and warn others who may attempt to enter the building.
  8. Move to a safe location and leave clear access for emergency personnel. Do not return to the building until instructed to do so by York University personnel.
  9. Someone familiar with the situation and who knows the area involved should meet the fire department. Immediately inform them if someone may be inside the building.

If clothing is on fire:

1. Stop, drop, and roll. Do not run.
2. Smother flames by wrapping in a blanket, rug, coat, etc.

If you become trapped in a building:

1. Find a room with a window. Enter and close the door.
2. If smoke begins to enter around the door, seal with wraps, tape or other material.
3. Call 911. If no phone is available, signal from a window.
4. Shout at regular intervals to alert emergency personnel of your location.

Evacuation of People with Disabilities

Know your surroundings and plan for emergencies. If an emergency occurs, someone should notify firefighters or police that individuals with disabilities need to be evacuated.

1. Proceed to the nearest stairway with an escort and await assistance from an emergency response team (i.e. fire department).
2. Do not use elevators unless directed to do so by the emergency response team.
3. If the stairway becomes smoke-filled or unsafe, go to another stairway. If this is not



possible, find a room with a window, close the door, and call 911. If no phone is available, signal from a window and shout at regular intervals to alert emergency personnel of your location.

## ***Tornado***

### Know:

1. Tornado watch and warning conditions
2. Where tornado shelters are located in your building
3. When to initiate appropriate emergency procedures

Tornado watch. Weather conditions are right for a tornado to occur, but none have been sighted.

1. Notify others in your area that a tornado watch is in effect.
2. Monitor the weather with radio or television.
3. Note when the watch is in effect. Be prepared for an announcement that cancels or upgrades the watch to a warning.

Tornado warning. A tornado has been sighted in the vicinity.

1. Curl up on the floor, face down, and cover your head with your arms and hands. If you are outdoors, curl up in a drainage ditch or low-lying area.
2. After the tornado, if the building is damaged, evacuate.
3. Assist those with injuries. Follow medical emergency procedures.

## ***Active Shooter – Shelter-in-Place Guidance***

If you find yourself involved in the very rare event of an active shooter situation, try to remain calm and use these guidelines to help you plan a strategy for survival.

**If an active shooter is outside your building,** go to a room that can be locked, close and lock all the windows and doors, and turn off all the lights. If possible, get everyone down on the floor and ensure that no one is visible from outside the room. Call 911 and inform the dispatcher of your location. Remain in place until the police or University officials known to you give you the “all clear.” Unfamiliar voices may be the shooter attempting to lure victims from their safe space; do not respond to any voice commands until you can verify that they are being issued by an official. Likewise, do not leave the room if the fire alarm is activated unless you can see smoke and flames and judge the fire to be a greater risk than the shooter.

**If an active shooter is in the same building you are in**, determine if the room you are in can be locked and if so, follow the same procedures described above. If your room cannot be locked, determine if there is a nearby location that can be reached safely and secured, or if you can safely exit the building. If you decide to move from your current location, be sure to follow the instructions outlined below.

**If an active shooter enters your office or classroom**, try to remain calm. Dial 911, if possible, and alert police to the shooter's location. If you cannot speak, leave the line open so the dispatcher can listen to what's taking place. If there is no opportunity for escape or hiding, it might be possible to negotiate with the shooter. Attempting to overpower the shooter with force should be considered a last resort.

**If you decide to flee during an active shooting situation**, make sure you have an escape route and plan in mind. Do not attempt to carry anything while fleeing and leave coats and jackets behind so the police can easily see you are not armed. Move quickly, keep your hands visible, and follow the instructions of any police officers you may encounter. Do not attempt to remove injured people; instead, leave injured victims where they are and notify authorities of their location as soon as possible. Do not try to drive off campus until advised it is safe to do so by police or University administrators known to you.

### ***Hazardous Gas Odor***

Natural Gas Odor. An odorant, added to natural gas, can be detected at extremely low concentrations. Smelling natural gas does not necessarily constitute an immediate hazard.

If a natural gas odor is detected:

1. Call 911
2. Report:
  - a. Name and phone number
  - b. Building and room number
  - c. Area of odor
  - d. How long the odor has been noticed

Compressed Gas Cylinder. If a cylinder is leaking, and in the judgment of the person responsible for the cylinder, the valve cannot be closed, and an immediate hazard exists:

1. Turn on any exhaust ventilation and close all doors when exiting the laboratory or shop.
2. Call 911.
3. Report:
  - a. Name and phone number

- b. Building Page
  - c. Room number where the cylinder is located
  - d. Name of gas leaking
4. Evacuate building. Move to a safe distance and leave clear access for emergency personnel. Do not return to the building until instructed by the appropriate officials.

### ***Annual Testing of Emergency Response and Evacuation Procedures***

The Office of Student Life is responsible for testing the University's emergency response and evacuation procedures at least once per year, including those related to fire safety. These tests may be announced or unannounced. The Office of Student Life and Campus Maintenance is responsible for maintaining documentation for each test including, a description of the exercise; the date, time, and place of the exercise; and whether the drill was announced or unannounced.

### ***Explosives, Fireworks, Weapons***

York University does not permit its students or employees to possess or detonate any type of commercial or homemade explosives on campus, including fireworks. Additionally, York University does not permit its students or employees to possess guns, archery equipment, knives, or other weapons on campus. Violations of these policies shall result in disciplinary actions as defined in the Student Handbook and/or the Employee Policy and Procedure Manual.

### ***Smoking, Open Flames, and Appliances***

Smoking is prohibited on the campus of York University. Additionally, open flames (i.e. candles, kerosene lamps) are not permitted in on-campus housing. Finally, appliances that present a fire hazard, such as hot plates are not permitted in on-campus housing.