

WPI Faculty Handbook: Chapter Ten - Faculty Conduct Policies

Table of Contents

Chapter Ten - Faculty Conduct Policies	4
I. Policy on Faculty Conduct	4
1. Introduction and Applicability	4
2. Definitions	4
3. Grounds for Misconduct	5
4. Sanctions	7
5. General Matters	8
6. Initial Review of Allegations	9
7. The Investigative Phase	11
8. Procedures Following the Investigative Phase	12
9. Appeals	16
10. Provisions Common to the Misconduct Review Process	17
II. WPI Policy on Research Conduct	18
Introduction	18
Students	19
Definitions	20
Duty to Report	21
Standard of Proof for a Finding of Research Misconduct	21
Assessment and Review Process	21
Initial Assessment	21
Subsequent Two-Stage Review Process	22
Interim Institutional Actions	22
First Stage of Review: Inquiry	22
Second Stage of Review: Investigation	24
Appeals	27
Special Measures	27
Provisions Common to Misconduct Review Process	28
No Conflicts of Interest	28
Confidentiality	28

No Retaliation	28
False Accusations or Testimony	29
Duty to Cooperate and Preserve and Produce Information	29
Record Keeping	29
Notice to Sponsors	29
III. WPI Sexual Misconduct Policy	30
Introduction: WPI's Commitment to a Campus Free from Sexual Misconduct	30
Application of this Policy	30
Definitions	30
a. Sexual Misconduct	30
b. Consent	34
Obligations of Employees to Report Sexual Misconduct	35
a. Responsible Employees	35
b. Confidential Resource Advisors	35
Resources Available in Cases of Sexual Misconduct	36
Initial Steps and Investigation of Reports of Sexual Misconduct	37
a. Initial Steps	37
b. The Investigation Phase	38
c. Optional Informal Resolution Procedure	40
Procedures Following the Investigative Phase of a Title IX Investigation	41
a. The Investigative Report	41
b. Review by the Parties	41
c. Convening the Judicial Panel	41
d. Training Members of the Judicial Panel	42
e. Role and Responsibilities of the Judicial Panel	42
f. Standard of Proof	43
g. Rights of the Parties	43
h. Sanctions	43
Notification of Decision	44
Appeals	44
a. Appeals Available to Either Party	44
b. Special Appeals with respect to a Respondent who is a Full-Time Faculty Member Involving a Recommended Sanction of Dismissal or Suspension	45
Timeframe for Completing the Investigation and Disciplinary Process	47
Additional Matters	47
a. No Conflicts of Interest	47
b. Duty of Honesty	47
c. Good Faith Participation by the Parties and Witnesses	48
d. Duties of Promptness and Care	48
e. Duty of Confidentiality	48
f. Recording the Proceedings	48

g. Record Keeping	49
h. Special Measures	49
i. Information about Title IX	49
j. More information	49
k. Evaluation	49

Footnotes	49
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Chapter Ten - Faculty Conduct Policies

I. Policy on Faculty Conduct¹

(Approved by the Faculty, *February 7, 2019*)

1. Introduction and Applicability

Members of the Worcester Polytechnic Institute ("WPI") faculty have traditionally conducted themselves in accordance with high standards of professional performance, ethical behavior and personal conduct. Nonetheless, from time to time it may be necessary to take action with respect to a faculty member who engages in conduct incompatible with the responsibilities of faculty membership or who fails to meet reasonable standards of performance or behavior. In recognition of this need, WPI has developed the following policy to respond to allegations of misconduct not covered by WPI's Research Misconduct Policy and WPI's Sexual Misconduct Policy and to inform members of the community of the appropriate channels for bringing such matters to the attention of WPI. This Policy applies to tenured, tenure-track, and continuing full-time non-tenure track members of the WPI faculty, including the President, the Provost, the Vice Provost for Research, and the Academic Deans.

2. Definitions

- a. *Complainant*. The individual, department or entity alleging misconduct.
- b. *Respondent*. The individual against whom an allegation of misconduct is made.
- c. *Dean*. The Dean of the Respondent's School, department or program.
- d. *Investigator*. The individual responsible for conducting an impartial investigation of the allegations of misconduct when the process moves beyond the initial review.
- e. *Judicial Committee*. The panel of three faculty members and three senior academic administrators responsible for determination of responsibility and sanctions when the process moves beyond the initial review.

¹This policy replaces and supersedes all previous Faculty Conduct Policies, including policy entitled "Worcester Polytechnic Institute Faculty Conduct Policy" approved by the Board of Trustees on May 11, 2018. The procedures outlined herein apply to conduct predating the implementation date unless a proceeding is pending under the old policy. All faculty members and instructional staff not covered by this Policy should consult the Work Behavior/Discipline section of the Human Resources Employee Benefits and Policies Manual.

3. Grounds for Misconduct

Generally, grounds for misconduct are based on violations of professional ethics² in carrying out one's responsibilities to: a) teaching and students; b) scholarship; c) the University; d) colleagues; and e) the community. Nothing in this policy restricts a person's rights to privacy, academic freedom, free speech, and free expression including the right to speak out against a policy or action of the University.

The ethical responsibilities and examples of violations in each category are described as follows:

Teaching and Students: As teachers, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly and ethical standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to ensure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom. Examples of unacceptable behavior are:

- a. Failure to meet the responsibilities of instruction;
- b. Discrimination, including harassment against a student on grounds described in <https://www.wpi.edu/about/policies/equal-opportunity-anti-discrimination-harassment> or any other arbitrary or personal reason, including disability;
- c. Violation of University instructional policies;
- d. Use of position of power to coerce the judgment or the conscience of a student or to cause harm to a student for arbitrary or personal reasons;
- e. Participating or deliberately abetting disruption, interference, or intimidation in the classroom.

Scholarship: Professors, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end professors devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry. This Policy covers misconduct related to scholarship only if it is not covered by the Research Misconduct Policy https://www.wpi.edu/sites/default/files/docs/About-WPI/Policies/Research_Misconduct_Policy.pdf.

²See for example AAUP Statement on Professional Ethics.

The University: As members of an academic institution, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Professors give due regard to their paramount responsibilities within their institution in determining the amount and character of work done outside it. When considering the interruption or termination of their service, professors recognize the effect of their decision upon the program of the institution and give due notice of their intentions. Examples of unacceptable behavior are:

- a. Incitement of others to disobey University rules when such incitement constitutes a clear and present danger that violence or abuse against persons or property will occur;
- b. Unauthorized use of University resources or facilities on a significant scale for personal, commercial, political, or religious purposes;
- c. Forcible detention, threats of physical harm to, or harassment of another member of the University community, that interferes with that person's performance of University activities;
- d. Significant violations of institutional or departmental policies;
- e. Discrimination, including harassment against any employee, contractor, intern on grounds described in <https://www.wpi.edu/about/policies/equal-opportunity-anti-di> or any other arbitrary or personal reason, including disability.

Colleagues: As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates, even when it leads to findings and conclusions that differ from their own. Professors acknowledge academic debt and strive to be objective in their professional judgment of colleagues. Professors accept their share of faculty responsibilities for the governance of their institution. Examples of unacceptable behavior are:

- a. Making evaluations of the professional competence of faculty members by criteria not directly reflective of professional performance;
- b. Discrimination, including harassment against any employee, contractor, intern on grounds described in <https://www.wpi.edu/about/policies/equal-opportunity-anti-di> or any other arbitrary or personal reason, including disability;
- c. Violation of University policies related to collegiality;
- d. Breach of established rules governing confidentiality in personnel procedures.

The Community: As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of these obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private persons, they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and in-

tegrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom. Examples of unacceptable behavior are:

- a. Intentionally misrepresenting that one's personal views are the views, or position of the University;
- b. Illegal actions that clearly demonstrate unfitness to continue as a faculty member;
- c. Conduct not protected by academic freedom, free speech, and freedom of expression that significantly damages the University's reputation or mission.

4. Sanctions

A finding of responsibility for faculty misconduct can result in a wide range of sanctions, depending on the circumstances of a particular case. Sanctions must be commensurate with the seriousness of the misconduct. Seriousness, and thus the sanction, will depend on the egregiousness of a particular action and may be affected by the Respondent's level of cooperation with the process set forth in this Policy, and persistence of behavior in the face of prior warnings, counseling or sanctions. In some instances, a single instance of unacceptable activity by a faculty member may be severe enough to warrant sanctions, including dismissal. In other instances, only a pattern of activity or the continuation of a particular activity or activities may warrant sanctions.

The circumstances that may lead to disciplinary sanctions cannot be anticipated in precise terms and thus grounds for sanctioning faculty members are not made the subject of a precise or comprehensive statement. The determination of appropriate sanctions will account for the following factors, including but not limited to:

- the nature and circumstances of the misconduct;
- the impact of the misconduct on the person who experienced the misconduct and the WPI community;
- the disciplinary history of the Respondent and the Respondent's cooperation with the process set forth in this Policy;
- the intent of the Respondent in committing the misconduct; and
- any other mitigating or aggravating circumstances in order to reach a fair and appropriate resolution in each case.

As with the definition of misconduct, it is not feasible or wise to automatically assign a specific sanction to particular misconduct. Examples showing the range of possible sanctions include, but are not necessarily limited to³:

³The referral of a faculty member to the Employee Assistance Program (see <https://www.wpi.edu/offices/talent/benefits-payroll-perks/benefits-matrix/employee-assistance-program>), training, counseling, or coaching is not considered a disciplinary sanction under this policy.

- A letter of reprimand from the Dean to be placed in the personnel file
- A formal apology from the Respondent
- Remedial training or counseling
- Supervision or oversight of professional activity for specified period of time
- Reassignment of duties, facilities or support
- Limitation of professional responsibilities for a specified period of time
- Restitution of misappropriated funds
- Withholding increases in compensation
- Reduction of salary
- Suspension for a specific time with pay
- Suspension without pay
- Termination of employment

Sanctions of demotions in rank or revocation of tenure are only appropriate in cases where appointment, promotion, or tenure were obtained by fraud or dishonesty.

5. General Matters

- a. All parties are encouraged to resolve disputes and disagreements in a mutually acceptable manner before this Policy is invoked. After this Policy is invoked, allegations of misconduct may be resolved at any time by mutual agreement of the Respondent, the Complainant and the Dean.
- b. At all times, the parties shall cooperate with the process, preserve (and not delete or destroy) evidence, and provide information and materials as requested.
- c. The Respondent should be provided with reasonable updates and opportunities to respond.
- d. The Respondent shall be permitted the assistance of one (1) advisor or legal counsel during any investigative proceeding, including any related meeting, interview, or hearing. Advisors may communicate with their advisee but may not speak or otherwise communicate on behalf of a party. Advisors are subject to the same confidentiality obligations applicable to others in attendance.
- e. The Respondent is entitled to the presumption of innocence, the opportunity to respond to allegations of misconduct, and the opportunity to present a defense and offer evidence. The standard of proof in deciding that misconduct has occurred should be based on a preponderance of the evidence standard. This standard requires the determination of whether it is more likely than not that a fact exists or a violation of this Policy occurred.
- f. Deadlines under this Policy may be extended upon a showing of reasonable cause.

6. Initial Review of Allegations

- a. Allegations of misconduct (a "Complaint") should be made in writing to the Dean of the School, department or program of the Respondent named in the Complaint. The fact that a Complaint has been received should be made known only to the Respondent and to other persons who need to know, based on the Dean's discretion. It should be expected that the Dean will notify the Provost and/or the President about allegations of misconduct. "Because the Provost and President may be involved later in the process, they must each respect the integrity of the process as it moves forward."
- b. Upon receiving a Complaint, the Dean shall promptly send a copy of the Complaint and a copy of this Policy to the Respondent, and shall take appropriate action to obtain and secure relevant evidence.
- c. The Respondent shall have an opportunity to provide a written response to the allegations within ten (10) days of receiving the Complaint from the Dean.
- d. Once a Complaint has been received, the Dean may explore the possibility of a satisfactory resolution outside the scope of this Policy.
- e. If the Dean believes the alleged misconduct poses any risk to the community, the Dean may, in the Dean's discretion, impose appropriate interim sanctions up to and including suspension with pay and an order that the Respondent not enter WPI's property, or participate in WPI activities or programs. The suspension shall become effective upon notification in writing to the faculty member. The Secretary of the Faculty shall be informed of the suspension. The Dean may revoke a suspension at any time. If not revoked earlier, a suspension shall remain in effect until the final disposition of the process set forth in this Policy.
- f. Upon receipt of a Complaint, the Dean shall review the Complaint and determine whether the allegations in the Complaint would, presuming the allegations to be true, meet the definition of misconduct as set forth in this Policy. If, presuming the allegations to be true, the Complaint does not meet the definition of misconduct, the Dean shall dismiss the Complaint. Otherwise, the process will move forward as set forth herein. In either case, the Dean will promptly provide written notice of the decision and rationale to the Respondent and the Complainant.
- g. If the Dean concludes that the process should move forward, the Dean shall appoint three unbiased faculty members from outside of the Respondent's home department to:
 - i. Review the written Complaint and meet with the Complainant to get their version of the alleged misconduct and relevant events;

- ii. Review the written response from the Respondent and meet with the Respondent to get their version of the relevant events;
 - iii. Assess whether the behavior alleged constitutes a violation of this Policy and is sufficiently credible and specific so that potential evidence of such misconduct may be identified.
 - iv. Prepare a written report summarizing the process and information reviewed and, based on the criteria described in Section 7.g.iii above, recommend to the Dean whether the process under this Policy should continue or whether the Complaint should be dismissed. The report should identify the names of the Complainant and the Respondent, contain a description of the allegations, explain why the faculty members recommend that the Complaint should be dismissed or that the process should continue under this Policy, and reflect the numerical vote (but not the names) of the three faculty members. The report shall be sent to the Dean.
- h. The Dean will consider the faculty's recommendation and then decide whether the process under this Policy should continue or whether the Complaint should be dismissed. When the allegations are within the faculty's area of primary responsibility (i.e., curriculum, subject matter and methods of instruction, research and those aspects of student life which relate to the educational process), the Dean should normally accept the faculty's decision. In rare instances and for compelling reasons, however, the Dean may reject the faculty's determination. Regardless of the decision, the Dean shall state in writing the basis for the decision and promptly send a copy of both the Dean's report and the report written by the three faculty members to the Complainant and the Respondent. In all cases, the Dean shall also send a copy of the Dean's report to the three faculty members. If the Dean decides that the process should continue, then the Dean's report will include a sufficiently detailed description of the allegations, the portions of this Policy that are alleged to have been violated, and any interim measures in place about which either party should be made aware. This written notice does not constitute a finding or a determination of responsibility. If the Dean decides that the process should continue, the Dean shall also provide a copy of both reports to the Provost, and the matter shall proceed as described below.
- i. The Dean shall make the decision about whether the Complaint will proceed under this Policy within sixty (60) days following the Dean's receipt of the Complaint. The Dean may extend this deadline for a reasonable time if necessary under the circumstances. The Dean shall notify all parties of any extensions.

7. The Investigative Phase

- a. Within ten (10) days after receipt of the Dean's decision to continue the process under this Policy, the Provost and the Secretary of the Faculty shall collaborate in good faith, concerning the appointment of an unbiased, qualified Investigator. Following such good faith collaboration, the Provost and the Secretary of the Faculty shall agree upon and appoint an unbiased, qualified Investigator (e.g. Title IX coordinator or qualified investigator from outside the university) charged with responsibility for conducting a prompt, fair, and impartial investigation of the alleged conduct and presenting evidence to the Judicial Committee (described below). The Provost and/or the Secretary of the Faculty may consult with the Office of General Counsel, the Vice President of Human Resources, and/or such other persons who would be helpful in selecting the appropriate Investigator. If the Secretary of the Faculty and the Provost cannot agree on an Investigator, the President shall select one after reviewing the Secretary of the Faculty's and the Provost's recommendations. The Provost will promptly provide the Respondent with the name of the Investigator. As soon as possible, but no later than three (3) calendar days after delivery of the identity of the Investigator, the Respondent should inform the Provost (in writing) of any potential conflicts of interest about the selected Investigator. The Provost will collaborate in good faith with the Secretary of the Faculty in considering the nature of the potential conflict and in determining if a change is necessary. Following such good faith collaboration, the Provost shall determine if a change is necessary. The Provost's decision regarding any conflicts with the Investigator is final.
- b. The investigation conducted by the Investigator should focus on the violation(s) alleged in the Complaint. The investigation will include the review of documentation or other items relevant to the reported conduct as well as separate interviews with the Complainant, the Respondent, and any witnesses whom the Investigator believes will provide necessary and relevant information. The Respondent will have the opportunity to provide the Investigator with written notice of the names and contact information of potential witnesses with whom they would like the Investigator to speak, together with a brief explanation of how the persons, documents, and/or items are relevant to the reported conduct. The Respondent may also provide the Investigator with any documentation or other items they would like to be considered. The Investigator will exercise discretion in determining what information and questions to consider and which potential witnesses will be interviewed.
- c. The purpose of the investigation is not to look for evidence of misconduct unrelated to the allegations in the Complaint. To the contrary, the investigation should focus on the violation(s) alleged in the Complaint. However, if in the normal course of gathering evidence, the Investigator discovers evidence of

other potential violations of this Policy that are separate from or in addition to the allegations in the original Complaint, then the Investigator should inform the Dean (in writing) of the new allegation. The Dean shall notify the Respondent of the additional potential violations and give the Respondent ten (10) days to provide a written response to the additional potential violations. This deadline may be extended by the Dean as necessary under the circumstances. The Dean will treat any new unrelated allegation as a separate Complaint starting at Section 6 of this Policy (Initial Review of Allegations).

8. Procedures Following the Investigative Phase

- a. *The Investigative Report:* After the investigation is completed, the Investigator will deliver an Investigative Report to the Dean. The Investigative Report shall:
 - i. include a clear Statement of Charges that specifies the conduct that allegedly violates this Policy, the particular section(s) of this Policy allegedly violated, the time period when the conduct allegedly occurred, and any other information necessary to give the Respondent fair notice of the charges and alleged violations;
 - ii. include a summary of the information presented during the investigation including a section where the Investigator points out relevant consistencies or inconsistencies (if any) between different sources of information;
 - iii. not include a recommendation or a determination as to whether the Respondent has committed misconduct or what sanctions may be appropriate. These determinations will be made by the Judicial Committee (see below).
- b. *Review by the Respondent:* Within five (5) business days of receiving the Investigative Report, the Dean will provide the Respondent with a copy of the Investigative Report. The Respondent shall respond in writing to the Statement of Charges included in the Investigative Report. The Respondent will also have an opportunity to submit written comments to the Dean about the Investigative Report within five (5) business days of receiving the Report. The time to submit written comments may be extended if the Dean concludes, in his/her sole discretion, that additional time is warranted. After reviewing the submission, if any, from the Respondent, the Dean may determine that additional investigation is required, in which case the Investigator will supplement the Investigative Report and submit a final Investigative Report to the Dean. Any submissions made by the Respondent, as well as any other documentation deemed relevant by the Investigator, will be attached to the Investigative Report. Within three (3) business days of receiving the final Investigative Report, the Dean will provide the Respondent with a copy of the final Investigative Re-

port.

- c. *Convening the Judicial Committee:* After receipt of the final Investigative Report, the Provost and the Secretary of the Faculty shall appoint a six member Judicial Committee ("Committee") comprised of three senior administrators and three faculty members from outside the Respondent's home department.
 - i. The faculty members shall be selected from the elected members of the Faculty Review Committee (FRC) and the elected faculty members of the Campus Hearing Board (CHB).
 - ii. The senior administrators shall be selected from a pool of senior academic administrators.

Once the Committee has been appointed, the Dean shall notify the Respondent in writing of the names of the members of the Committee. Within five (5) days, the Respondent may challenge the composition of the Committee based on alleged bias or conflict of interest. If a challenge is raised, the remaining members of the Committee shall determine whether bias or a conflict exists. If a bias or conflict is found, the Provost and the Secretary of the Faculty shall select a replacement from the pool of elected FRC and CHB members or from other academic administrators, as appropriate.

- d. *Roles and Responsibilities of the Judicial Committee:* Within ten (10) days following the establishment of the Committee (and the resolution of any challenge(s) based on bias or conflict of interest), the Committee should meet and select one faculty member and one senior academic administrator to serve as Co-Chairs.

The Judicial Committee will obtain the Investigative Report from the Dean and convene to review the Investigative Report. The Judicial Committee, in its discretion, may request the Investigator to attend a Judicial Committee meeting and answer questions. The Judicial Committee, in its discretion, may request the Investigator to conduct additional investigation on specific points. In addition, the Judicial Committee must interview the Complainant and the Respondent (where those individuals are available and willing to be interviewed) and, in its discretion, may request to speak with any other individual identified in the Investigative Report as well as any other individual with relevant information including individuals identified by the parties.

The Judicial Committee may request the parties that participated in the investigation to appear at a hearing to answer questions posed by the Judicial Committee. The Respondent should indicate whether the Respondent waives the holding of a hearing. If a hearing is to take place, then:

- i. The Committee Co-Chairs should promptly set a schedule for the hearing and the other disclosures and responses addressed in

this section. The hearing schedule may take place over several days, as necessary. Before setting the schedule, the Committee Co-Chairs should discuss the proposed schedule with the Respondent. Once the schedule is set, the Committee Co-Chairs may allow reasonable extensions of time upon request.

- ii. The Committee Co-Chairs shall provide the Respondent with copies of all materials the Committee intends to use at the hearing and the names of witnesses expected to testify. Thereafter, the Committee Co-Chairs may supplement these materials as necessary with adequate notice given to the Respondent.
- iii. The Respondent shall provide the Committee Co-Chairs with copies of all materials the Respondent intends to use at the hearing and the names of any witnesses expected to testify. Thereafter, the Respondent may supplement these materials as necessary with the permission of the Committee Co-Chairs.

At the hearing:

- i. The Respondent shall have an opportunity to present the Respondent's defense to the Committee including any documents, witnesses or other evidence. The Respondent should be allowed, within reasonable limits set by the Committee Co-Chairs, to question witnesses.
- ii. The Committee will not be bound by rules of evidence applicable in a court of law, and may admit any evidence which, in its opinion, is of probative value in deciding the issues involved. If any facts are in dispute, the Committee shall determine the order in which evidence is offered at the hearing and the process for questioning witnesses.

The Committee shall conclude its review of the case (including the hearing) and make a decision within sixty (60) days after the establishment of the Committee (and the resolution of any challenge(s) based on bias or conflict of interest). All findings and determinations of responsibility and sanctions will be made based on a preponderance of the evidence standard. This standard requires the determination of whether it is more likely than not that a fact exists or a violation of this Policy occurred.

Upon reaching a determination by majority vote (4 to 2, 5 to 1, or 6 to 0), the Committee shall provide a written report to the Dean, the Provost, the Respondent and the Complainant consisting of: (i) the Committee's factual findings; (ii) a decision as to whether the Respondent committed misconduct; (iii) any sanction; and (iv) the rationale for these decisions addressing the

merits of any reasonable explanation or defense provided by the Respondent; and (v) the numerical vote of the Committee without identifying individual votes.

In the case of a tie vote (3 to 3), the Committee shall deliver its report (with its factual findings, with appropriate rationale both for and against a finding of responsibility, and without a determination of responsibility and sanctions) to the President. The Committee's report shall indicate that the vote was tied and whether the three faculty members all voted to find the Respondent not responsible. The President will have access to all written reports and materials relevant to the case. In all such cases, the President shall consider the matter and consult with the Judicial Committee and the Secretary of the Faculty before making a decision.

- i. If the three faculty members on the Judicial Committee did not all vote to find the Respondent not responsible then the President shall make a final written decision with supporting reasons about whether the Respondent committed misconduct and any sanctions to be imposed. The President's final written decision shall be delivered to the Provost, the Complainant, the Respondent, and the Judicial Committee. The Respondent, the Complainant, and the Provost shall also receive the Judicial Committee's written report.
- ii. If the three faculty members on the Judicial Committee did all vote to find the Respondent not responsible and the President agrees with the faculty position, then the President will notify the Judicial Committee, the Dean, the Provost, the Complainant and the Respondent that the Respondent has been found not responsible. The Respondent, the Complainant, and the Provost shall also receive the Judicial Committee's written report.
- iii. If the three faculty members on the Judicial Committee did all vote to find the Respondent not responsible and the President disagrees with the faculty position, then the President will state the reasons for doing so, in writing, to the Judicial Committee and the Respondent and shall provide an opportunity for a response from the Respondent before transmitting the Judicial Committee's report and the supporting materials relevant to the matter, to the Board of Trustees. The Board's review will be based on the supporting materials relevant to the case, and it will provide the opportunity for argument, oral or written or both, at the hearing, by the parties and one of the faculty members on the Judicial Committee, or by their representatives. If the Board is inclined to find the Respondent responsible, then

the Board shall state the basis for its inclination in writing and return the proceedings to the Judicial Committee for reconsideration. The Committee will then reconsider, taking into account the Board's comments and receiving new evidence, if necessary. The Board of Trustees will make a final decision only after study of the Committee's reconsideration. The Board's final written decision shall be delivered to the President, the Provost, the Complainant, the Respondent, and the Judicial Committee. The Respondent shall also receive the Committee's written report.

9. Appeals

- a. The Respondent may appeal any finding of misconduct and any sanction to the President within two (2) weeks after the Respondent received notification of the decision. If the Respondent is appealing from a decision made by the President (where the Committee vote had been tied) then the appeal should be directed to the Chair of the Board of Trustees. The President (or Board Chair) will have access to all written reports and materials relevant to the case.
- b. Before the President (or Board Chair) decides the appeal, the President (or Board Chair) shall consult with the Judicial Committee Chair and the Secretary of the Faculty. The President (or Board Chair) should issue a decision within thirty (30) days of receiving the appeal. The President's (or Board Chair's) decision shall be final in all cases except cases involving a sanction of termination of employment or revocation of tenure.
- c. If the President (or Board Chair) imposes a sanction of termination of employment or revocation of tenure, the Respondent may appeal the finding of misconduct and the sanction to the full Board of Trustees within two (2) weeks after the President (or Board Chair) notifies the Respondent of the imposition of the sanction. If the Respondent appeals to the full Board, the Chair of the Board (or Board Vice-Chair in a case where the appeal was decided by the Chair), following good faith collaboration with the Secretary of the Faculty, shall appoint a committee of five (5) faculty members (who have not had prior involvement in the case) who will make a recommendation regarding the finding of misconduct and the sanction imposed. The faculty committee will have access to all written reports and materials relevant to the case. The faculty committee will summarize the basis for its recommendation in a written report to the Board Chair (or Board Vice-Chair) within thirty (30) days. The Board Chair (or Board Vice-Chair) should issue a written decision within thirty (30) days of receiving the faculty committee's report. The Board Chair's (or Vice-Chair's) decision shall be final.
- d. Other than interim institutional actions which may already be in effect, any finding of misconduct, and the imposition of any sanction, will be stayed while

an appeal is pending before the President or the Board of Trustees.

- e) If a faculty member is dismissed or suspended without pay, the faculty member's salary ends at a future time to be determined by the Board of Trustees.

10. Provisions Common to the Misconduct Review Process

- a. *No Bias or Conflicts of Interest:* To the maximum extent practicable, steps should be taken to ensure an impartial and unbiased process, including participation of persons who have no conflicts of interest that could affect their ability to be objective and unbiased.

In cases where allegations of misconduct have been brought against the Dean or the Provost, or where there is a claim of bias or conflict of interest involving the Dean or the Provost, then the President shall resolve any questions of bias or conflict of interest and adjust the process as necessary. The President's decision on such questions shall be final. In cases where allegations of misconduct have been brought against the President, or where there is a claim of bias or conflict of interest involving the President, then the Provost shall resolve any questions of bias or conflict of interest and adjust the process as necessary.

In the case when allegations have been brought against the Secretary of the Faculty, the Chair of the Committee on Governance will play the role of the Secretary of the Faculty in this policy.

- b. *Duty of Honesty:* Any person who knowingly makes a false statement - either explicitly or by omission - in connection with any part of the process will be subject to separate disciplinary action. A false or unfounded report of misconduct determined to have been made in bad faith and dishonesty is a serious offense. Such offenses should themselves be investigated under the appropriate WPI policy and may lead to disciplinary action, up to and including termination of employment or other affiliation with WPI. A report made in good faith is not considered false merely because the evidence does not ultimately support the allegation of violation of the Policy.
- c. *Good Faith Participation by the Parties and Witnesses:* The investigation is a neutral fact-gathering process. Although participation in the process is not required, the Complainant, the Respondent, and all witnesses are expected to participate in good faith in the process set forth in this Policy, and they may be required by WPI to attend meetings related to the process. Any person who knowingly interferes with the reporting, investigation, or resolution of matters under this Policy may be subject to separate and/or additional disciplinary action.
- d. *Confidentiality:* Proceedings concerning misconduct often raise difficult issues for those making the allegations, for those who are the subject of the allega-

tions, and for those responsible for reviewing the allegations. Review of the allegations should therefore be conducted promptly and with care and sensitivity. All participants in the review process under this Policy are expected to maintain confidentiality to protect the privacy of all involved, to the extent possible and as permitted by law. Participants should keep in mind the effect that allegations can have on reputations, even if the allegations are not sustained by the proceedings.

- e. *No Retaliation*: Retaliation is typically a significant adverse action taken against an individual because the individual participated in a review process. Retaliation is a serious offense. No one shall be retaliated against for participating in a review of a misconduct allegation in good faith as a Complainant, a witness, a factfinder, or investigator or in any other capacity. Reasonable efforts should be made to counter potential or actual retaliation against these complainants, witnesses and committee members. A complaint of retaliation may be investigated and may lead to disciplinary action, up to and including terminating the individual's relationship with WPI.
- f. *Record Keeping*: The Provost should receive and maintain all records relating to proceedings under this Policy including all notices to and from the parties, all written reports, all decisions, all appeals by the parties, and all decisions involved in the appeals process under this Policy.
- g. *Special Measures*: If there is no finding of misconduct, the University should make reasonable and practical efforts as appropriate to restore the reputation of the Respondent. Any such concerns by the Respondent should be directed to the Provost for follow up with other administrators as appropriate.

II. WPI Policy on Research Conduct

(Approved by the Faculty, *December 12, 2017*)

(Approved by the Board of Trustees, *December 15, 2017*)

Introduction

The integrity of the University and its academic endeavors require that teachers, researchers, advisors and other members of its community be dedicated to maintaining the highest ethical standards in their professional activities. Unethical behavior in research and scholarship strikes at the heart of the scholarly and educational enterprise. A shared understanding of expectations and responsibilities is, therefore, critical - not only to the quality of the research enterprise but also to the collegial life of this community.

Supervisors must enforce the highest standards for conducting research and creating and maintaining records of the research. The risk of misconduct increases in an

environment where there is a lack or deficiency of supervision. Specifically, faculty supervisors, principal investigators, laboratory and center directors and Department Heads, should clearly articulate standards and protocols for research, scholarship, and creative work, through discussion and review of research, and, when possible, with written guidelines and training that adhere to best practices.

In recognition of the need to maintain the highest standards in research conduct, WPI has developed the following policy to respond to allegations of research misconduct⁴ and to inform members of the community of the appropriate channels for bringing such matters to the attention of the University.⁵ This policy applies to Research Activities conducted at WPI or by WPI faculty, staff, fellows, students.

The appropriate institutional response to research misconduct will vary with the facts and circumstances of each case. In addition to requiring correction of the research record, WPI has recourse to a variety of disciplinary actions against individuals whose conduct violates this policy, including, in severe cases and following applicable procedures, expulsion of a student, termination of an employee, or revocation of tenure.

The procedures described in this policy are consistent with requirements that apply to the review and reporting of allegations of research misconduct arising in the context of certain federally sponsored research. This Policy should be reviewed and updated periodically in order to ensure compliance with applicable legal requirements.

Students

If a student is involved in the review of an allegation of Research Misconduct (whether as a Complainant, as a Respondent, or as a person from whom information about allegations is obtained), fact finders and investigators must seek guidance from the Office of the Vice Provost for Research regarding the legal and policy requirements that may apply.

Except as they may be subject to the requirements of grants, sponsored research

⁴This policy is based upon the federal regulations governing research misconduct in connection with United States Public Health Service ("PHS")-supported activities and will be interpreted and applied so as to be in compliance with those regulations. WPI has also determined that this policy will be applied as the minimum standard to all allegations of research misconduct, regardless of the funding source(s) or whether the scholarly activity is funded. Institutional response to research misconduct allegations in areas not PHS-supported will follow the same general principles except for the actual involvement of PHS. In the event another research sponsor has additional requirements beyond those covered by this policy, all research funded by that source will be subject to those additional requirements.

⁵This policy replaces the prior policy entitled "Policy and Procedure for Removal of Tenured Faculty Member for Cause" adopted in 1969 as it relates to matters concerning research misconduct. This policy also replaces the Research Misconduct Policy passed by the Board of Trustees on December 13, 2013 and the Research Misconduct Policy passed by the Faculty on January 23, 2014.

or research funded by a governmental authority, allegations of Research Misconduct committed by students will be addressed in accordance with provisions of the Student Code of Conduct dealing with Student Academic Dishonesty.

Definitions

Research Activities are proposing, conducting, processing, reviewing, or reporting the results of research or other scholarly inquiry.

Research Misconduct is Fabrication, Falsification, or Plagiarism in Research Activities or Deliberate Interference. It does not include honest error or differences of opinion.

- *Fabrication* is making up data or results and recording or reporting them.
- *Falsification* is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the Research Record.
- *Research Record* is the record of data or results that embody the facts resulting from scientific or other scholarly inquiry and includes, but is not limited to, research proposals, laboratory records (both physical and electronic), progress reports, abstracts, theses, oral presentations, internal reports, and journal articles.
- *Plagiarism* is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- *Deliberate Interference* is intentionally causing material harm to the research or scholarly work of others, and may include damaging or destroying the property of others, such as research equipment or supplies; disrupting active experiments; or altering or deleting products of research, including data and program codes.

Complainant is an individual who reports allegations of Research Misconduct.

Respondent is an individual who is the subject of allegations of Research Misconduct at WPI.

WPI Advisor is a WPI community member of the Respondent's choice, not the Respondent's family member or subordinate, who may participate and provide support to a Respondent in any meeting in connection with a review under this Policy. The role of the WPI Advisor is to provide support and guidance, not to be a substitute for the Respondent, who is the primary participant.

Preponderance of the Evidence is proof by information that, compared with the information opposing it, leads to a conclusion that the fact at issue is more probably true than not.

Impartial and Unbiased Persons are those who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry or investigation.

Duty to Report

Each member of the WPI community has a responsibility to report any conduct that they believe in good faith to be Research Misconduct at WPI. There may be circumstances in which, prior to taking that action, it would be appropriate for the Complainant to discuss any concerns with the prospective Respondent. Consultation and guidance is always available from the Vice Provost for Research or from senior academic officers (e.g. Deans, Department Heads, laboratory Directors), who themselves are bound by a Duty to Report.

All allegations of Research Misconduct, wherever initially received, must be conveyed promptly to the Vice Provost for Research. A supervisor who becomes aware of possible Research Misconduct, either from the supervisor's own observations or because of reports, has a responsibility to bring allegations of Research Misconduct directly to the Vice Provost for Research in order to ensure that proper procedures are followed.

If a supervisor feels that the Vice Provost for Research is not the appropriate official to whom to report allegations in a particular case, the allegations may be reported to the Provost. If a Complainant reports allegations to a supervisor and the supervisor fails to forward the allegations to the Office of the Vice Provost for Research or the Provost, then the Complainant should report the allegations to the Vice Provost for Research or the Provost directly.

Standard of Proof for a Finding of Research Misconduct

In order to enter a finding of Research Misconduct, WPI must determine by a preponderance of the evidence that:

- the Respondent engaged in Research Misconduct; and
- the Research Misconduct marked a significant departure from accepted practices of the relevant academic community; and
- the Respondent committed the Research Misconduct intentionally, knowingly, or recklessly.

Assessment and Review Process

Initial Assessment

Upon receipt of an allegation of Research Misconduct, within 5 business days the Vice Provost for Research will conduct an initial assessment of the allegations, to determine whether the alleged misconduct falls within the scope of this Policy. The

Vice Provost for Research may appoint an impartial fact finder with appropriate expertise to conduct this initial assessment and to make a recommendation to the Vice Provost for Research.

If the Vice Provost for Research determines that the allegations do not fall within this Policy, the Vice Provost for Research will either close the matter or refer it to another office at WPI with authority or responsibility over the matter.

If the Vice Provost for Research determines that the allegations do fall within this Policy, the Vice Provost for Research will initiate a two-stage review process under this Policy. The decision of the Vice Provost for Research to initiate or not to initiate a review is final.

Subsequent Two-Stage Review Process

- The first stage of review (the "Inquiry") under this Policy consists of preliminary fact-finding stage to decide whether to recommend to the Provost a further, formal review. The Inquiry should begin within 30 days after the Vice Provost for Research's initial assessment of the allegations. Once initiated, the Inquiry normally must be completed within 60 calendar days.
- If after the Inquiry, there is a decision by the Provost to initiate a further review, WPI will proceed to a second stage of review (the "Investigation"), which entails a formal review leading to a recommendation to the Provost whether or not WPI should make a finding of Research Misconduct and, if so, what the appropriate sanction should be. If a formal investigation is warranted, it shall begin within 21 days of the conclusion of the Inquiry, and it is normally to be completed within 120 days once it has begun.

Interim Institutional Actions

At any point in the process, the Vice Provost for Research may institute appropriate interim institutional actions to protect the community, public health, federal or other governmental funds and equipment, and the integrity of the Public Health Services (PHS) supported research process. For such actions, the Vice Provost for Research should state the basis for such decision in a document maintained with records relating to the case and provided to the Respondent.

First Stage of Review: Inquiry

The Inquiry consists of information gathering and fact-finding to determine as a preliminary matter whether an allegation of Research Misconduct warrants further, formal review. The Inquiry should begin within 30 days, if called for, after the Vice Provost for Research's initial assessment of the allegations.

The Vice Provost for Research will appoint three impartial fact finders to conduct the

Inquiry. If necessary, fact finders may be found from outside the WPI community. At this time, the Vice Provost for Research will provide written notice to the Respondent that an Inquiry has been initiated. The written notice ordinarily summarizes the allegations under review and advises the Respondent of the right to select a WPI Advisor to support the Respondent in the course of the proceedings. The Respondent will be given an opportunity to respond, in writing, to the Vice Provost for Research within 10 days following the Respondent's receipt of the allegation. The Respondent may, in lieu of a WPI Advisor, have legal counsel for assistance or support during the Inquiry stage of the process.

Either before or when the Respondent is notified, the Office of the Vice Provost for Research will promptly take all reasonable and practical steps to obtain custody of all the records and other evidence needed to conduct proceedings under this Policy and will sequester them in a secure manner. The Office of the Vice Provost for Research will provide Respondent with reasonable, supervised access to the records or, when appropriate, copies of the records. The Office of the Vice Provost for Research may seek additional records or other materials that may be potentially relevant during the course of the review.

Oversight for the Inquiry process will be provided by the Office of the Vice Provost for Research. The Inquiry should, to the extent reasonably possible, be limited to a review of documentary materials, including the Respondent's written response to the allegations. The fact that an Inquiry has been initiated should be made known only to the Respondent and other persons with a need to know.

At the conclusion of the Inquiry, the Inquiry Committee will prepare a draft written report summarizing the process and information reviewed and recommending whether to proceed with an Investigation. The draft Inquiry report should identify the name and position of the Respondent, a description of the allegations, the PHS support (if any), including the specific grant or contract, and should explain why the allegations do or do not warrant an investigation.

A recommendation to proceed should be based on whether there are reasonable grounds to conclude that the allegations may have substance and that Research Misconduct may have occurred based on the information reviewed. In either case, the Respondent will be given a copy of the draft Inquiry report and an opportunity to respond within a reasonable time period set by the Vice Provost for Research. Such response will be reviewed by the Inquiry Committee before finalizing the Inquiry report. In addition, any comments provided by the Respondent will be included as an appendix to the final Inquiry report. The final Inquiry report should state the number (but not the names) of the members of the Inquiry Committee who voted that an allegation warrants further review. The final Inquiry report will be forwarded to the Vice Provost for Research.

The Vice Provost for Research will review the Inquiry report and may ask the fact-

finding committee for additional review or explanation. If this additional review by the fact-finding committee results in revisions to the report, the Respondent will have a further opportunity to submit written comments before any supplemental final Inquiry report is resubmitted to the Vice Provost for Research.

The Vice Provost for Research will submit a final Inquiry report to the Provost along with a written recommendation whether or not to proceed with an Investigation. The Provost will then decide whether or not to proceed with an Investigation. Before the Provost decides to proceed with an investigation, the Provost shall consult with the fact-finding committee and with the Secretary of the Faculty. If a majority of the Inquiry Committee voted not to proceed with an Investigation, but the Provost decides that there should be an Investigation, then the Provost should state the basis for such decision in a document maintained with records relating to the Investigation.

Following these consultations, the Vice Provost for Research will send written notice to the Respondent of the Provost's decision whether or not to proceed with an Investigation. The Complainant, if known, will be informed whether an Investigation will or will not be initiated.

The Inquiry, including preparation of the final Inquiry Report and the decision of the Provost on whether an investigation is warranted, must be completed within 60 calendar days of initiation of the Inquiry, unless the Vice Provost for Research determines that circumstances clearly warrant a longer period. If the Vice Provost for Research approves an extension, the inquiry record must include documentation of the reasons for exceeding the 60 day period.

Within 30 days of a finding by the Provost that an investigation is warranted, the Provost shall provide ORI (and any other funding agency or authority required to be notified) with a copy of the Inquiry report, regardless of the vote of the Inquiry Committee.

Second Stage of Review: Investigation

If a formal investigation is warranted, it shall begin within 21 days of the conclusion of the Inquiry. The Vice Provost for Research initiates the Investigation by requesting the Secretary of the Faculty (SOF) and the Chair of the Faculty Review Committee (FRC) to appoint a five member investigation committee ("the Committee") to be selected from elected FRC members who have the expertise to evaluate the particular issues and evidence involved in the alleged misconduct. The faculty members must be unbiased toward the Complainant, Respondent and witnesses. (If there are not five unbiased elected FRC members with the required expertise, then the SOF and FRC chair will appoint the required number of qualified faculty from outside the FRC. If the Respondent or Complainant is either the SOF or FRC Chair, then the other will appoint the Committee.) The Committee shall elect its own Chair who shall be responsible for determining the manner in which the witness interviews and

other procedures will be conducted by the Committee.

The Vice Provost for Research will provide written notice to the Respondent that the Investigation has been initiated. The written notice will:

- summarize the allegations;
- advise the Respondent of the Respondent's right to the support of a WPI Advisor or legal counsel in the Investigation; and
- identify the members of the investigation Committee.

The Respondent may challenge the composition of the Committee, if s/he believes that one or more of its members is biased. The remaining members of the Committee shall determine whether bias exists and otherwise act to ensure its own credibility. The Committee shall request that the Chair of the FRC and the Secretary of the Faculty replace a committee member when appropriate.

The Investigation consists of a formal examination and evaluation of all relevant information to determine if Research Misconduct occurred. The Investigation will typically include an examination of all relevant documentation and interviews of individuals who may have relevant information about the research in question. The Investigation Committee may review the Inquiry findings but is not bound by the findings of the Inquiry.

Oversight of the Investigation and specific guidance as it proceeds will be provided by the Office of the Vice Provost for Research.

As the Investigation proceeds, the Office of the Vice Provost for Research should provide the Respondent with reasonable updates and opportunities to respond to information obtained in the investigation.

Throughout the Committee Investigation process, the Respondent is entitled to the presumption of innocence, and:

- shall have the opportunity to respond to allegations of Research Misconduct;
- shall have the opportunity to present a defense;
- shall have the opportunity to offer witnesses to be interviewed by the Committee; and
- may, in lieu of a WPI Advisor, have legal counsel for assistance or support.

Once the Investigation is completed, the Committee will prepare a draft written report offering a judgment based on the evidence as to whether the Respondent has committed Research Misconduct, and if so, its level of severity. If the Committee determines Respondent has committed Research Misconduct, it shall also recommend disciplinary action. The report should summarize the facts and analysis that support those conclusions, addressing the merits of any reasonable explanation or defense provided by the Respondent, and including the numerical vote of the Committee without identifying individual votes.

The Respondent will be provided with a copy of the draft Investigation report with an opportunity to respond within a reasonable time period set by the Vice Provost for Research. Such response will be considered by the Committee before the Committee takes a final vote, makes its final recommendation for disciplinary action, and issues its final Investigation report. In addition, any comments provided by the Respondent will be included as an appendix to the final Investigation report. The final Investigation report will be forwarded to the Vice Provost for Research.

The Vice Provost for Research will review the Investigation report and may ask the Investigation Committee for additional review or explanation. If this results in revisions to the report, the Respondent will have a further opportunity to submit written comments before any supplemental final Investigation report is resubmitted to the Vice Provost for Research.

The Vice Provost for Research will submit the final Investigation report to the Provost and the Respondent along with a written recommendation whether or not WPI should make a finding of Research Misconduct. If the Vice Provost for Research recommends a finding of Research Misconduct, he or she will also recommend disciplinary actions to be taken. Before the Provost makes a finding of Research Misconduct, the Provost shall consult with the Committee and with the Secretary of the Faculty.

If the Provost finds that Research Misconduct has been committed, the Provost shall decide on appropriate disciplinary actions, which may include, but are not limited to, formal reprimand, suspension, expulsion, revocation of degree, change in WPI status, revocation of tenure and termination of employment. If a majority of the Investigation Committee voted that the Respondent did not commit Research Misconduct but the Provost decides that the Respondent did, or if the Provost decides on a disciplinary action that is different than the action recommended by the Investigation Committee, then the Provost should state the basis for such decisions in a document maintained with records relating to the investigation.

The Vice Provost for Research will provide written notice of the Provost's decision to the Respondent. The Complainant, if known, will be informed whether there was a finding of Research Misconduct. However, WPI officials will not notify the Complainant of any disciplinary action taken. The Vice Provost for Research will send the final report to ORI (and any other funding agency or authority required to be notified), regardless of the vote or the disciplinary action recommended by the Investigation Committee.

The Investigation is to be completed within 120 days of beginning it, including conducting the Investigation, preparing the report of findings, providing the draft report for comment and sending the final report to ORI. However, if the Vice Provost for Research determines that the Investigation will not be completed within this 120-day period, the Vice Provost for Research will submit to ORI a written request for

an extension, setting forth the reasons for the delay.

Appeals

The Respondent may appeal any finding of Research Misconduct, and any sanction other than termination of employment or revocation of tenure to the President within two weeks after the Provost notifies the Respondent of the imposition of the sanction. The grounds of any appeal of a finding of Research Misconduct shall be limited to two instances:

- a. when there are alleged procedural violations that are substantial and material and which would have changed the outcome of the case; and
- b. when the Investigation Committee voted that the Respondent did not commit Research Misconduct but the Provost finds that Research Misconduct has occurred.

Before the President decides the appeal, the President shall consult with the Provost and the Secretary of the Faculty. The President should issue a decision within thirty days of receiving the appeal. The President's decision shall be final.

If the Provost imposes a sanction of termination of employment or revocation of tenure, the Respondent may appeal the sanction to the Board of Trustees within two weeks after the Provost notifies the Respondent of the imposition of the sanction (or within two weeks after the President decides an appeal of a finding of Research Misconduct based on grounds a) or b) described above. If the Respondent appeals to the Board, the Chair of the Board, in collaboration with the Secretary of the Faculty, shall appoint a committee of five faculty members who will make a recommendation regarding the sanction imposed by the Provost. The faculty committee will have access to all written reports and materials relevant to the case. The faculty committee will summarize the basis for its recommendation in a written report to the Board Chair within thirty days. The Board Chair should issue a written decision within thirty days of receiving the faculty committee's report. The Board Chair's decision shall be final.

Other than interim institutional actions which may already be in effect, any finding of Research Misconduct, and the imposition of any sanction imposed by the Provost, will be stayed while an appeal is pending before the President or the Board of Trustees.

Special Measures

The Provost has the authority to mitigate the effects of the misconduct, including withdrawing WPI's name and sponsorship from pending abstracts and papers, notifying individuals known to have relied upon research that was affected by the misconduct, and taking formal steps to correct or retract publications and the Re-

search Record.

If there is no finding of Research Misconduct, all reasonable and practical efforts if requested and as appropriate, should be made to protect and restore the reputation of the Respondent. All reasonable and practical efforts should be made to protect or restore the position and reputation of any complainant, witness or committee member and to counter potential or actual retaliation against these individuals.

Provisions Common to Misconduct Review Process

No Conflicts of Interest

To the maximum extent practicable, steps should be taken to ensure an impartial and unbiased process, including participation of persons (including fact-finders and investigators) who: (1) have sufficient expertise to carry out a thorough evaluation of the relevant information; and (2) have no real or perceived unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry or investigation that could affect their ability to be objective reviewers.

In cases where the Provost has a conflict of interest, the President shall serve in the Provost's role. In cases where the Vice Provost for Research has a conflict of interest, the Provost will serve in that role. In cases where allegations of Research Misconduct have been brought against the Vice Provost for Research, the Provost or the President, then the process outlined in this policy will be adjusted accordingly to avoid any conflicts of interest. The President shall resolve any questions of bias or conflict of interest. The President's decision on such questions shall be final.

Confidentiality

Proceedings concerning Research Misconduct often raise difficult issues for those making the allegations, for those who are the subject of the allegations, and for those responsible for reviewing the allegations. Review of the allegations should therefore be conducted promptly and with care and sensitivity.

All participants in the review process under this Policy are expected to maintain confidentiality to protect the privacy of all involved, to the extent possible and as permitted by law. Participants should keep in mind the effect that allegations can have on reputations, even if the allegations are not sustained by the proceedings. Thus, only those people with a need to know should be informed of a complaint.

No Retaliation

No one shall be retaliated against for participating in a review of a misconduct allegation in good faith as a Complainant, a witness, a factfinder, or investigator or in any other capacity. Reasonable efforts should be made to counter potential or actual

retaliation against these complainants, witnesses and committee members. Retaliation is typically a significant adverse action taken against an individual because the individual participated in a review process. Retaliation is a serious offense. A complaint of retaliation may be investigated and may lead to disciplinary action, up to and including terminating the individual's relationship with WPI.

False Accusations or Testimony

A false or unfounded report of misconduct determined by the Institute to have been made in bad faith and dishonesty in the context of an Inquiry or Investigation are serious offenses. Such offenses may themselves be investigated and may lead to disciplinary action, up to and including termination of employment or other affiliation with WPI.

Duty to Cooperate and Preserve and Produce Information

All members of the WPI community must cooperate with efforts to review allegations of Research Misconduct.

While the destruction or absence of, or failure to provide upon request, information relating to allegations of Research Misconduct is not misconduct per se, such failure may be considered to be evidence supporting a finding of Research Misconduct when the evidence shows the Respondent had relevant information and intentionally, knowingly, or recklessly destroyed it; had the opportunity to maintain the information but did not do so; or maintained the information and failed to produce it in a timely manner in connection with a Research Misconduct proceeding, with the result that the Respondent significantly departed from accepted practices of the relevant academic community.

Record Keeping

The Office of the Vice Provost for Research is the custodian of records relating to proceedings under this Policy.

Notice to Sponsors

To the extent a sponsor requires notification from WPI that research it funded has become the subject of proceedings under this Policy, the Vice Provost for Research will supply that notification. In addition, the Vice Provost for Research will give applicable sponsors written notice of any decision of the Provost entering a finding of Research Misconduct at WPI.

III. WPI Sexual Misconduct Policy⁶

(Approved by the Faculty, *May 8, 2018*)

(Approved by the Board of Trustees, *May 11, 2018*)

Note! This policy is *not* active. WPI is under the Interim Title IX & Sexual Misconduct Policy (updated *February 23, 2023*).

Introduction: WPI's Commitment to a Campus Free from Sexual Misconduct

WPI is committed to maintaining a learning and working environment that is free from sexual misconduct, remedying the effects of such misconduct when it occurs, and preventing its re-occurrence. The prohibition of sexual misconduct applies to everyone at WPI, including all faculty members (including academic administrators), staff members (including non-academic administrators), students, trustees, alumni and all visitors to the WPI campus.⁷

Application of this Policy

This Policy applies whenever sexual misconduct occurs: a) on WPI property; or b) off WPI property if: i) the sexual misconduct was in connection with a WPI or WPI-recognized program or activity; or ii) the sexual misconduct may have the effect of creating a hostile environment for a member of the WPI community.

Definitions

a. Sexual Misconduct

"Sexual misconduct" is prohibited under this Policy. Sexual misconduct is a broad term that includes sexual harassment, sexual assault, sexual exploitation, gender motivated stalking, relationship abuse, engaging in certain inappropriate relationships, and retaliation against a person reporting sexual misconduct or participating in any investigation or proceeding related to this policy, all as defined below. This definition of sexual misconduct includes sexual assault (e.g. rape, fondling, incest, or statutory rape) as defined by the Clery Act, a federal law on campus safety and security. Sexual misconduct can occur between individuals who know each other, individuals who do not know each other, individuals who have an established relationship, and individuals who have previously engaged in consensual sexual activity.

⁶This Policy supersedes all WPI policies dealing with Sexual Misconduct including the "Sexual Misconduct Policy" in the Student Responsibilities and Code of Conduct, the "Sexual Harassment Policy" in the WPI Employee Benefits and Policies Manual, and the "Sexual Harassment Policy" in the Faculty Handbook.

⁷Probationary staff, part-time employees, visitors, and employees subject to a letter of appointment or a collective bargaining agreement may be subject to a different disciplinary process in accordance with applicable policies and terms of their appointment.

Sexual misconduct can be committed by persons of any gender identity, and it can occur between people of the same or different sex. Use of alcohol or other drugs will not excuse any behavior that violates this policy.

1. *Sexual Harassment*

Sexual Harassment is unwelcome conduct of a sexual nature, including sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature, when:

Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing;

Submission to or rejection of such conduct by an individual is used as the basis for significant employment decisions (such as advancement, performance evaluation, or work schedule) or academic decisions (such as grading or letters of recommendation) affecting that individual;

The conduct is sufficiently severe or pervasive that a reasonable person would consider it intimidating, hostile, or abusive and it adversely affects an individual's educational, work, or living environment.

A partial list of examples of conduct that might be deemed to constitute sexual harassment if sufficiently severe or pervasive include:

Examples of verbal sexual harassment may include unwelcome conduct such as sexual flirtation, advances or propositions or requests for sexual activity or dates; asking about someone else's sexual activities, fantasies, preferences, or history; discussing one's own sexual activities, fantasies, preferences, or history; verbal abuse of a sexual nature; suggestive comments; sexually explicit jokes; turning discussions at work or in the academic environment to sexual topics.

Examples of nonverbal sexual harassment may include unwelcome conduct such as displaying sexual objects, pictures, or other images; invading a person's personal body space, such as standing closer than appropriate or necessary or hovering; displaying or wearing objects or items of clothing which express sexually offensive content; making sexual gestures with hands or body movements; looking at a person in a sexually suggestive or intimidating manner; or delivering unwanted letters, gifts, or other items of a sexual nature.

2. *Sexual Assault*

Sexual assault is any intentional sexual contact or activity that occurs without the consent of any individual involved.

3. *Sexual Exploitation*

Sexual Exploitation is purposefully taking sexual advantage of another person without consent. Examples of sexual exploitation include:

- Sexual voyeurism, such as watching a person undressing, using the bathroom or engaged in sexual activity without the consent of the person observed.
- Taking pictures or video or an audio recording of another person engaging in sexual activity or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity or disseminating sexual pictures without the photographed person's consent).
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of the infection.
- Administering alcohol or drugs (such as "date rape" drugs) to another person without their knowledge or consent.

4. *Gender-motivated Stalking*

Stalking is defined as a pattern of actions or course of conduct directed at a specific person over time that would cause a reasonable person to feel fear. This policy covers those instances where the stalking of a person is motivated by the person's real or perceived gender, sex, or sexual orientation. For the purposes of this definition, "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

Stalking can take many forms. Examples include, but are not limited to, two or more instances of the following conduct (that also meet the definition of stalking above): following a person; appearing at a person's home, class or work; continuing to contact a person after receiving requests not to; leaving written messages, objects, or unwanted gifts; vandalizing a person's property; photographing a person; and other threatening, intimidating, or intrusive conduct. Stalking may also involve the use of electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices (often referred to as cyber-stalking). Such conduct may include, but is not limited to, non-consensual communication, telephone calls, voice messages, emails, texts, letters, notes, gifts, or any other communication that are repeated and undesired.

5. *Relationship Abuse*

Relationship abuse is defined as behavior that serves to exercise control and power in an intimate relationship. The behaviors can be physical, sexual, psychological, verbal and/or emotional. Relationship abuse can occur between current or former intimate partners who have dated, lived together, have a child together, currently

reside together on or off campus, or who have otherwise connected through a past or existing relationship. It can occur in opposite-sex and same-sex relationships.

Examples of relationship abuse include but are not limited to: attempting to cause or causing bodily injury by hitting, slapping, punching, hair pulling, kicking, sexual assault and/or other forms of unwanted physical contact that cause harm; knowingly restricting the movements of another person; isolating or confining a person for a period of time; controlling or monitoring behavior; being verbally and/or emotionally abusive; and exhibiting extreme possessiveness or jealousy.

6. *Sexual or Romantic Relationships in the Workplace or Academic Environment*

With undergraduate students. Except in rare and unusual circumstances involving preexisting relationships, sexual and romantic relationships between WPI employees³ and undergraduate students are inappropriate and are prohibited.

With graduate students. Implicit in the area of professionalism is the recognition by those in positions of authority that in relationships with graduate students there is always an element of power and consent to a romantic relationship that may not be valid where either person in the relationship has direct or indirect power or control over any aspect of the other person's academic or employment environment. Therefore, sexual and romantic relationships between employees and graduate students are prohibited where there is a supervisory relationship between the employee and the graduate student.

With supervisees. It is incumbent upon members of the WPI community to refrain from abusing, and seeming to abuse, the power with which they are entrusted, because relationships between supervisors (including TA's and RA's) and supervisees are fundamentally asymmetric in nature, may be the product of subtle or not-so-subtle coercion, or may lead to favoritism for the subordinate. If a student employee (i.e. TA, RA, PLA, undergraduate student assistant, or work-study student) is assigned to a course and has a preexisting sexual or romantic relationship with one of the enrolled students, he or she is obligated to inform the instructor of the course so that alternative arrangements can be made.

7. *Retaliation*

Retaliation means any materially adverse action or threat taken or made against an individual, including through third parties and/or legal counsel, for making a report of misconduct or participating in any investigation or proceeding related to this policy. Retaliation includes threatening, intimidating, harassing, or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy, such as seeking services, receiving interim protective measures and accommodations, and/or reporting misconduct. Retaliation includes maliciously and purposefully interfering with, threatening, or damaging the academic and/or professional career of another individual before, during or after the investigation and

resolution of a report of misconduct under this policy in response to and/or on account of the report of misconduct. This provision only applies to reports made or information provided in good faith, even if the facts alleged in the report are determined not to be accurate.

b. Consent

1. *What is Consent?*

Consent is the positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter. Consent must be an informed, deliberate and voluntary decision to engage in mutually acceptable sexual activity. It is the responsibility of the person who initiates sexual activity to make sure consent is received from any other person(s) involved. WPI recognizes that there are a wide variety of sexual interactions, that there is no single way to communicate consent, and that context matters. At all times, each party is free to choose where, when, and how they participate in sexual activity. Accordingly, when evaluating whether sexual activity was consensual, WPI will consider the entirety of the sexual interaction and the relevant circumstances.

Consent is active not passive. Individuals should be able to clearly articulate why and how they believed they received consent and what they considered to be indications of consent as they engaged in sexual activity. Consent must be received for each sexual act. It is important to remember:

- Consent to one sexual act does not constitute or imply consent to another act.
- Previous consent does not imply consent to future sexual activity.
- Consent cannot be assumed based on the parties' relationship or sexual history.
- Consent can be withdrawn at any time before or during sexual activity.

2. *What is Not Consent?*

Consent may not be inferred from silence, passivity or a lack of objection. The absence of a negative response, such as silence or a failure to resist, does not equal consent. Some behaviors and comments that do not indicate affirmative consent include but are not limited to:

- "I don't know"
- "Maybe"
- A head shake
- Lack of objection
- Not fighting back
- A verbal "no" that may sound indecisive or insincere

3. *Consent Can Never Be Given By:*

- *Someone who is incapacitated.* It is a violation of this Policy to engage in

sexual activity with a person who an individual knew or should have known was incapacitated. A person can be incapacitated through the use of drugs, alcohol or any other intoxicating substance, medications or when they are unconscious, asleep or otherwise unaware that sexual activity is occurring.

- *Someone under the legal age of consent.* The legal age of consent in the Commonwealth of Massachusetts is sixteen (16).
- *Someone who is mentally disabled or cognitively impaired.* It is a violation of this Policy to engage in sexual activity with a person whose mental disability or cognitive impairment renders them incapable of giving consent and the disability/impairment is known or should have been known to the non-disabled sexual partner.

4. *Consent and the Use of Alcohol or Drugs*

The use of alcohol or drugs does not relieve an individual of the obligation to obtain consent before initiating and/or engaging in sexual activity.

Obligations of Employees to Report Sexual Misconduct

a. Responsible Employees

1. All employees (except Confidential Resource Advisors; identified below) who learn of a violation of this Policy involving students are required to immediately report such information to the Title IX Coordinator or a Deputy Coordinator.
2. All supervisors (except Confidential Resource Advisors) who learn of a violation of this Policy are required to immediately report such information to the Title IX Coordinator or Deputy Coordinator.
3. Employees will receive regular training in their duty to report sexual misconduct.

b. Confidential Resource Advisors

The following employees, who will receive regular training, may serve as confidential advisors for students and are not required to report violations of this Policy:

1. Employees of Student Health Services.
2. Employees of the Student Development and Counseling Center.
3. A chaplain or religious advisor working at WPI.
4. WPI Ombudspersons and any other individual with appropriate training who is specifically appointed by WPI for the purpose of serving as a confidential resource advisor.

Resources Available in Cases of Sexual Misconduct

Anyone who has experienced sexual misconduct or is aware of someone who may have been the victim of sexual misconduct is strongly encouraged to report such misconduct and to take advantage of resources available on campus and in the community.

a. Reporting Sexual Misconduct Immediately After a Sexual Assault If you or someone you know has recently been assaulted:

- Go to a safe place as soon as you can.
- In an emergency, call campus police at 508-831-5555, or 5555 from a campus phone or via a blue light phone on campus. If it is not an emergency, then call the WPI Police Department at 508-831-5433.
- *Seek medical attention.* The WPI Student Development and Counseling Center offers counseling appointments to all students. The Emergency Room at UMass Medical Center offers services and support for people who have experienced sexual assault. WPI Police can provide students with an escort to the hospital.
- Try to preserve all physical evidence.
- If you are the victim of a sexual assault, try not to wash your face or hands, bathe, brush your teeth, drink or eat, douche, or change clothes if you can avoid it. If you do change your clothes, put all clothing you were wearing at the time of the assault in individual paper bags (not plastic). It is important to preserve as much evidence as possible should you later decide to press criminal charges.

b. Reporting Sexual Misconduct to the Title IX Coordinator and or Deputy Title IX Coordinators

The Title IX Coordinator plays an integral role in carrying out the University's commitment to provide a positive learning, teaching and working environment free from sexual misconduct and discrimination. Any student, faculty member, or staff member who has concerns about sexual misconduct is encouraged to seek the assistance of those listed below. They will provide information on resources for assistance and options to address concerns. Those options may vary depending on the nature of the situation, whether the individuals involved are students, faculty, or staff members, the wishes of the individuals involved regarding confidentiality, and whether the individuals involved prefer to proceed formally or informally.

During business hours, anyone who has experienced sexual misconduct or is aware of someone who may have been the victim of sexual misconduct may contact the Title IX Coordinator or any Deputy Title IX Coordinator. Contact information for the

Title IX Coordinator and Deputy Coordinators can be found [HERE](#).

c. Reporting Sexual Misconduct Anonymously

If you are concerned about a visitor, student, faculty, or staff member who may have experienced a Title IX violation or may have committed a Title IX violation, you may report the situation anonymously by clicking [HERE](#). In that case, you will not be contacted and will remain anonymous. If you wish, you may include your contact information, so we may contact you if we have additional questions.

NOTE: This is not a system to use for emergencies. In case of an emergency, regardless of time of day, in which someone's well-being is in jeopardy, please contact Campus Police at +1-508-831-5555.

Initial Steps and Investigation of Reports of Sexual Misconduct

a. Initial Steps

All reports of alleged sexual misconduct will be referred to the Title IX Coordinator. Within five business days of receiving such a report, the Title IX Coordinator or their designee⁸ will take several initial steps. These initial steps will include, but are not limited to, the following:

1. Encouraging the person who has allegedly experienced sexual misconduct (the "Complainant")⁹ to meet with the Title IX Coordinator to discuss the nature and circumstances of the reported conduct. If the person who has reported the alleged sexual misconduct is not the person who has experienced the sexual misconduct, then the person who has made the report should have the opportunity to meet with the Title IX Coordinator to discuss the nature and circumstances of the reported conduct.
2. Notifying the Complainant about their rights and options under this Sexual Misconduct Policy, including the right to report and the right to decline to report the matter to campus police and/or to local law enforcement, the options for reporting to WPI, and the availability of medical treatment, counseling, and other resources, both on and off campus.
3. Meeting with the person who has allegedly committed sexual misconduct (the "Respondent") to explain the allegation and to get their version of events, and providing that person with the option and adequate opportunity to provide a written response to the allegations. The Respondent should be notified about their rights under this Sexual Misconduct Policy, and about the availability of

⁸As necessary and appropriate, the Title IX Coordinator may designate a Deputy Title IX Coordinator or another qualified person to assume the Title IX Coordinator's responsibilities under this Policy.

⁹Throughout this Policy, the term "Complainant" refers to the person who experienced sexual misconduct regardless of who reported the misconduct.

counseling and other on- and off-campus resources.

4. If the Complainant requests that the process not move forward, the Title IX Coordinator will weigh that request against WPI's obligation to address any risk of harm to the Complainant or other individuals in the community, and the nature of the incident or conduct at issue. If, following the receipt of an alleged violation of this Policy, the person who allegedly experienced sexual misconduct declines to participate in the investigation or resolution process or requests that the process not proceed, the Title IX Coordinator may decide to close the investigation or choose to continue the process without the person's participation.
5. Assessing the reported conduct to determine whether the circumstances warrant appropriate interim measures including, but not limited to, no-contact orders, interim suspension of a student, deadline extensions, reassignment of housing, or placing an employee on paid leave prior to completing an investigation. Failure to comply with an interim measure may lead to additional disciplinary action.
6. Assessing whether the behavior alleged constitutes a violation of this Policy and is sufficiently credible and specific so that potential evidence of such misconduct may be identified. If the Title IX Coordinator determines that the reported conduct would not trigger this Policy, they will advise both the Complainant and the Respondent in writing, and based on the information gathered may also refer the reported conduct to the appropriate administrator or department for handling consistent with any other applicable policy. If the Title IX Coordinator determines that the reported conduct does fall under this Policy, then the case will proceed to the Investigation Phase, as described below.

b. The Investigation Phase

1. *Notice of an Investigation:* If it is determined that an investigation is required, the Title IX Coordinator will send a written notice to the Complainant (or "party") and to the Respondent (or "party") (collectively, the "parties"). The notice will include a sufficiently detailed description of the allegations, the portions of this Policy that are alleged to have been violated, and any interim measures in place about which either party should be made aware. This written notice does not constitute a finding or a determination of responsibility.

The notice will also state that if either party requires any kind of accommodation due to disability pursuant to the ADA or Section 504 of the Rehabilitation Act, it is the responsibility of that party to make the Title IX Coordinator aware of the need for an accommodation. The Title IX Coordinator will work with each of the parties and as applicable, Office of Disability Services (for students) and/or the 504 Coordinator (for employees) to ensure that appropriate

accommodations are available.

2. *Information about Advisors:* Each party may have a single advisor present during any investigative proceeding, including any related meeting, interview, or hearing. Any person may serve as an advisor, including an attorney. Each party must provide the name and contact information of their advisor to the Title IX Coordinator within five business days of receiving notice of an investigation. Advisors may communicate with their advisee but may not speak or otherwise communicate on behalf of a party. Advisors are subject to the same confidentiality obligations applicable to others in attendance.
3. *Designation of Role of the Investigator:* The Title IX Coordinator shall designate at least one unbiased, qualified investigator(s)¹⁰ to conduct a prompt, fair, and impartial investigation of the reported conduct and prepare a report of investigative findings (the "Investigative Report").¹¹ More than one investigator may be designated or the investigation may be conducted by the Title IX Coordinator. Investigator(s) need not be employees of WPI. The Title IX Coordinator will provide each of the parties with the name of the Investigator(s). As soon as possible, but no later than three (3) calendar days after delivery of the identity of the Investigator(s), the parties should inform the Title IX Coordinator (in writing) of any potential conflicts of interest about the selected Investigator(s). The Title IX Coordinator will consider the nature of the potential conflict and determine if a change is necessary.¹² The Title IX Coordinator's decision (in appropriate collaboration with the Secretary of the Faculty, as described in footnote 9) regarding any conflicts regarding the investigator(s) is final.
4. *Nature of the Investigation:* The investigation will include separate interviews with the Complainant (unless that person chooses not to participate in the investigation), the Respondent, and any witnesses whom the Investigator(s) believe will provide necessary and relevant information. The investigation will include the review of documentation or other items relevant to the reported conduct.
5. *Identification of Potential Witnesses and Documentation:* The parties will have

¹⁰The investigator shall be deemed "qualified" if the individual has received training in conducting Title IX investigations and has the requisite professional experience to conduct the investigation.

¹¹If the Respondent is a faculty member, the Title IX Coordinator will collaborate with the Secretary of the Faculty, in appointing the Investigator and in rendering a decision regarding any potential conflicts of interest involving the investigator.

¹²If the Respondent is a faculty member, the Title IX Coordinator will collaborate with the Secretary of the Faculty in making a decision about whether or not to disqualify an Investigator when the faculty member objects based on a potential conflict of interest. If a party raises an objection based on a potential conflict of interest involving the Title IX Coordinator serving as investigator, the role of the Title IX Coordinator in deciding about whether a conflict exists, and whether another investigator should be designated, will be assumed by the President.

the opportunity to provide the Investigator(s) with written notice of the names and contact information of potential witnesses with whom they would like the Investigator(s) to speak together with a brief explanation of how the persons, documents, and/or items are relevant to the reported conduct. The parties may also provide the Investigator(s) with any documentation or other items or questions they would like to be considered or posed to any witness or the other party. The Investigator(s) will exercise discretion in determining what information and questions to consider and which potential witnesses will be interviewed.

6. *Participation in the Investigation:* Participation in the process (by providing information to the Investigator(s), responding to questions from the Investigator(s), responding to information provided by a party or a witness, etc.) is not required, but the Investigation will proceed even if a party or witness declines to participate. During the investigation, the parties will have an equal opportunity to participate. If a party initially declines but then later in the Investigation decides to participate, the Investigator(s) may consider that timing when determining the credibility of the information/evidence offered and the weight to give that information/evidence.
7. *Investigation Prohibitions:* The Investigator(s) will not gather or consider information related to either party's sexual history with other persons except as relevant to the alleged violation, as determined in the sole discretion of the Investigator(s).
8. *Coordination with Law Enforcement:* The Investigator or designee may contact any law enforcement agency that is conducting its own investigation to inform them that a WPI investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to WPI in its investigation. At the request of law enforcement, the Investigator may delay the investigation temporarily while an external law enforcement agency is gathering evidence. The Investigator will generally resume the investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.

c. Optional Informal Resolution Procedure

At any time prior to convening a Judicial Panel (defined below), a Party may contact the Title IX Coordinator to request an informal resolution of a complaint. All parties and the Title IX Coordinator must agree to informal resolution for this option to be used. If the Title IX Coordinator determines that informal resolution is appropriate, the Title IX Coordinator will attempt to reach a resolution. The allegation will be deemed resolved when the parties expressly agree to an outcome that is acceptable to them and is approved by the Title IX Coordinator in consultation with other

appropriate administrators.

Procedures Following the Investigative Phase of a Title IX Investigation

a. The Investigative Report

After the Investigation Phase, the Investigator(s) will deliver an Investigative Report to the Title IX Coordinator. The Investigative Report should include a description of the alleged sexual misconduct, and a summary of the information presented during the Investigation Phase including a section where the Investigator(s) point out relevant consistencies or inconsistencies (if any) between different sources of information. The Investigative Report will not include a recommendation or a determination as to whether a party has violated the Sexual Misconduct Policy or what sanctions may be appropriate. These determinations will be made by the Judicial Panel, as described below.

b. Review by the Parties

Within five (5) business days of receiving the Investigative Report, the Title IX Coordinator will provide each party with a copy of the Investigative Report. Each party will have an opportunity to submit written comments to the Title IX Coordinator about the Investigative Report within five (5) business days of receiving the report. The time to submit written comments may be extended if the Title IX Coordinator concludes, in his/her sole discretion, that additional time is warranted. After reviewing the submissions, if any, from the parties, the Title IX Coordinator may determine that additional investigation is required, in which case the Investigator will supplement the Investigative Report and submit a final Investigative Report to the Title IX Coordinator. Any submissions made by either party, as well as any other documentation deemed relevant by the Investigator(s), will be attached to the Investigative Report. Within three (3) business days of receiving the final Investigative Report, the Title IX Coordinator will provide each party with a copy of the final Investigative Report.

c. Convening the Judicial Panel

The Title IX Coordinator will convene a five-member Judicial Panel (the "Judicial Panel") from a previously established pool of WPI faculty members elected by the Faculty to the Campus Hearing Board, staff members and students trained to decide sexual misconduct cases. The process for selecting staff members and students for the pool and the training process for all members of the pool is set by the Title IX Coordinator in collaboration with the Dean of Students Office, the Secretary of the Faculty, and the Human Resources Department. Students will only serve on panels where the Respondent is a student. If the Respondent is a student, the Judicial Panel should include a student member unless either party elects not to have a student

serve on the Judicial Panel. If the Respondent is a faculty member, the Judicial Panel should include at least three faculty members. If the Respondent is a staff member, the Judicial Panel should include at least three staff members. The Title IX Coordinator will provide the parties with the names of the persons assigned as the Judicial Panel members for their case. As soon as possible, but no later than three (3) business days after delivery of the identity of the assigned Judicial Panel members, the parties should inform the Title IX Coordinator in writing of any conflicts of interest regarding the members assigned to the Judicial Panel. If a conflict of interest is raised regarding any of the individuals assigned to the Judicial Panel, the Title IX Coordinator will consider the nature of the conflict and determine if different individuals should be assigned to the Judicial Panel. The Title IX Coordinator should consult with other WPI personnel (and shall collaborate with the Secretary of the Faculty in the case of any conflict of interest raised by a faculty member who is a party in the case or with respect to a proposed Judicial Panel member who is a faculty member) to assess any conflicts of interest. The Title IX Coordinator's decision (in appropriate collaboration with the Secretary of the Faculty) regarding any conflicts is final. The Title IX Coordinator will then submit the Investigative Report to the Judicial Panel members who will set a schedule for the Judicial Panel to convene a hearing or hearings.

d. Training Members of the Judicial Panel

Proper training is a vital aspect of the integrity of the judicial process. Therefore, all members of the Judicial Panel shall receive appropriate orientation and training, in keeping with applicable law and national best practices. Training and orientation shall be overseen and approved by the Title IX Coordinator.

e. Role and Responsibilities of the Judicial Panel

The Judicial Panel will obtain the Investigative Report from the Title IX Coordinator and convene to review the Investigative Report. The Judicial Panel, in its discretion, may request the Investigator(s) to attend a Judicial Panel meeting and answer questions. The Judicial Panel, in its discretion, may request the Investigator(s) to conduct additional investigation on specific points. The Judicial Panel must request the parties that participated in the investigation to appear and answer questions posed by the Judicial Panel. In addition, the Judicial Panel, in its discretion, may request to speak with any individual identified in the Investigative Report as well as any other individual with relevant information including individuals identified by the parties.

In general, a Complainant, witness, or Respondent who had the opportunity to participate during the Investigation but elected not to participate will not be permitted to participate verbally in the hearing or submit documents prior to the hearing. The Judicial Panel may permit a Complainant, witness, or Respondent who did not par-

ticipate in the Investigation to participate in the hearing upon a showing of good cause. Exceptions of this nature are expected to be rare. The possibility of a law enforcement investigation or criminal court proceedings will generally not be considered good cause for an exception. In general, documents that have not been submitted during the Investigation may not be presented to the Judicial Panel, although the Judicial Panel may permit documents to be submitted that were not part of the Investigation upon a showing of good cause. The Judicial Panel may, however, consider the fact that the documents were not provided during the Investigation when determining the credibility of the information/evidence offered and the weight to give that evidence.

The Judicial Panel will decide by majority vote whether the Respondent is responsible for violating the Sexual Misconduct Policy, whether sanctions are appropriate and, if so, what those sanctions shall be. The Judicial Panel should state the basis for such decisions in a document maintained with records relating to the case.

f. Standard of Proof

All findings and determinations of responsibility and sanctions will be made using a preponderance of the evidence standard. This standard requires the determination of whether it is more likely than not that a fact exists or a violation of the Sexual Misconduct Policy occurred.

g. Rights of the Parties

Throughout the process, the parties shall have:

- the presumption of innocence;
- the opportunity to present evidence and respond to allegations of sexual misconduct;
- the opportunity to present a defense; and
- the opportunity to offer witnesses to be interviewed by the Investigator and questioned by the Judicial Panel. Neither party will be permitted to question or cross-examine the other party during any hearing held by the Judicial Panel.

h. Sanctions

A finding of responsibility for Sexual Misconduct can result in a wide range of sanctions, depending on the circumstances of a particular case. When the Respondent is a student, examples of sanctions include community service, counseling, probation, suspension from residence hall, suspension from the university for one or more terms, expulsion from WPI. When the Respondent is a staff member or a faculty member, examples of sanctions include community service, counseling, probation, reassignment of duties, suspension with pay, suspension without pay, and termination of

employment at WPI. In deciding an appropriate sanction, the Judicial Panel shall consider the following factors:

- the nature and circumstances of the misconduct;
- the impact of the misconduct on the person who experienced Sexual Misconduct;
- the disciplinary history of the Respondent;
- any other mitigating or aggravating circumstances in order to reach a fair and appropriate resolution in each case.

Notification of Decision

Upon reaching a determination of responsibility by majority vote, the Judicial Panel will provide a written notification of its decision to the Title IX Coordinator. The written notification will consist of a statement of the allegations, the Judicial Panel's factual findings, a decision as to whether the Respondent committed Sexual Misconduct, any sanction, and the rationale for these decisions. This written document shall be maintained with records relating to the case. The Title IX Coordinator will forward to the parties simultaneously (i) the Judicial Panel's written notification described above; and (ii) the procedures for either party to appeal. The Title IX Coordinator will also inform other WPI officials as necessary and appropriate.

Appeals¹³

All appeals (in Section "a" below) and special appeals (in Section "b" below) should be delivered to the Title IX Coordinator who will transmit the appeal to the appropriate Appellate Officer.

a. Appeals Available to Either Party

Within seven (7) business days following the delivery of the notice of the Judicial Panel's determination of responsibility and sanction, either Party may appeal the decision and/or sanction to the appropriate Appellate Officer. If the Respondent is a student, the Appellate Officer is the Vice President for Student Affairs. If the Respondent is a faculty member, the Appellate Officer is the Provost (unless the Respondent is a full-time faculty member who the Judicial Panel has determined should be dismissed or suspended, in which case Section b. below applies). If the Respondent is a staff member, the Appellate Officer is the Vice President of Talent and Chief Diversity Officer.

If potential bias or conflict of interest is raised by either party regarding the Appellate Officer, the President will consider the nature of the potential bias or conflict (and, before deciding the matter, shall collaborate on the matter with the Secretary of

¹³All Appellate Officers, including the President and Board Chair, will receive Title IX training.

the Faculty in the case of any conflict of interest raised by a party who is a faculty member) to assess any conflicts of interest and determine if a different individual should be assigned the role of Appellate Officer. The Appellate Officer shall not be involved in the appeal until the President has resolved any questions of conflict of interest.

The party submitting the appeal must set forth in detail the grounds for appeal and must identify or attach all materials to be considered in the appeal process. The Title IX Coordinator will provide a copy of the appeal submitted by one party to the other party, and the other party may submit any additional materials that they wish to have considered in the appeal process within seven (7) business days of receipt of the appeal.

Within 14 business days after receiving an appeal (including additional materials, if any), the Appellate Officer will decide the merits of the appeal. In deciding the appeal, the Appellate Officer should review evidence considered by the Judicial Panel and may also consult with the Investigator(s), the Judicial Panel, or any other individual that the Appellate Officer deems appropriate.¹⁴ In a case where the Appellate Officer overturns a decision of the Judicial Panel, the Appellate Officer shall first consult with the Investigator(s), the Judicial Panel, and any other individual that the Appellate Officer deems appropriate.

Sanctions may be imposed, in full or in part, while an appeal is pending.

The decisions concerning responsibility and sanction, if any, and reasoning of the Appellate Officer(s) will be provided in a written document and will be final, except for circumstances that permit a Special Appeal, as described below. The written document shall be maintained with records relating to the case.

The Appellate Officer will forward the written document to the Title IX Coordinator, and the Title IX Coordinator will inform the parties simultaneously of the outcome of the appeal by forwarding to them the Appellate Officer's written document.

b. Special Appeals with respect to a Respondent who is a Full-Time Faculty Member Involving a Recommended Sanction of Dismissal or Suspension

The following appeal process applies in two cases:

1. As the sole method of appeal of a determination by a Judicial Panel that a Respondent who is a full-time faculty member should be dismissed or suspended; and

¹⁴Because the President may have a role in the appellate process involving full time faculty members facing suspension or dismissal, the appellate officer shall not communicate with the President regarding a full-time faculty member's appeal.

2. As an appeal of a determination by the Appellate Officer that a Respondent who is a full-time faculty member should be dismissed or suspended when that determination was made on appeal of a Judicial Panel's decision not to impose such sanctions on the Respondent.

Such appeals appeal will be subject to the following procedure:

The Respondent may appeal (both the finding of responsibility and the sanction) to the President within fourteen days after the Title IX Officer notifies the Respondent of the imposition of the sanction by the Judicial Panel or within fourteen days after the Appellate Officer imposes a sanction of suspension or dismissal on the first appeal. The appeal to the President should state why the Respondent believes the determination of responsibility and/or the sanctions were inappropriate. The appeal must also set forth in detail the grounds for appeal and must identify or attach all materials to be considered in the appeal process. The Title IX Coordinator will provide a copy of the appeal to the Complainant (if that person has not declined to participate in the investigative and judicial case). The Complainant may submit a response to the Title IX Coordinator within five days of receiving a copy of the appeal. The Title IX Coordinator will forward that response to the President.

Before the President decides the appeal, the President should consult with the previous Appellate Officer (if there were one) and the Secretary of the Faculty. The President should issue a decision within thirty days of receiving the appeal. If the decision will take longer than thirty days, the President should inform the parties of the additional time necessary to render a decision. The decisions concerning responsibility and sanction, if any, and reasoning of the President will be provided in a written document. The written document shall be maintained with records relating to the case.

The President will forward the written document to the Title IX Coordinator, and the Title IX Coordinator will inform the parties simultaneously of the outcome of the appeal by forwarding to them the President's written document.

If the President decides to impose a sanction of dismissal or suspension, the Respondent may appeal the sanction to the Board of Trustees within fourteen days after the Respondent is notified of the President's decision. If the Respondent appeals to the Board, the Chair of the Board, in collaboration with the Secretary of the Faculty, shall appoint a committee of five faculty members who will make a recommendation regarding the sanction imposed. The faculty committee will have access to all written reports and materials relevant to the case. The faculty committee will summarize the basis for its recommendation in a written report to the Board Chair within thirty days. The Board Chair should issue a written decision within thirty days of receiving the faculty committee's report. If the decision will take longer than thirty days, the Board Chair should inform the parties of the additional time necessary to render a decision. The decision and reasoning of the Board Chair will

be provided in a written document. The written document shall be maintained with records relating to the case. The Board Chair will forward the written decision document to the Title IX Coordinator, and the Title IX Coordinator will inform the parties simultaneously of the outcome of the appeal by forwarding to them the Board Chair's written document.

The Board Chair's decision shall be final.

Timeframe for Completing the Investigation and Disciplinary Process

WPI will endeavor to complete the investigation and disciplinary Judicial Panel process, if any, within sixty (60) days of the delivery of the written notice of investigation to the parties. This period does not include the time for any appeal. Timeframes set forth in this Policy may be extended for good cause. WPI's overarching goal is that the process should be prompt, fair, and impartial.

Additional Matters

a. No Conflicts of Interest

To the maximum extent practicable, steps should be taken to ensure an impartial and unbiased process, including participation of persons (including investigators) who: (1) have sufficient qualifications and training to carry out a thorough evaluation of the relevant information; and (2) have no unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry or investigation that could affect their ability to be objective reviewers.

In cases where the Title IX Coordinator has a conflict of interest, a Deputy Title IX Coordinator appointed by the President will serve in the Title IX Coordinator's role. In cases where the Appellate Officer has a conflict of interest, the President shall appoint another Appellate Officer.. In cases where allegations of Sexual Misconduct have been brought against the Title IX Coordinator, the Vice President for Talent/Chief Diversity Officer, the Provost, or the President, then the process outlined in this policy will be adjusted accordingly to avoid any conflicts of interest. Except in cases involving the President, the President shall resolve any questions of bias or conflict of interest. The President's decision on such questions shall be final.

b. Duty of Honesty

Any person who knowingly makes a false statement - either explicitly or by omission - in connection with any part of the process will be subject to separate disciplinary action. A false or unfounded report of misconduct determined by WPI to have been made in bad faith and dishonesty is a serious offense. Such offenses will themselves be investigated under the appropriate WPI policy and may lead to disciplinary action, up to and including termination of employment or other affiliation with WPI. A

report made in good faith is not considered false merely because the evidence does not ultimately support the allegation of violation of the Policy.

c. Good Faith Participation by the Parties and Witnesses

The investigation is a neutral fact-gathering process. Although participation in the process (providing information to the Investigator(s), responding to questions from the Investigator(s), responding to information provided by a party or a witness, etc.) is not required, the Complainant, the Respondent, and all witnesses are expected to participate in good faith in the process set forth in this Policy, and they may be required by WPI to attend meetings related to the process. Any person who knowingly interferes with the reporting, investigation, or resolution of matters under this Policy may be subject to separate and/or additional disciplinary action

d. Duties of Promptness and Care

Proceedings concerning Sexual Misconduct often raise difficult issues for those making the allegations, for those who are the subject of the allegations, and for those responsible for reviewing the allegations. Review of the allegations should therefore be conducted promptly and with care and sensitivity.

e. Duty of Confidentiality

The University will administer any complaint of sexual misconduct using the process described in this Policy while providing the utmost degree of privacy and confidentiality possible under the circumstances of each matter and as permitted by law. All participants in the review process under this Policy are expected to maintain confidentiality to protect the privacy of all involved, to the extent possible and as permitted by law. Participants should keep in mind the affect that allegations can have on reputations, even if the allegations are not sustained by the proceedings. Thus, only those people with a need to know should be informed of a complaint. Any participant in the process set forth in this Policy who violates their duty of confidentiality may be subject to discipline under the appropriate WPI policy.

f. Recording the Proceedings

The parties are not permitted to make video, audio, or other electronic, photographic, or digital recordings of any meetings or proceedings held under the Sexual Misconduct Policy or these procedures or the Investigative Phase. The Title IX Coordinator may make exceptions to this prohibition in limited circumstances if he or she concludes, in his or her sole discretion, that a recording is warranted, and upon written request of the party seeking the recording that explains the need for the recording.

g. Record Keeping

The Title IX Coordinator should receive and maintain all records relating to proceedings under this Policy including all notices to and from the parties, all reports of Investigators, all decisions by a Judicial Panel, all appeals by the parties, and all decisions by Appellate Officers and others involved in the appeals process under this Policy.

h. Special Measures

If there is no finding of Sexual Misconduct, the University should make reasonable and practical efforts as appropriate to restore the reputation of the Respondent. Any such concerns by the Respondent should be directed to the Title IX coordinator for follow up with other administrators as appropriate.

i. Information about Title IX

Such information, including about filing a complaint with the Department of Education related to this Policy, may be obtained from the Office of Civil Rights at the United States Department of Education, 400 Maryland Avenue, SW Washington, DC 20202-1100; 800-421-3481 TDD: 800-877-8339; OCR@ed.gov.

j. More information

More about Title IX at WPI may be found at <https://www.wpi.edu/offices/title-ix>.

k. Evaluation

The Title IX Coordinator shall annually evaluate the effectiveness of the Policy with respect to meeting the needs of Complainants and Respondents during the process.

Footnotes