

**Human Resources**  
***Policy against Sexual Harassment in an Educational Program or Activity Title IX - Interim***

**Applies to:** (examples; Faculty, Staff, Students, etc)

Alumni , Faculty , Staff , Students , Contractors\_Vendors

**Policy Overview:**

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This policy establishes guidelines and procedures for handling specific incidents involving sexual harassment as defined under Title IX of the Higher Education Act of 1972, as amended, and implementing regulations.

This policy applies to all faculty, staff, students, and others (guests, contractors, volunteers, and visitors) who are actively participating in, or attempting to participate in, a University program or activity at the time of filing a formal complaint under this policy (herein collectively referred to as "Covered Persons").

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## Details:

### 1 Policy against Sexual Harassment in an educational program or activity

#### 1.1 Policy Statement

Title IX of the Higher Education Act Amendments of 1972 (“Title IX”) prohibits discrimination on the basis of sex in educational programs or activities and employment. Discrimination on the bases of sex includes sexual harassment. University of Health Sciences and Pharmacy in St. Louis (“UHSP” or “University”) is committed to preventing sexual harassment in its programs and activities and complying with the requirements for handling reports of sexual harassment under Title IX. The University takes the safety and well-being of its students, faculty and staff seriously and offers many forms of educational and support services to prevent and address sexual harassment in the event that sexual harassment does occur.

University personnel and students who violate this policy are subject to the grievance and disciplinary procedures outlined in this policy and such civil and criminal laws as may apply. The University will impose sanctions against personnel and students for violations of this policy including, but not limited to, suspension, involuntary separation and referral to appropriate law enforcement authorities. The University will notify third parties, such as other employers and educational institutions, and initiate appropriate action for violations by outside persons, representatives, or students under their control. The University will take steps to promptly investigate reports of policy violations, to initiate supportive measures to protect individuals involved and minimize disruption on campus, to provide a fair and impartial hearing and appeal process, to impose sanctions or discipline reasonably calculated to prevent future violations, and to correct the discriminatory effects of a violation on individuals filing complaints and other members of the University community. Whenever a report of sexual harassment does not involve conduct governed by Title IX, the University will invoke other policies and procedures to protect members of the University community.

## **1.2 Purpose**

This policy and associated procedures are designed to achieve the following goals:

- Cultivate a climate of empowerment and education in which behavioral standards and sexual harassment are understood by the entire campus community.
- Create an environment that facilitates the prompt reporting of sexual harassment through clear and easily understood processes.
- Provide supportive services to persons involved in or affected by an incident without unreasonably disrupting access to University programs and services.
- Provide fair and effective investigation and adjudication of reports of sexual harassment as defined under Title IX while maintaining the University's obligation to the safety and security of its community.
- Deter future incidents of sexual harassment.
- Comply with the requirements of Title IX, the Clery Act, Violence Against Women Act, and applicable state and federal laws.

## **1.3 Title IX Educational Program or Activity**

This policy applies to sexual harassment that occurs in the University's educational programs or activities in the United States, which are governed by Title IX. In addition to campus programs and activities, the policy covers sexual harassment involving off-campus physical locations, activities, events, and circumstances over which UHSP has substantial control, and any buildings owned or controlled by student organizations officially recognized by the University. The University reserves the right to proceed under other applicable policies and procedures in instances where the University's Title IX Sexual Harassment Policy does not apply.

## **1.4 Definitions of Parties Involved**

Under the Title IX regulations, the University cannot be a party to a report of sexual harassment processed under this policy. Only the Complainant and Respondent are parties to the proceedings. For the purpose of this policy, the following definitions will apply:

**Complainant:** An individual who is alleged to be the victim of conduct that could constitute sexual harassment. A Complainant must be actively participating in or attempting to participate in a University educational program or activity at the time of filing a formal complaint.

**Reporter:** A person reporting an allegation of sexual harassment under this policy. The reporter need not be the Complainant, but may be a third party.

**Respondent:** An individual who is named in a report to have engaged in conduct that could constitute sexual harassment against a Complainant.

## **2 Definition of Sexual Harassment and Prohibited Conduct under this Policy**

The term "sexual harassment" under this policy includes any or all of the following defined terms: quid pro quo harassment, hostile environment harassment, sexual assault, dating violence, domestic violence, and stalking.

### **2.1 Quid Pro Quo**

An employee conditioning any aid, benefit, or service on an individual's participation in unwelcome sexual conduct;

### **2.2 Hostile Environment.**

Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to any University education program or activity;

### **2.3 Sexual Assault**

The term "sexual assault" means any nonconsensual sexual act causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, or duress.

### **2.4 Dating Violence**

Dating violence is defined as violence by a person who has been in a social relationship of a romantic or intimate nature with the victim. Whether a relationship exists will be determined based on the consideration of the length, type, and frequency of interaction.

### **2.5 Domestic Violence**

The term "domestic violence" includes abusive behavior committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Missouri, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Missouri.

### **2.6 Stalking**

The term "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(A) Fear for his or her safety or the safety of others; or

(B) Suffer substantial emotional distress.

## **2.7 Retaliation**

It is a violation of this policy to intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege established under this policy or because the person has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. A report of retaliation will be subject to the same grievance procedures for handling reports of sexual harassment.

The University may take disciplinary action whenever a person makes a materially false statement in bad faith in connection with this policy; provided, however, a determination that a party is or is not responsible is insufficient, standing alone, to conclude that a party acted in bad faith.

## **3 Consent and Relationships**

### **3.1 Consent**

Consent or lack of consent to engage in sexual activity may be express or implied. Sexual contact without consent is a violation of this policy, and a crime.

- Each participant is expected to obtain and give consent to each sexual activity and each sexual encounter. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent cannot be inferred from a current or previous dating or sexual relationship. Past consent does not imply future consent.
- Consent may be withdrawn at any time.
- Silence or absence of resistance does not imply consent.
- An individual who is physically incapacitated from alcohol and/or other drug consumption (voluntarily or involuntarily), or is unconscious, unaware, or otherwise physically helpless is considered unable to give consent. For example, a person who is asleep cannot give consent. When a person knows or it is clear from the circumstances that a person is incapable of consent it is a violation of this policy. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, being unaware of circumstances or surroundings, or being unable to communicate for any reason.
- Consent cannot be forced or coerced through duress or deception.
- Consent cannot be obtained from a person who lacks the mental capacity to authorize the sexual conduct when such mental incapacity is known.
- Consent cannot be obtained from a person who is a minor (under 18 years of age).
- Consent cannot be inferred from an individual's attire, physical appearance, or participation in non-sexual social activity (social media, dating, dancing).
- An individual forced or coerced to participate cannot provide consent. When an individual is intimidated, coerced, threatened – even a perceived threat, isolated or confined, consent cannot be granted.

### **3.2 Coercion, Intimidation and Force**

In some situations, an individual's ability to freely, willingly, and knowingly give consent is taken away by another person or circumstance. If force, intimidation and coercion are present, there cannot be consent. Examples include, but are not limited to:

- When an individual is physically forced to participate. Force is the use or threat of physical violence and/or imposing on someone physically in order to gain sexual access. There is no requirement that a party resists the sexual advance or request for force to take place, but resistance is a clear demonstration of non-consent.
- When an individual is intimidated or threatened – even a perceived threat – isolated or confined.
- When evaluating coercive behavior, factors such as the frequency, duration, location (isolation of recipient of unwanted contact), and intensity of coercive behaviors will be considered. A person's words or conduct are sufficient to constitute coercion if they significantly impair another individual's freedom of will and ability to choose whether to engage in sexual activity.
- Examples include credible threats to release sexual photos, spread inaccurate information, falsely report, physically restrain or restrict access or escape, threats to physically harm self or others, use or threat of a weapon.
- Generally, for those in a relationship, requests for specific sexual activity, requests for frequent sexual activity or threats to end a relationship do not constitute coercion, intimidation, or force.

### **3.3 Consensual Relationships between Staff, Faculty and Students**

Consensual sexual or romantic relationships among faculty, staff, and students often create a conflict of interest and have the potential for adverse consequences including potential for sexual harassment or retaliation. This is especially the case in instances where an asymmetry of power occurs (when one person has an employment or academic supervisory role over another person). A consensual relationship between faculty, staff and students where there is any instructional or administrative relationship is strongly discouraged. Any employee involved in or who commences a consensual relationship with someone over whom he or she has supervisory power (employment or academic) must disclose the existence of the relationship to Human Resources (employment) or the appropriate dean (academic). A review of the situation will occur with an evaluation of risk, conflict of interest, and power dynamic; and action may be taken to mitigate the risk of this potential conflict and asymmetric power dynamic including potentially changing reporting or learning relationships. Failure to disclose may result in disciplinary action.

## **4 Title IX Coordinator/Deputy Coordinator for Students**

Pursuant to College policy, and Title IX of the Higher Education Amendments of 1972, the University has designated a Title IX coordinator to implement and coordinate this policy. Additionally, the University has designated deputy Title IX coordinator for students ("deputy coordinator for students") who reports to and assists the Title IX coordinator to effectively administer this policy for students. If you have questions about the policy, if you believe that you are being sexually harassed or retaliated against in violation this policy, or if you observe someone else being subjected to such conduct, you can report the conduct to the Title IX coordinator. Complaints against

students can also be reported to the deputy coordinator for students. The Title IX coordinator or the deputy coordinator for students will oversee the complaint process to enable the University to best assess, respond, and investigate complaints to eliminate events, prevent their recurrence, and address the effects on the Complainant and others. Additionally, Title IX coordinator is responsible for coordination and oversight of the administration of this policy including processing and investigation of formal complaints, disciplinary proceedings and sanctions, reporting, education, and awareness of prohibited conduct and this policy, training of personnel, and conducting an annual review of the effectiveness of the University's prohibited conduct programs.

Contact information for the Title IX coordinator and deputy coordinator for students is listed below:

Title IX coordinator  
Daniel Bauer, PHR  
Director, Human Resources  
314-446-8308  
Jones Hall, Room 1309  
[Daniel.bauer@uhsp.edu](mailto:Daniel.bauer@uhsp.edu)

Deputy Title IX coordinator for Students  
Rebecca Jones  
Assistant Vice President, Student Affairs  
RAS, Room 410  
314-446-8352  
[Rebecca.Jones@uhsp.edu](mailto:Rebecca.Jones@uhsp.edu)

## **5 Reports of Sexual Harassment and Prohibited Conduct Under this Policy**

The University has initiated a reporting procedure designed to encourage any covered person under this policy to report any instance of sexual harassment covered in this policy to University officials.

The University encourages parties who believe they have experienced sexual harassment to report to somebody about what happened – so they can get the support they need, and so the University can respond appropriately.

A Complainant does not have to decide whether or not to request criminal reporting, or pursue a formal complaint and adjudication processes at the time they report an incident.

A report to University officials (responsible employees, public safety, and Title IX coordinator/deputy coordinators) provides the institution with actual notice of an incident and requires follow up with a Complainant to discuss supportive measures, resources, and rights under this policy.

### **5.1 How and to whom to make a report**

#### **5.1.1 Reporting to “Responsible Employees”**

A “responsible employee” is a University employee who has the authority to institute corrective measures in response to prohibited conduct or an individual who has a duty to report incidents of sexual harassment. The University has designated **all** employees, other than those employed as professional or pastoral counselors, as a responsible employee under this policy.

Before a party reveals any information to a responsible employee, the responsible employee should ensure that the reporter understands the employee's reporting obligations, and if the reporter wants to maintain complete confidentiality, direct the reporter to confidential resources.

When a reporter tells a responsible employee about an incident of sexual harassment the responsible employee must report to the Title IX coordinator or deputy coordinator for students all relevant details about the alleged prohibited conduct shared by the party – including the names of the Complainant, Respondent, witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the University's response to the report except for instances of mandated reporting in Missouri, such as professionals reporting suspected child abuse or neglect.

Responsible employees will not pressure a party to make formal complaint if the party is not ready to do so.

All faculty and staff, whether they are full-time or part-time, are responsible for supporting and assisting in the administration of this policy. Public Safety staff and any employee, with the exception of professional or pastoral counselors, is required to immediately contact Title IX coordinator or deputy coordinator for students if prohibited conduct is reported to them or they become aware of information indicating that such conduct has occurred.

#### **5.1.2 Reports to Public Safety**

Public Safety is available 24 hours a day, seven days a week. Officers can be reached by calling 314.446.SAFE (7233) or by visiting the Public Safety office in the UHSP garage. Public Safety can assist with immediate health and safety needs and provide notice to the University's Title IX coordinators.

#### **5.1.3 Reports to Title IX coordinator/deputy coordinator for Students**

Reports to the Title IX coordinator and/or Deputy Coordinator for Students provides the University with actual notice of a report. Reports to Responsible Employees and Public Safety as described in this policy will be shared with the Title IX coordinator/deputy coordinator for Students.

#### **5.1.4 Anonymous Reporting**

The University encourages parties who believe they experience sexual harassment to talk to someone. Parties wishing to file a complaint anonymously over the phone or online can use the University's [Ethics and Compliance Hotline](#). Reports through the hotline will be forwarded to the Title IX coordinator and deputy coordinator for students.

#### 5.1.4.1 Report online

<https://www.lighthouse-services.com/stlcp>

#### 5.1.4.2 Submit a Report by Phone

To submit a report by phone, use the contact numbers below.

- 866.770.0009 for English speaking callers in the USA and Canada (not available from Mexico)
- 800.216.1288 Spanish speaking callers North America
- 01.800.681.5340 for Spanish speaking callers from Mexico

#### 5.1.4.3 Submit a Report by Email

Email reports should be submitted to [reports@lighthouse-services.com](mailto:reports@lighthouse-services.com). You must include the company name "UHSP" with report.

### 5.2 Reports to Confidential Counselors

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the University community (including those who act in that role under the supervision of a licensed counselor) are generally not required to report any specific information about an incident to University personnel without a reporting party's permission.

#### 5.2.1 University and Campus Counseling Resources

Students have access to the following resources. Counselors in the Student Counseling Center in the Residence and Student Center (RAS) are examples of professional counselors. During business hours, students may contact the Counseling Center staff on the fourth floor of the Recreational and Student Center (RAS) or at 314.446.8338 or email at any time at [counselingcenter@uhsp.edu](mailto:counselingcenter@uhsp.edu).

Spiritual advisors in the Spirituality Center are examples of confidential pastoral counselors. Student may contact advisors through the Spirituality Center in the Recreation and Student Center, Room 457.

**Faculty and staff** can contact Employee Assistance Program H&H Health Services at 314.845.8302 or 800.832.8302, <https://www.hhhealthassociates.com>

#### 5.2.2 Off-campus Counselors and Advocates

Off-campus counselors, advocates and health care providers will also generally maintain confidentiality and not share information with the University unless the Complainant requests the disclosure and signs a consent or waiver form. Confidentiality is maintained as long as it is within the limits of the law (i.e. no harm to self, others, and no current abuse of a child or other vulnerable persons).

### 5.3 Timing of Reports

There is no limit on the amount of time that a Complainant may have to file a report. However, the greater the time between the date the incident occurred and date a complaint is filed impacts an investigation. Time may limit the availability of parties involved, witnesses, and evidence and ability to adjudicate the complaint under this policy if a party is no longer a covered person.

### 5.4 Amnesty for other less serious policy violations

University of Health Sciences and Pharmacy in St. Louis believes violations of this policy to be very serious offenses. The University will generally offer any student, whether the Complainant or a third party, who reports violations of this policy limited immunity from being charged for policy violations related to alcohol use and/or drug use, provided that such violation(s) did not and do not place the health and safety of any person at risk. The University may choose, however, to pursue educational interventions with those individuals.

### 5.5 False reports and false statements

All parties and witnesses are expected to provide truthful information. Knowingly providing false or misleading information in a report, formal complaint, investigation hearing, or any related process is a violation of University policy and can subject a student or employee to disciplinary action, up to and including termination or expulsion.

### 5.6 Cross-reports and cross-complaints

A cross complaint occurs when a Respondent files a complaint against the original Complainant. Each complaint will be evaluated on its own merits. Complaints that are determined to be knowingly false, filed in bad faith may be determined to be retaliation under this policy.

The following is an example of a cross complaint: An individual files a complaint against their partner for dating violence (Complainant). The other individual in the relationship (Respondent) also files a complaint of dating violence. Both individuals involved are both Complainant and Respondent in separate complaints against each other. In the event that second complaint is found to be filed in bad faith and/or knowingly false, the filing would be considered retaliation.

### 5.7 Interim/Emergency Removal of Respondent

Upon receipt of a report, UHSP reserves the right to remove a Respondent on an emergency basis provided that an imminent threat to the physical health or safety of Complainant or others in the University community arising from the allegations of sexual harassment justifies removal.

If the University determines that emergency removal from a College program or activity is necessary, the following process will be observed:

- The Respondent will receive written notice of the interim/emergency removal determination, which will include facts considered and rationale for the determination. The notice will include the ability for the Respondent to appeal to the Title IX coordinator or deputy coordinator for students within three business days of the decision.
- The Respondent will be immediately banned from campus. The ability for the Respondent to continue academically through alternative means will be evaluated on a case by case basis.
- The Respondent's appeal must address why the threat of immediate harm is erroneous and supported by relevant evidence.
- The Title IX coordinator or deputy coordinator for students will respond to the written appeal within three days with a final determination after considering the Respondent's appeal.

Should the Respondent be a non-student employee, the institution may place the employee on administrative leave with or without pay pending the outcome of the grievance process.

## **6 Resources**

### **6.1 Supportive Measures**

Upon receipt of a report, the Title IX coordinator or deputy coordinator for students will promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant that supportive measures are available irrespective of whether the Complainant files a formal complaint, and explain the process for filing a formal complaint. The Title IX coordinator or deputy coordinator for students is responsible for effective implementation of supportive measures.

Supportive measures are non-disciplinary in nature, reasonably available, without fee or charge, and are designed to restore or preserve equal access to educational programs and activities without unreasonably burdening the parties involved. Examples of potential supportive measures include:

- A University "no contact" order providing mutual restrictions on contact between parties
- Access to counseling services and assistance in setting up the initial appointment.
- Rescheduling of seating arrangements or placement in group work, rescheduling exams and assignments, including extension of deadlines
- Change in class schedule or transferring a course section including late withdrawal from a class without penalty
- A change in work schedule or job assignment
- Change in Residence Hall assignment
- Providing an escort to ensure safe movement between classes and activities
- Academic support such as tutoring
- Leave of absence
- Information and assistance with filing an order of protection with the St. Louis City Circuit Court (Civil Courts Building, 9th Floor, Adult Abuse Office, 10 N. Tucker, St. Louis, MO) or other appropriate jurisdiction. Note that the University does not serve as an advocate or representative of the party in this process.

At any point after a report is made a Complainant or Respondent may request, or the University may impose, supportive measures to ensure the educational opportunity and/or safety of all parties, the University community, and/or the integrity of complaint and investigation processes.

#### Written Explanation of Rights

Regardless of whether a Complainant elects to pursue a criminal complaint or formal complaint, the University will assist Complainants by providing them with a written explanation of rights. Should a party be a reporter of an incident or be named as Respondent in a formal complaint they will also receive a written explanation of rights.

### **6.2 Campus and Community Resources**

A number of campus and community resources are available to assist parties with sexual harassment issues. A list of resources will be provided to a Complainant and a Respondent upon receipt of a complaint. A list is also included as Appendix I to this policy.

### **6.3 Advisors**

Both the Complainant and Respondent have the right to be assisted by an advisor of their choice. The University maintains a pool of advisors for parties to use if they prefer. Parties have the right to have a private attorney serve as their advisor, at their own expense. Should one party have an advisor and the other not have an advisor, the University will assign an advisor.

The University has the right at all times to determine what constitutes appropriate behavior on the part of an advisor. Restrictions regarding activities and actions advisors may take apply equally to advisors for Complainants and Respondents.

- Advisors may be present at all meetings, interviews, and proceedings with a party.
- The advisor may not be a fact witness or otherwise have any conflicting role in the process.
- With the exception to cross-examination at hearings, advisors may participate in meetings in an advisory capacity only. If a party wishes to speak privately with their advisor during a meeting, they may request a brief recess from the meeting.
- Title IX regulations require that advisors be allowed to provide advice to a party and to cross-examine opposing parties and witnesses during a hearing. Advisors are not permitted to make statements, present witnesses, or participate in any other manner.

An advisor provided by the University will be trained in regard to University policies, procedures, and resources. Any person who serves as an advisor should plan to make themselves available for meetings throughout the investigative or disciplinary process.

## **7 General Information Regarding Administration of Title IX**

### **7.1 Sanctions/Discipline for Policy Violations**

Determination of sanctions will be based on the facts and circumstances of each case and will be designed to eliminate the sexual harassment and prevent any reoccurrence of such conduct. Any determination for sanctions will be rooted in the University's educational mission, institutional values, and Title IX obligations. Other factors impacting sanctions include the seriousness of the violations, the respective ages and positions of the Complainant and the Respondent, and whether there have been other complaints against the Respondent.

The administrator responsible for disciplinary proceedings for the Respondent's classification of covered person may be consulted by the Title IX coordinator/deputy coordinator, Hearing Panel, or hearing officer. Note that while investigation records are private, sanctions become part of student records or personnel files.

- Should a formal complaint go to a hearing, the Hearing Panel will determine the appropriate sanction or disciplinary action. The Title IX coordinator/deputy coordinator, Hearing Panel, or hearing officer may consult with the student conduct officer (in the case of student Respondent) or Human Resources and the appropriate vice president/dean (in the case of an employee Respondent) in regard to sanctions if a Respondent is found responsible.
- Any investigation, hearing, review or appeal procedure will use a preponderance of the evidence standard of proof (i.e. more likely than not).
- Sanctions for a violation of this policy by a student can be found in the Student Code for Non-Academic Conduct, and other policies and include, but are not limited to: formal warning, non-academic disciplinary probation, mandated counseling assessment, denial of the right to hold an office in a student organization or to participate in University-sponsored extracurricular activities, restrictions on campus housing or participation in student activities, community service and or campus restrictions, notation of non-academic conduct issue on transcript, and/or other educational sanctions and non-academic suspension or dismissal from the University.
- Sanctions for a violation of this policy by an employee can be found in Staff and Faculty Handbooks, Faculty Bylaws, and University's policies. They may include leave with pay, leave without pay, termination, change in job responsibilities or duties, relocation of assignment, mandated counseling or anger management assessment, and mandated training, such as sexual harassment training.
- Guidelines for sanctions are found in the appropriate policies to the Respondent, including but not limited to:

- o the nature and violence of the conduct at issue;
- o the impact of the conduct on the Complainant;
- o the impact of the conduct on the University community;
- o prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the University or elsewhere, and any criminal convictions;
- o how the University has previously sanctioned similar conduct;
- o whether the Respondent has accepted responsibility for the conduct;
- o maintenance of a safe and respectful learning, living, and working environment;
- o protection of the University community; and
- o Any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate outcome in each case.

If the offender is neither a student nor faculty or a staff member and thus not subject to the University's direct control, the University will take such measures, as it deems appropriate, to remedy the matter. This may include barring the offender from University property, and/or filing a complaint with an employer, professional association, or law enforcement authorities.

## **7.2 Conflict of Interest/Bias**

The University will take appropriate steps to poll investigators and decision makers for conflicts of interest and bias before initiating the grievance procedure outlined in this policy. Should a Complainant or Respondent feel there is a conflict of interest or bias in any step of the complaint, investigation or adjudication process with officials involved in the process (the Title IX coordinator, deputy Title IX coordinator for students, assigned Title IX investigators, hearing officer or Hearing Panel, appellate decider), written notice describing the potential conflict or bias and its impact must be submitted as soon as a conflict is recognized.

A Title IX coordinator/deputy coordinator for students, investigator, administrator for hearings or appeals, or other University official involved in the process may also request to recuse oneself due to a conflict of interest or bias.

The conflict report shall be submitted to the Title IX coordinator who will assemble a review panel. If the Title IX coordinator is named as a party in the conflict or bias report then the deputy coordinator for students will assemble the panel.

A conflict review panel of three members consisting of at least one University administrator and at least one Title IX official not involved in the complaint will review the report and determine if conflict or bias is substantial enough to make the procedures unfairly favor one party. The review may include interviews.

If substantial conflict or bias is determined, an alternative official will be assigned by the Title IX coordinator/deputy coordinator. If it is determined there is insufficient evidence for significant conflict or bias, the parties will be notified.

The determination will be shared with the Complainant and Respondent in writing within ten (10) days of receipt.

## **7.3 Opportunity for Informal Resolution**

The goal in informal resolution is to resolve and dispose of a charge by mutual consent of the parties. Informal resolution is not available for matters where an employee is the Respondent.

After a formal complaint has been filed, the University may offer the parties an informal process that resolves the formal complaint without an investigation or formal hearing. The parties may voluntarily agree to attempt informal resolution at any time with or without an advisor. Informal resolution may include mediation or restorative justice or any other process mutually agreed to by the Complainant, Respondent, and University.

Either party may withdraw from the informal resolution process at any time and proceed with the formal grievance procedure under this policy.



If the parties elect to proceed with the informal resolution process, the University will obtain their consent and provide them with a written notice disclosing the allegations in the formal complaint, a description of the informal resolution process, range of sanctions, the right to withdraw and resume the formal grievance process at any time prior to entering into a binding written agreement, and that any records maintained or shared by the parties during informal resolution may be used in the formal grievance process.

The facilitator will work with parties to find agreed upon outcomes to adequately address the harm to the Complainant, educate the Respondent, and prevent the recurrence of future violations. This could include additional actions to address the impact of a policy violation on others such as, but not limited to, counseling and awareness training or programs.

The facilitator will record the outcome of the informal process and simultaneously notify both writing within five (5) business days of the outcome.

#### **7.4 Notice of Outcome and Results**

Whenever a complaint is resolved at any level in the process provided under this policy: the University will inform the Complainant in writing regarding whether or not it found that a violation of policy occurred, any individual remedies offered or provided to the Complainant, any sanctions imposed against the Respondent that directly relate to the Complainant, other steps the school has taken to eliminate and prevent the recurrence of sexual harassment, if any, is found to exist by the University, and the parties' rights to file an appeal. The Respondent will not be notified of any individual remedies offered or provided to the Complainant. In cases that involve a complaint of dating violence, domestic violence, stalking, sexual assault, or a forcible sex offense (rape, sodomy, sexual assault with an object, fondling) or non-forcible sex offense (incest, statutory rape), the University will inform the Complainant and Respondent of the result of the proceeding, any sanctions that are imposed on the Respondent, and the rationale for the result and the sanctions consistent with its obligations under the Clery Act and the Violence Against Women Act of 2013. All notices will be simultaneously provided to the Complainant and Respondent within the time frame specified in this policy.

#### **7.5 Training**

• Title IX coordinators/deputy coordinators, investigators, decision makers, and informal resolution facilitators receive training on various relevant aspects of the University's Title IX policy and grievance process, including:

- o definitions of sexual harassment and consent;
- o the scope of the institution's education programs and activities;
- o how to conduct fair and impartial investigations, hearings, appeals, and informal resolution processes under this policy (as applicable); and
- o How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias.
- o How various institutional actors must be free of "sex stereotypes" and must promote "impartial investigations."
- o how decision-makers must include relevant technology to be used at any live hearing
- o The burden of proof used to determine responsibility
- o Relevant evidence
- o Admissible and inadmissible evidence

• Training records materials will be available on the University's public website.

#### **7.6 Timelines**

- The University believes that timing of processes should be balanced with thoroughness to ensure fairness and promptness.
- The University lays out specific timelines within its procedures and will make reasonable efforts to follow these established timelines. The timelines specified may be delayed due to a number of factors including the academic calendar (fall/winter/spring break, University holidays), and the availability of parties, e.g. medical leave. In instances where a Complainant or Respondent is unwilling or unable to meet in the timeframe, procedures will proceed accordingly with the information available at that time. The Title IX coordinator/deputy coordinator are responsible for updating the parties with regard to timing issues including delays.
- The University may extend the timeframes provided in this policy for good cause with written notice to the Complainant and Respondent, explaining the new timeline and the reason for the delay.
- Any time period provided under this policy will be calculated using calendar days as opposed to business days. When the last day of the period falls on a weekend, official College holiday, or holiday break then the next regular, calendar day will be counted.

#### **7.7 Records**

Records of reports, formal complaints, investigations, hearings, disciplinary sanctions, remedies, appeals, or any informal resolution, and all materials used to train investigators, coordinators, Hearing Panel members, etc. covered by this policy will be retained for seven years. Conduct records will be kept in accordance with the University Record Retention Policy for student records and employment records.

### **8 Procedures for Receiving, Investigating and Adjudicating Complaints**

Procedures for receiving, investigating and adjudicating Formal complaint s related to sexual harassment are as follows:

#### **8.1 Notice of Sexual Harassment to the University**

Notice of sexual harassment typically occurs in one of the following ways:

- Title IX coordinator/deputy coordinator for students directly receives notice in the form of a report from a Complainant or third party
- A Complainant files a formal complaint with the Title IX coordinator, deputy coordinator, or a responsible employee using the formal complaint form or submits a document alleging sexual harassment against a Respondent. A detailed statement of facts is not required to make a formal complaint.
- A responsible employee receives a report, formal complaint, or otherwise becomes aware of prohibited conduct covered under this policy, and immediately refers the matter to the Title IX coordinator or Title IX coordinator deputy coordinator for students. Student conduct administrators who receive notice of a report or formal complaint are also considered responsible employees. The responsible

employee must communicate in writing to the Title IX coordinator/deputy coordinator for students all relevant details about the alleged prohibited conduct shared by the party including the names of the party's alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident.

- Public Safety staff become aware of a report or a formal complaint and shares the information with the Title IX coordinator/deputy coordinator for students, after assessing the need for immediate health or safety assistance.
- An Ethics and Compliance hotline report submitted online or over the phone through the vendor.

## **8.2 Conference with Complainant**

The Title IX coordinator or deputy coordinator for students or designee, such as the student conduct administrator or trained Title IX investigator, will take the following steps with the Complainant.

- The Complainant identified in the report or formal complaint will be contacted to confirm receipt. If the reporter is a third party, they will also be notified.
- Request to meet with the Complainant to discuss the report or formal complaint in detail and examine any evidence provided.
- Discuss supportive measures and the availability of measures irrespective of whether the Complainant chooses to file a formal complaint. Consideration will be given to the Complainant's wishes with respect to supportive measures.
- Explain the process for filing and/or processing a formal complaint, the investigation, hearing, and appeal process as well as potential outcomes. No outcome will be promised or predicted. Care will be taken so as not to coerce a Complainant into filing a formal complaint.
- Explain that a Respondent is presumed not responsible for the alleged conduct until a determination is made at the conclusion of the grievance process.
- Provide a range of possible sanctions should the end of the process result in a finding of responsibility.
- Share the option to request Informal Administrative Resolution in lieu of a full investigation and formal hearing, if applicable.
- Share a copy of the relevant policy and written explanation of rights and resources including community resources.
- If not providing any supportive measures to Complainant, document the reasons.

## **8.3 Preliminary Evaluation**

Subsequent to the preliminary conference, the Title IX coordinator/deputy coordinator will evaluate the report or formal complaint and information from the preliminary conference to determine whether the alleged conduct is covered by this policy. Should the Complainant not meet for a preliminary conference, only the information that is available will be considered for the evaluation. This evaluation will include:

- An examination of the report or formal complaint as received (either in writing, in-person, over the phone or other communications),
- Evidence provided and other information related to the parties involved such as review of related prior complaints, disciplinary action, or sanctions. Additionally, a review of Title IX records will be included to see if Complainant, Respondent, or witnesses have been involved in other incidents.
- Assessment of immediate safety needs of the Complainant and the need for interim/emergency removal from campus of the Respondent, and/or timely warning/emergency notification. Public Safety will be updated if timely warning/emergency notification is necessary.
- Evaluation of possible or requested supportive measures reaching out to appropriate campus resources (registrar, housing officers, public safety etc.).
- A determination if the complaint is covered by this policy or another policy.

### **8.3.1 Determination That Alleged Conduct is NOT Covered by this Policy**

At any point after a report or formal complaint is submitted or anytime during the formal complaint and grievance process (investigation, hearing, appeal) the Title IX coordinator/deputy coordinator for students may determine that behavior or an incident in a report or formal complaint is not covered by this policy and dismissal of specific charge(s) is required if any of the following occur:

- The facts and evidence presented in the report or formal complaint, if assumed true, fail to meet the definition of prohibited conduct under this policy
- The prohibited conduct in the report or formal complaint, did not occur within the University's educational programs or activities
- Did not occur in the United States

Whenever a formal complaint is dismissed, the University will notify the Complainant and Respondent in writing of the decision, reasons supporting the action, and right to appeal within five (5) business days of the decision. Should other potential policy violations apply, the matter may be referred to the appropriate University officials (Director Community Standards or Human Resources) for handling after the conclusion of any appeal.

### **8.3.2 Determination That Allegations Are Covered by this Policy**

If the allegations in a report or formal complaint supports a possible policy violation, the Title IX coordinator/deputy coordinator for students or designee will notify the Complainant in writing within five (5) business days of the following:

- The preliminary review of the complaint confirms that adequate grounds exist to initiate the grievance procedures provided under this policy
- Right to file a formal complaint or proceed with an investigation and formal hearing to determine responsibility on the part of the Respondent
- Right to contact law enforcement with assistance from the University
- Notice of support measures in place, if any, and the option to request support measures.
- Right to have an advisor of choice in the process
- Right of both parties to a fair and impartial investigation, hearing, and appeal

- Right to receive available remedies in the event that Respondent is determined to have violated this policy at the conclusion of the process
- There is no time limit by which a Complainant must file a formal complaint. However, a period of time will be presented, after which, if no formal complaint has been filed the report will be considered inactive until such a time a formal complaint is filed.

#### **8.4 Formal complaint**

Only the Complainant or Title IX coordinator may file a formal complaint. A third party, a friend, parent, or other party cannot file a formal complaint on behalf of a Complainant.

Even if a formal complaint is not filed, the University may still take steps to limit the effects of the alleged misconduct and prevent its recurrence without initiating a formal action against the alleged perpetrator or revealing the identity of the student. This may include increased monitoring, security, or additional training or communication efforts for students or employees.

##### **8.4.1 Formal complaint filed by Complainant**

A formal complaint is a physical or electronic document signed by a Complainant or the Title IX coordinator specifically requesting an investigation of the allegations of sexual harassment. For consistency, the University maintains a complaint form, but use of other written communication requesting an investigation will suffice. This can include an email from a University email account, for example.

##### **8.4.2 Formal complaint filed by Title IX coordinator**

In certain circumstances, the Title IX coordinator may file a formal complaint on behalf of a Complainant without their participation if it is reasonable under the facts and circumstances. Before doing so, the Title IX coordinator/deputy coordinator for students will consult with the Complainant. In addition to the Complainant's wishes, the Title IX coordinator will consider a range of factors including, but not limited to, the following:

- If there have been multiple complaints about the same alleged perpetrator the University will initiate an investigation.
- The legal obligations of the University
- The increased risk that the Respondent will commit additional acts of prohibited conduct or other violence, such as:
  - o Whether the Respondent has a history of arrests or records from a prior institution indicating a history of violence
  - o Whether the Respondent threatened further prohibited conduct or other violence against the reporting party or others
  - o Whether the prohibited conduct was committed by multiple perpetrators
- Whether the prohibited conduct was perpetrated with a weapon
- Whether the party receiving the prohibited behavior is a minor
- Whether the University possesses other means to obtain relevant evidence of the incident (e.g., security cameras or personnel, physical evidence)
- Whether the party receiving the alleged prohibited behavior's report reveals a pattern (e.g., illicit use of drugs or alcohol) at a given location or by a particular group

The presence of one or more of these factors could lead the Title IX coordinator to file a formal complaint. If none of these factors is present, the Title IX coordinator will likely not file a formal complaint.

##### **8.4.3 Combining complaints**

The Title IX coordinator may consolidate two or more formal complaints when there are common Complainants or Respondents involved or when the sexual harassment arises out of the same facts or circumstances.

##### **8.4.4 Dismissal of Complaints prior to Adjudication**

At any point in the process, the University may dismiss a formal complaint at any time if:

- The Complainant would like to withdraw the complaint;
- The Respondent is no longer enrolled or employed by the institution; or
- Specific circumstances prevent the institution from gathering evidence sufficient to reach a determination.

#### **8.5 Notice of Charges**

Once a formal complaint is filed, the Title IX Coordinator/deputy coordinator for students or designee will notify the Complainant and Respondent in writing within five (5) business of the following:

- Specific policy(s) violation(s) being charged including the identities of the parties involved, specific policy provisions, precise conduct alleged, date, and location of the conduct.
- Explain informal resolution options, if available.
- Explain the formal resolution process (investigation, hearing, and appeal)
- Provide a range of possible sanctions should the end of the process result in a determination of responsibility
- Written explanation of rights and resources, including right to an advisor of choice including an attorney (at their own expense), and the role of the advisor
- Notice of supportive measures in place that affect the Respondent, if any, and the option for the Respondent to request supportive measures.
- Remind parties that a Respondent is presumed not responsible and that a determination of responsibility will not be made until the conclusion of the process.
- Right to inspect and review evidence.
- Explanation of non-retaliation policy and prohibitions on parties making false statements

The communication with the Respondent will include a request for a preliminary conference to review the charges and submit information related to the complaint. The date, time, location, and purpose of the meeting will be shared and sufficient time (no less than five (5) business days) granted to prepare for the meeting.

## **8.6 Preliminary Conference with Respondent**

In response to a charge, the Respondent will be provided an opportunity to meet with Title IX coordinator or the deputy coordinator or designee and provide information and evidence. This meeting will occur within ten (10) business days of notice of charges to the Respondent.

The Respondent has the option to:

1. Accept responsibility for the charge(s) identified in the formal complaint. If the Respondent accepts responsibility, Title IX coordinator/deputy coordinator or designee will coordinate with the appropriate administrator to deliver disciplinary outcomes to the Respondent. If Respondent accepts responsibility but does not accept the sanctions then the process proceeds to an investigation and hearing.
2. Request informal administrative resolution for the charge, if is appropriate and both parties agree to it.
3. Proceed with a formal investigation and hearing process

## **8.7 Investigation**

The Title IX coordinator/deputy Title IX coordinator for students, or trained investigators whom they select for a particular case, are responsible for investigating formal complaints of prohibited conduct, gathering evidence, and summarizing the relevant information. All parties directly involved in the investigation will be informed in a timely manner regarding the process and progress of the investigation. The Complainant and Respondent will be notified five (5) business days in advance of their requested participation in any investigator interview to allow adequate time to prepare. A notice of a party interview may include a request for production of documents or other tangible evidence directly related to the investigation. Additionally, the notice will summarize documents or any tangible evidence that the investigator intends to discuss at the interview and provide instructions on how to access and inspect such evidence prior to the interview.

During the investigation period, the investigator will gather information, evidence, and interview the parties and witnesses. The role of the party's advisor during the investigation phase is to provide advice and counsel to a party. Advisors may not advocate, ask questions, or otherwise directly or indirectly unduly influence or delay a party's responses or engage in discussions with the investigator. The investigator will gather facts, including evidence that may corroborate or impact credibility of evidence and witnesses, a party that does not fully respond to requests for information from the investigator will be precluded from introducing evidence at the hearing that was within the control of a party and intentionally withheld from the investigator. Any relevant evidence that is destroyed by a party may be taken into account at the hearing for the purpose of assessing credibility and the weight of evidence in the case.

Questions or evidence about a Complainant's prior sexual history will not be considered by the investigator except where the Complainant and Respondent have a prior intimate or sexual relationship and it may be deemed relevant to a determination of consent or someone else is alleged to have committed the alleged conduct.

The investigator will not access, consider, disclose, or use privileged evidence or treatment records made or maintained by a recognized professional, such as a doctor, attorney, or pastoral counselor, without a party's voluntary, written consent. If a party decides to share such records with the investigator after providing their written consent, those records become a part of the investigation and are available for review by the opposing party.

The investigators will create a report that will include information on the specific complaint, relevant policies, timeline, involved parties, interview summaries, evidence directly related to the allegations, and possible sanctions if Respondent is found responsible consistent with appropriate disciplinary code (Student Handbook, Faculty Handbook and Bylaws, Staff Handbook). However, the report will not include any determination of credibility or findings of responsibility.

The investigator will send a copy of the investigative report to each party and the party's advisor and provide access to all evidence directly related to the formal complaint that was obtained as part of the investigation in an electronic format or a hard copy. The parties will be given ten (10) business days to submit a written response to the investigator for consideration prior to the investigator's completion of the final investigative report. Before the report is finalized, either party may submit a written response to the investigator's report challenging the investigator's determination of relevance and the weight or persuasiveness of relevant evidence before the report is finalized. Nothing in the investigation report precludes a party from making corrections, providing explanations, or challenging the credibility, relevance, or persuasiveness of evidence in the formal hearing. At the close of the ten (10) business day review and comment period the report will be forwarded to Title IX coordinator/deputy coordinator for students. This concludes the investigation.

A confidential file of the investigation including personal notes, all evidence gathered, and other information will be kept on file with the & Title IX coordinator/deputy coordinator for students.

The investigation should be reasonably prompt and may take an average of two to three months, depending on circumstances. It is the investigator's responsibility to update the parties in writing as to the timeline for the investigation and any extensions and the reason.

At any point during the investigation, the Complainant or Respondent may choose to pursue an informal administrative resolution.

While the investigator will make efforts to keep information in the investigation private, the University cannot restrain the ability of the parties to discuss the allegations or to gather and present evidence. Neither Party is restricted in any way from discussing the allegations or gathering evidence or information about the allegations. Parties may submit both inculpatory and exculpatory evidence to the investigator. Parties who wish to present evidence from an expert witness must present that witness's report to the investigator prior to completion of the investigation.

## **8.8 Hearing**

At the conclusion of the investigation, the Title IX coordinator/deputy coordinator for students will assemble a Hearing Panel and appoint a hearing officer.

The University has established standard procedures for all sexual harassment complaints under this policy. Hearings will be conducted using video-conferencing technology so that the parties may see and hear each other without being present in the same room. Hearings will either be audio recorded and transcribed or audio visually recorded.

The three-person Hearing Panel will be made up from various constituencies of the University (staff and/or faculty, and in some cases students). Selection will be made in such a way as to ensure that the panel members are trained appropriately and properly screened for potential conflicts of interest or bias.

The hearing will be presided over by a hearing officer who is not a decision maker or voting member of the Hearing Panel. The hearing officer is responsible for coordinating a hearing date and time, communicating with parties, administering an orderly and fair hearing, and assisting the panel with procedural questions and preparation of a hearing report.

#### **8.8.1 Pre-Hearing Procedures**

The hearing officer will notify the Complainant and Respondent in writing not less than twenty (20) business days prior to the hearing date of the date, time, and location of the hearing, rules regarding access to direct evidence relating to the formal complaint, mandatory pre-hearing disclosures, a description of the hearing process, rules of decorum, and the role of advisors,

Not less than ten (10) days prior to the live hearing the parties will submit to the hearing officer pre-hearing disclosures, which consists of:

- advisor's name and contact information
- a list of evidence to be presented at the hearing including witnesses' names (other than the parties) with a brief summary of the purpose of their testimony, and any exhibits that they intend to use or submit as evidence at the hearing.

The Title IX coordinator/deputy coordinator for students will submit to the hearing officer pre-hearing disclosures, which consist of:

- A summary of all evidence directly related to the formal complaint that was previously sent to the parties along with instructions on access.
- The formal complaint, investigation report, parties' responses to the investigation report, and relevant evidence compiled by the investigator that will be marked for introduction into the record by the investigator.

Not less than five (5) days prior to the hearing, the hearing officer/panel will notify the parties of any witnesses and a list of evidence that it has requested that was not in the pre-hearing disclosures submitted by the parties.

All information submitted will be shared with parties and their advisors and made available to the Hearing Panel. Parties can access and copy the evidence subject to review and inspection at their own expense. The hearing officer will make all evidence that was previously sent to the parties available at the hearing.

Any evidence that a party intends to introduce, but was not available or disclosed due to circumstances beyond a party's reasonable control, must be promptly identified to the hearing officer accompanied by a written request containing supporting information. The hearing officer will notify the parties regarding the admissibility of the evidence prior to or before the start of the live hearing.

#### **8.8.2 Hearing Procedures and Decorum**

The University will provide a live hearing with all parties, witnesses, and participants physically or virtually present. An audio or audiovisual transcript of the hearing will be created and made available to the parties for inspection and review after the hearing. All hearing participants are expected to conduct themselves in a respectful manner at all times. The hearing officer/panel may remove a participant from the proceedings for refusal to follow the instructions of the hearing officer/panel or inappropriate conduct that is, for example: disruptive, demeaning, belligerent, harassing, or intended to obstruct or cause delay.

During the hearing the hearing officer/panel will:

- Notify the parties of the decision maker(s) in the case
- Explain the preponderance of evidence standard
- Share range of sanctions if found responsible
- Explain the hearing procedures and rules of decorum to the participants, including rules that apply to advisors and their ability to cross-examine.
- Follow hearing procedures and enforce rules of decorum
- Rule on issues of relevance, including objections to relevance from parties, and give a brief explanation whenever he or she finds that a question is not relevant. Advisors and parties will not be allowed to challenge the presiding official/hearing officer's relevancy rulings at the hearing.
- Make a decision solely on the evidence presented at the hearing using a preponderance of the evidence standard.

During the hearing, the hearing officer will allow parties to make brief opening statements (5 minutes) about their positions and the evidence that they intend to offer.

The formal complaint will be read into record and the Title IX investigator will be called as a witness to provide an overview of the procedural history of the case and answer any questions that the presiding official or decision maker(s) have about the investigation report.

Next, the parties will be afforded the opportunity to present relevant evidence starting with the Complainant and Complainant's witnesses followed by Respondent and Respondent's witnesses. The hearing officer or Hearing Panel may ask follow up questions at the conclusion of the direct testimony, but will only act as an impartial fact finder at all times. After the hearing officer or Hearing Panel have asked relevant questions of a party or witness, then the other party's advisor will be given the opportunity to ask relevant cross-examination and follow up questions including those relating to credibility.

The parties will be allowed to make closing statements (10 minutes). The Complainant will go first, followed by the Respondent. A closing statement may include a summary of the information shared during the hearing and the impact the party believes it has on the decision before the Hearing Panel. It may also include how the party has been impacted by the allegations and what their desired outcome of the hearing is.

#### **8.8.3 Other general rules for the investigation and hearing regarding evidence and relevance**

- The rape shield provision limiting relevance of the Complainant's prior sexual behavior to prove consent or that someone else committed the offense applies equally to the investigation and the hearing. Respondent's prior sexual behavior is irrelevant unless he or she is also a Complainant.
- Evidence of a person's character or prior bad acts is admissible and must be admitted and objectively evaluated with respect to relevance and to determine whether the evidence warrants a high or low level of weight or credibility.
- Any relevant statements contained in testimony or a document that is not supported by a live witness may be accepted and considered by the Hearing Panel, subject to the Panel's determinations as to the credibility and weight of the evidence.
- The University reserves the right to appear and submit relevant evidence to the hearing that was previously presented during the investigation or was unavailable due to no fault of its own or any party, after providing the parties with the necessary pre-hearing disclosure statement outlined above. However, the University is not a party to the proceedings and will not advocate on behalf of the Complainant or Respondent.
- No adverse inference may be drawn if a party or witness refuses to testify or respond to a question.
- Questions on cross-examination will be evaluated by the hearing officer at the hearing for relevancy before a party or witness is required to answer. The hearing officer will explain in real time any decision not to permit a question. However, advisors may not challenge or speak to the decision maker's ruling.

**8.8.4 Determination of Responsibility/No Responsibility**

The three members of the Hearing Panel are equal decision-makers and are responsible for deciding whether the Respondent is or is not responsible for violating University policy based on the notice of charges provided to the Respondent. A majority of the Hearing Panel must determine whether it is more likely than not that, the Respondent committed a violation of this policy a determination must be made for each policy violation alleged.

The Hearing Panel will issue a written report within five (5) business days and simultaneously notify the Complainant and Respondent of its determination and findings.

**8.9 Appeal**

Both parties have right to an administrative appeal of the outcome of the hearing. The appeal must be submitted in writing within ten (10) business days to the Title IX coordinator and must specifically state grounds for appeal and the rationale and evidence in support of the reason for appeal.

**8.9.1 Appeal Reasons**

The permissible grounds for appeal are limited to the following reasons:

- o A procedural error occurred that materially affected the outcome of the hearing (e.g. substantial and material deviation from established procedures, erroneous relevance determinations or failure to objectively evaluate all relevant evidence if they affected the outcome etc.). The procedural error and its impact must be explained.
- o To consider new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter. A summary of this new evidence and its potential impact must be included along with an explanation showing why the evidence was not presented at the original hearing
- o The Title IX coordinator, investigator, or decision maker had a conflict of interest or bias for or against Complainants or Respondents generally or one of the parties that affected the outcome of the matter. The conflict of interest or bias and its impact must be explained.
- o The sanctions imposed are substantially disproportionate to the severity of the violation and substantially outside the parameters or guidelines set by the University for this type of offense or the cumulative conduct record of the Respondent. The reasoning and evidence that the sanction was disproportionate or inappropriate must be explained.

**8.9.2 Appeal procedures**

The University must notify the other party when an appeal is filed including a copy of the written submission received from the appealing party. The other party will be given five (5) business days to submit a written statement opposing the appeal and supporting the outcome. The University will give a copy of the opposing party's response or opposition to the party filing the appeal.

An Appeal Review Board will be established to review the case. The three-person appeals panel will be selected from various constituencies of the University (students, staff and/or faculty). Selection will be made in such a way as to ensure that the members of the appeals panel are trained appropriately and screened for potential conflicts of interest and bias.

The appeals panel may examine all documentation and evidence relating to the case. The responsibility of the appeals panel is to conduct a closed and confidential review of the case and report and make recommendations to the deciding administrator.

The deciding administrator in complaints where the Respondent is a student will be the Vice President, Student Affairs. The deciding administrator in complaints where the Respondent is a faculty or staff member will be the Chief Diversity Officer.

The deciding administrator will make a determination based on the report of the appeal review board and has ultimate authority in all decisions and recommendations. The determination of the deciding administrator is considered final and not appealable. Both parties will receive a written decision describing the result of the appeal and the rationale for the decision within ten (10) business days). Simultaneous notice of the written decision will be sent to both parties.

**Responsibilities:**

Position/Office/Department	Responsibility
All employees	Report policy violations to Title IX coordinators

Section 504 & Title IX coordinator/deputy coordinator for Students	Oversight for policy maintenance, complaint receipt, investigations and appeals process.
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**Resources:**

[Discrimination or Harassment Formal Complaint Form](#)

**Policy Contacts:**

Name	Contact Information
Daniel Bauer	314-446-8308, Daniel.bauer@uhsp.edu