

Information

Title IX Student Sexual Misconduct Policy

Effective

August 12, 2020

Applicability

This policy applies to all members of the University of Louisville ("University") community (including employees, students, non-University employees participating in University related activities or programs, third party contractors and vendors, and visitors) if the Respondent is a student and the jurisdictional requirements of Title IX are met. If the Respondent is an employee, the report will be reviewed and addressed in accordance with the University's Title IX Employee Sexual Misconduct Policy. If the Respondent is a third Party, the Report will be routed to the University of Louisville Police Department (ULPD) for resolution which may include criminal or administrative responses.

Administrative Authority

Executive Vice President of Legal, Governance, and External Relations/Chief Legal Counsel

Responsible Unit

Office of University Counsel

Title IX Office

Grawemeyer Hall, Suite 202B

Email: titleix@louisville.edu

History

Revision Date(s): August 1, 2025, September 2, 2025

Reviewed Date(s): August 1, 2025

Categories

Procedures:

TITLE IX MANDATORY REPORTING

A mandatory reporter is required to report incidents of alleged Sexual Misconduct to the Title IX Office. All University employees are considered mandatory reporters unless they are specifically designated as a confidential resource and as such, are expected to provide information regarding possible violations of this policy as soon as reasonably possible. Mandatory reporters include but are not limited to: President, Vice Presidents, Deans, Department Chairs, Directors, and Coaches; Assistant or Associate Vice Presidents, Deans, and Provost, Vice Provosts, Associate and Assistant Provosts; any employee in a supervisory or management role; all Faculty; ULPD Officers; and any contracted security personnel.

REPORTING SEXUAL MISCONDUCT

The purpose of making a report is to inform the University that Sexual Misconduct may be occurring or may have occurred, and to provide information sufficient to identify the Parties involved. Any person with knowledge of Sexual Misconduct should report the information to:

Title IX Office

Tim Beam, Title IX Director

Grawemeyer Hall, Suite 202 Louisville, KY 40208

Phone: (502) 852-1198

Email: titleix@louisville.edu

Reporting Sexual Misconduct enables the University to provide Supportive Measures and information regarding the University's adjudication process. If an incident is not reported to the University, then the University will not be able to discuss the availability of Supportive Measures or the adjudication process with the Complainant.

If a person reports an incident of Sexual Misconduct to the University, there is no requirement that the Complainant pursue criminal prosecution or University discipline against a Respondent. The University recognizes that a Complainant's decision on how to proceed after a report is filed is a process that may unfold over time; thus, at the time a report is made to the University, a Complainant does not have to decide whether to request any particular course of action.

The University will take immediate steps to inquire into any reports of alleged violations of the Title IX policy and determine appropriate next steps.

A. Initial Assessment

After receiving a report of Sexual Misconduct, the Title IX Coordinator or designee will take the following immediate and appropriate steps including but not limited to:

- Fully review the initial report;
- Promptly contact the Complainant, offer to meet, and provide a copy or a link to the University's Sexual Misconduct Resource Guide;
- Discuss with the Complainant the availability of Supportive Measures;
- Explain to the Complainant the process for filing a Formal Complaint;
- Describe the formal and informal resolution processes if a Formal Complaint is filed;
- Implement Supportive Measures; and
- If the Complainant requests, assist the Complainant in reporting the incident to the police.

B. No Response/No Action Requested

Individuals who have experienced Sexual Misconduct are not required to respond to the Title IX Office outreach. As a result, if the Complainant declines to respond to outreach, or states that they do not choose to file a Formal Complaint or participate

in an investigation, the University generally will administratively close the matter. The Complainant may later decide to engage with the Title IX Office, and the case could be reopened. There are also limited circumstances in which the Title IX Coordinator may determine that the University must continue with an investigation, and potentially a hearing, without the Complainant's participation or assent, because of the University's commitment to providing a safe and non-discriminatory learning, living, and working environment free from Sexual Misconduct.

C. Interim and Supportive Measures

The University will take steps promptly once it has notice of a Sexual Misconduct allegation and will provide equitable access to the Parties. These steps may include interim and Supportive Measures, which are support services, non-disability related accommodations, and other forms of assistance offered to persons who may be affected by Sexual Misconduct. These measures may be available to either Party and are available even if a Formal Complaint is not filed. Supportive and interim measures that are reasonable and appropriate will be considered. These measures are not disciplinary and may not unreasonably burden another party.

The University will also provide the Parties with information on Title IX rights and any available resources, such as victim advocacy, housing assistance, academic support, student financial aid, counseling, visa and immigration services, disability services, health and mental health services, and the right to report a crime to campus or local law enforcement. The University will maintain as confidential any Supportive Measures provided to the Parties, to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures.

While the Respondent is presumed to be not responsible for the alleged Sexual Misconduct until a determination regarding responsibility is made at the conclusion of the complaint process, there may be extenuating circumstances where safety concerns require immediate action, such as an interim suspension. Such interim measures can only be taken after an individualized safety and risk analysis determines that there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Misconduct that justifies removal.

FILING A FORMAL COMPLAINT

A. Complainant Filed

A Complainant who wants the University to initiate an investigation must file a Formal Complaint with the Title IX Office. The Formal Complaint may be filed with the Title IX Office in person, by mail, or by email, by using the contact information provided herein. A Formal Complaint must include the physical or digital signature of the Complainant. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activities of the University.

B. University-Initiated

The University's response to a report of sexual misconduct is largely driven by the preferences of the affected party. Thus, the Title IX Office will make all reasonable attempts to comply with the impacted Party's requests with respect to confidentiality, investigation, and resolution, and in most instances, will be able to comply with those preferences. The University also has an obligation to protect the broader University community. In situations where an individual does not file a Formal Complaint, but it is determined an investigation is necessary to protect the University community, the Title IX Office may initiate a Title IX investigation where no Formal Complaint has been filed. The Title IX Coordinator will assess whether the totality of the circumstances warrant a University-initiated investigation by examining the following but not limited to: the seriousness of the reported conduct, whether the reported misconduct reveals a pattern of perpetration at a given location or by an individual or group, or whether there have been other reports of similar bias incidents, harassment or discrimination. The Title IX Coordinator must sign a Formal Complaint to initiate University-initiated Title IX investigation. Where the Title IX Coordinator signs the Formal Complaint, the Title IX Coordinator is not the Complainant or otherwise a Party.

C. Time Period for Filing a Formal Complaint

While there is no statute of limitations to file a Formal Complaint, prompt reporting of Sexual Misconduct to a University Official or the Title IX Office is strongly encouraged to allow timely response and resolution. An individual must be participating or attempting to participate in a program or activity to file a Formal Complaint. Additionally, if the alleged Respondent is no longer a student by the time the Formal Complaint is filed, the University may not be able to take disciplinary action against that person.

D. Formal Complaint Consolidation

The University may consolidate Formal Complaints as to allegations of Sexual Misconduct against more than one Respondent, or by more than one Complainant against one or more Respondent(s), where the allegations of Sexual Misconduct arise out of the same facts or circumstances. Where a process involves more than one Complainant or more than one Respondent, references to the singular "Party," "Complainant," or "Respondent" include the plural, as applicable.

E. Mixed Formal Complaints

When a Formal Complaint alleges distinct violations of both the Student Title IX Sexual Misconduct Policy and the Code of Student Conduct, the University may investigate these matters jointly. If a hearing is

necessary to adjudicate the charges, the University will address each independently in accordance with the Student Sexual Misconduct Policy and the Code of Student Conduct.

F. Preliminary Assessment

Upon receipt of a Formal Complaint, the Title IX Office will review and evaluate the Formal Complaint to determine if the alleged behavior, if true, constitutes Sexual Misconduct as defined by and in violation of this policy and meets Title IX jurisdictional requirements. If the alleged behavior constitutes Sexual

Misconduct and meets Title IX jurisdictional elements, the allegations must be promptly investigated in accordance with this policy. Prior to the initiation of a formal investigation, the Title IX Office will obtain the General Counsel's certification in writing that the investigation is necessary because the conduct being investigated either (1) may rise to the level of student-on-student harassment if all facts alleged are taken as true; or (2) is subject to a mandatory investigation pursuant to applicable state or federal law.

1. Must Dismiss

The University is required to dismiss a Formal Complaint for purposes of this policy, if at any point, the University determines that the conduct alleged in the Formal Complaint:

- Would not constitute Sexual Misconduct as defined in this policy, even if proved;
- Did not occur in the University's education program or activity; or
- Did not occur against a person in the United States (including non- citizens).

The University reserves the right to address the alleged conduct in a dismissed Formal Complaint utilizing the Code of Student Conduct or other policies, as applicable.

2. May Dismiss

The University may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing:

- Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- Respondent is no longer enrolled or employed by the University; or
- Specific circumstances prevent the University from gathering sufficient evidence to reach a determination as to the Formal Complaint or allegations therein.

3. Appeal of Formal Complaint Dismissal

When a Formal Complaint is dismissed, the Title IX Office will send written notice of the dismissal and reason(s) for the dismissal simultaneously to the Parties. Either Party may appeal the decision to dismiss or the decision to dismiss any allegation in a Formal Complaint on the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the dismissal was made, and that evidence could affect the outcome of the decision; or
- The Title IX Coordinator, Investigator, or Hearing Board member had a conflict of interest or bias

for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

The appeal should be in hard copy or electronic format and should contain clear and concise information to support each basis of appeal. The appeal must specify the grounds for appeal and provide a written explanation in support of the appeal.

Students may use the [Title IX Formal Complaint Dismissal Form](#) for their appeal. The appeal must be delivered to the Title IX Office. The Title IX Office will immediately inform the Dean of Students Office of the Appeal. The Dean of Students or their designee will serve as the appellate decision maker (Appeal Officer). The Appeal Officer will be a neutral party, free from bias or conflict of interest.

a. Appeal Notice

Upon receipt of an appeal, the Title IX Office must

- Notify the other Party in writing that an appeal was filed;
- Provide the other Party the submitted appeal and notify this individual they have the opportunity within five (5) Days to submit a written response; and
- Provide the Appeal Officer with all appeals and any written responses.

b. Appeal Outcomes

The Appeal Officer will review the appeal in an impartial manner and issue a written response within ten (10) Days after receiving written notice of the dismissal. After consideration of the appeal, the Appeal Officer must

- uphold the Formal Complaint dismissal;
- overturn the Formal Complaint dismissal; or
- request collection of more evidence before making a decision.

The Appeal Officer will issue a written decision that must describe the result and the rationale for their decision. The written determination must be issued to the Parties simultaneously. The decision of the appeal officer is final.

G. Notice of Allegations

If the Formal Complaint is not dismissed, The University will provide to the Parties written notice including:

1. The University's adjudication process, including any informal resolution process;
2. The allegations of Sexual Misconduct, as defined in this document, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview;

3. Sufficient details include the identities of the Parties involved in the incident, if known, the conduct allegedly constituting Sexual Misconduct and the date and location of the alleged incident, if known;
4. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the process;
5. Advisement to the Parties that they may have an Advisor of their choice, who may be an attorney, attend the hearing for the purpose of cross-examining the opposing Party and opposing Party's witnesses at the hearing. The Advisor cannot be a Party or a witness to the complaint;
6. Advisement to the Parties that if a party does not choose to bring their own Advisor, the University will provide the Party an Advisor for the limited purpose of conducting cross-examination at the hearing;
7. Advisement to the Parties that they may consult with anyone of their choosing to prepare for the hearing and may have one person accompany them to any portion of the investigative process that the Party participates in;
8. Any provision in the University's Code of Student Conduct that prohibits knowingly making false statements or knowingly submitting false information during the investigation, charging/hearing, or appeal phases of the process; and
9. Notice that if, in the course of an investigation, additional Title IX allegations about the Complainant or Respondent are discovered, relevant Parties will be notified.

RESOLUTION PROCESS

The University's resolution procedures provide a prompt, fair, and impartial response to Formal Title IX Complaints. The process is grounded in fairness and support for all Parties and includes procedural protections that ensure nondiscrimination and meaningful opportunities to participate.

A. Informal Resolution

An informal resolution is an alternative to the formal resolution process which entails a complete investigation and a formal adjudication of responsibility (hearing). The informal resolution process is intended to create a facilitated resolution that is

acceptable to both the Complainant and Respondent. A Party may request an informal resolution at any time prior to the commencement of a hearing. In all cases, the Title IX Coordinator or designee will have discretion to determine whether or not informal resolution is appropriate to the circumstances.

An informal resolution process may occur if:

- A Complainant submits a Formal Complaint to the Title IX Coordinator;
- Both the Complainant and Respondent voluntarily agree in writing to participate in the informal resolution process after being provided the Notice of Allegations; and
- The Title IX Coordinator determines an informal resolution process is appropriate based on the nature of the allegations in the Formal Complaint.

The Title IX Coordinator or designee will serve as the facilitator of the informal resolution process. If at any time the Title IX Coordinator or designee finds the informal resolution process is not beneficial or advancing resolution, the case may be referred back to the Investigator to begin or resume the investigative process. Similarly, either Party can ask to end the process at any time before its completion and proceed to investigative process. If an informal resolution process is ended without resolution, any information obtained, or statements made during the informal resolution process, may be used in a subsequent formal resolution process and hearing.

If the Formal Complaint is to be resolved through the informal resolution process, it will be completed in 20 Days from receipt of both Parties requests to utilize this process. If there is need for a temporary delay or a limited extension of time frames due to extenuating circumstances, the Title IX Office will send written notice to the Parties of the delay or extension and the reasons for the action.

The Complainant and Respondent may propose terms for the informal resolution agreement. The terms should be designed to remedy the adverse effects the alleged Sexual Misconduct has on the Complainant and/or to restore the Complainant's equal access to the University's programs and activities. Once terms are agreed upon, each Party will sign the informal resolution agreement.

Once a Formal Complaint has been resolved through an informal resolution process, the matter will be closed. This means allegations resolved through an informal resolution will not advance through the formal resolution process unless the terms of

the informal resolution are broken or incomplete. If a term of the informal resolution is broken or incomplete, the information obtained may be submitted as evidence in a subsequent investigation involving the Complainant and/or Respondent.

Federal regulations under Title IX prohibit informal resolutions where a Student is the Complainant and an Employee is the Respondent.

A. Formal Resolution

There are three separate phases in the Sexual Misconduct formal process (1) the investigation phase, (2) the hearing phase (as needed), and (3) the appeal phase (as needed). The entire process (all three (3) phases) will be completed within 120 Days from the date of the Formal Complaint. The University may extend this time frame for good cause with approval of the Title IX Coordinator and with notification to both Parties and their Advisors in writing.

1. Investigation

The Formal Complaint resolution begins with an investigation. After obtaining the General Counsel's authorization and written certification, the Title IX Coordinator will assign an Investigator to gather relevant evidence to reach a determination regarding responsibility. The information gathering process will be completed in a reasonably prompt manner. Absent extenuating circumstances, the investigation should be completed within 60 Days of receipt of the Formal Complaint. The Title IX Office may extend the amount of time needed to conduct the investigation, as deemed necessary, upon notice to both Parties in writing.

The University cannot access, consider, disclose, or otherwise use a Complainant's or Respondent's records that are made or maintained by a physician, psychiatrist, psychologist, or mental health provider and which are made and maintained in connection with the provision of treatment to the Party, unless the University obtains that Party's voluntary, written consent to do so.

The investigative process is an internal University process; therefore, it is not open to persons, including counsel, from outside of the University community. However, the Complainant and Respondent may bring an Advisor of their choice to their meetings with the Investigator. Advisors can only attend investigative meetings if their respective Party is present. Advisors have no role in the investigative process except to confer, support, and give advice to their Party in a quiet, confidential, and

non-disruptive manner. Advisors may not speak for a particular Party.

The University will:

- provide an equal opportunity for the Parties to identify witnesses, including fact and expert witnesses, and other information that could support the allegations or refute the responsibility of the Respondent. Witness testimony and information regarding behavior not relevant to the incident in question, will be excluded from consideration in a hearing;
- not restrict the ability of either Party to discuss the allegations under investigation or to gather and present relevant information;
- provide to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of investigative interviews, or other meetings, with sufficient time (not less than three (3) Days) for the Party to prepare to participate;
- state that any evidence that the Parties intend to rely on at the hearing must be provided to the Investigator for consideration or it cannot be used at the hearing;
- prior to completion of the investigative report, send to each Party and the Party's Advisor, if any, a preliminary investigative report with the evidence subject to inspection and review in an electronic format or a hard copy, and provide the Parties ten (10) Days to submit a written response, which the investigator will consider prior to completion of the investigative report; and
- create a final investigative report that fairly summarizes relevant information and send it to each Party and the Party's Advisor.

Investigations should include:

- A request for an interview with the Complainant
 - Written notice of the date, time, location and purpose of the interview must be sent to Complainant with sufficient time for Party to prepare to participate; and
 - Request Complainant to provide a written statement at least three (3) Days prior to the meeting;
- Written notice of the date, time, location and purpose of the interview must be sent to Complainant with sufficient time for Party to prepare to participate; and

- Request Complainant to provide a written statement at least three (3) Days prior to the meeting;
- A request for an interview with Respondent
 - Written notice of the date, time, location and purpose of the interview must be sent to Respondent with sufficient time for Party to prepare to participate; and
 - Request Respondent to provide a written statement at least three (3) Days prior to the meeting;
- Written notice of the date, time, location and purpose of the interview must be sent to Respondent with sufficient time for Party to prepare to participate; and
- Request Respondent to provide a written statement at least three (3) Days prior to the meeting;
- Request to interview other witnesses who may have relevant information
 - Request witness(es) to provide a written statement at least three (3) Days prior to the meeting; and
 - The University must provide equal opportunity for the Parties to present fact and expert witnesses and other information that could implicate or absolve the Respondent.
- Request witness(es) to provide a written statement at least three (3) Days prior to the meeting; and
- The University must provide equal opportunity for the Parties to present fact and expert witnesses and other information that could implicate or absolve the Respondent.

After considering all of the evidence and any responses from the parties, the Investigator shall issue a final investigative report. The final investigative report will contain:

- Factual information only;
- No findings regarding violations; and
- A statement that the matter:

- has met the jurisdictional elements and will proceed to hearing; -or-
 - that the Formal Complaint will be dismissed and the reason for such dismissal.
- has met the jurisdictional elements and will proceed to hearing; -or-
 - that the Formal Complaint will be dismissed and the reason for such dismissal.

The final report shall be forwarded to the Title IX Coordinator, who will review the report and confirm that the alleged conduct may constitute Sexual Misconduct as defined in the policy. If the alleged conduct, if true, would not constitute Sexual Misconduct as defined in the policy, the Formal Complaint must be dismissed. If the Formal Complaint is dismissed, a notice of dismissal will be sent to both parties and include information regarding the right to appeal. Regardless of whether the Formal Complaint was Complainant-filed or University-initiated, if the alleged conduct may constitute Sexual Misconduct, it will proceed to a hearing.

2. Hearing

The University's Formal Resolution process is designed to determine whether the Respondent committed the conduct in question and whether this conduct is a violation of this policy. The University makes this determination through a Title IX hearing.

The hearing will be informal. State and federal rules of evidence and civil procedure will not apply in the hearing. The hearing will be closed to everyone except the Hearing Official, the Hearing Board, appropriate Title IX Office and/or University staff, Respondent, Complainant, Advisor to the Respondent, Advisor to the Complainant, and witnesses during the actual time of their participation.

The University will provide notification of a hearing date that must be at least ten (10) Days from the date the final investigative report is issued but absent extenuating circumstances no more than 30 Days out.

Parties have five (5) Days from the issuance of the final investigative report to request an alternative hearing date due to an unavoidable scheduling conflict.

The Respondent and the Complainant have the opportunity to:

- Be present at the hearing. However, if the Respondent and/or Complainant fail to appear for the hearing, the hearing may be held in their absence(s);
- Explain or ask questions about all information provided as part of the investigation including statements provided to the investigators and the response (if any) to the investigative report. Typically, no new witness statements or other new information will be introduced at the hearing except for information elicited from the cross-examination of witnesses;
 - It is the responsibility of the Respondent and the Complainant to notify their witness(es) of the date, time, and location of the hearing. If witnesses fail to appear, the hearing will be held in their absence(s). Witness testimony or information regarding behavior not relevant to the incident in question, will be excluded from consideration at the hearing;
- Bring an Advisor to the hearing;
- Request a pre-hearing meeting prior to the hearing; and
- To not speak or answer any question during the hearing. If a Party or witness does not submit to cross-examination at the hearing, the Hearing Board must not rely on any statement of that Party or witness in reaching a determination regarding responsibility. The Hearing Board cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness' absence from the live hearing or refusal to answer cross-examination or other questions.
- It is the responsibility of the Respondent and the Complainant to notify their witness(es) of the date, time, and location of the hearing. If witnesses fail to appear, the hearing will be held in their absence(s). Witness testimony or information regarding behavior not relevant to the incident in question, will be excluded from consideration at the hearing;

The University will:

- Provide a live hearing;
- Allow each Party to have an Advisor;
 - University will appoint an Advisor for either Party who does not select an Advisor no later than seven (7) Days prior to the Hearing;
- Permit each Party's Advisor to cross-examine the other Party and any witnesses with relevant questions and follow-up questions, including those challenging credibility;

- Cross-examination at the live hearing will be conducted directly, orally, and in real time by the Party's Advisor and never by a Party personally;
- Only relevant questions may be asked of a Party or witness. Before a Complainant, Respondent, or witness answers a question, the Chair of the Hearing Board will first determine whether the question is relevant and explain any decision to exclude a question as not relevant;
- Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent;
- Since formal rules of evidence do not apply in University sexual misconduct hearings, the Chair of the Hearing Board has the discretion to assign such weight to statements and other information that satisfies the relevance rules but is not subjected to cross-examination as the Chair of the Hearing Board deems appropriate. The Chair of the Hearing Board will make these determinations and provide this information during deliberations to the Hearing Board;
- The Hearing Board cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions;
- Require any evidence that the Parties intend to rely on at the hearing be provided to the Investigator for consideration or it cannot be used at the hearing;
- Allow for the presence of an additional support person if requested pursuant to disability laws or deemed necessary by the University for language assistance. Any requests for accommodation or for language assistance at the hearing must be made to the University at least five (5) Days in advance of the hearing;
- At the request of either Party, or at the discretion of the University, provide for the live hearing to occur with the Parties located in separate rooms with technology enabling the Hearing Board, Parties, and all other participants to simultaneously see and hear the Party or the witness answering questions;
- At the University's discretion, conduct the live hearings virtually, where all Parties, witnesses, and other participants may appear at the live hearing

virtually, with technology enabling participants simultaneously to see and hear each other; and

- The University will create an audio and/or audiovisual recording of any live hearing and make it available to the Parties for inspection and review. Any record of the hearing will remain the property of the University. No other recording(s) of the hearing will be permitted.
- University will appoint an Advisor for either Party who does not select an Advisor no later than seven (7) Days prior to the Hearing;
- Cross-examination at the live hearing will be conducted directly, orally, and in real time by the Party's Advisor and never by a Party personally;
- Only relevant questions may be asked of a Party or witness. Before a Complainant, Respondent, or witness answers a question, the Chair of the Hearing Board will first determine whether the question is relevant and explain any decision to exclude a question as not relevant;
- Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent;
- Since formal rules of evidence do not apply in University sexual misconduct hearings, the Chair of the Hearing Board has the discretion to assign such weight to statements and other information that satisfies the relevance rules but is not subjected to cross-examination as the Chair of the Hearing Board deems appropriate. The Chair of the Hearing Board will make these determinations and provide this information during deliberations to the Hearing Board;
- The Hearing Board cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions;

a. Hearing Official

The Hearing Official will:

- Notify Parties and witnesses as to the date, time and location of the hearing to ensure that the Parties and relevant witnesses have the opportunity to participate in the hearing;
- Handle all details for the hearing such as reserving space, ensuring availability of equipment needed, and coordinating witness movement; and
- Answer questions and provide clarity to the Parties and to the Hearing Board regarding the University's Title IX process.

b. Hearing Board

A Hearing Board will be composed of three members - Chair and two (2) panelists. The Chair of the Hearing Board will be a retired judge or experienced attorney who has contracted with the University to preside over Title IX hearings. The Title IX Coordinator will select panelists from a pool of trained students, faculty, and staff. The Title IX Coordinator, or their designee, will provide the Hearing Board with the investigative file. The Hearing Board will consider the information presented during the Title IX hearing and make a decision regarding findings and sanctions (if any) to be imposed. Panel decisions will be based on a majority vote.

c. Chair of the Hearing Board

The Chair of the Hearing Board will:

- Serve as the Chair of a three-person Hearing Board comprised of the Chair, and two members chosen from a pool of trained students, faculty, and staff;
- Rule on the admissibility of evidence ensuring the consideration of information that could support or refute the allegations against the Respondent;
- Conduct the questioning portion of the hearing including conducting any questioning they may deem necessary of the Complainant, the Respondent or witnesses and oversee the cross examination by Advisors of the opposing Party;
- Control the tone and tenor of the hearing, particularly in the presence of experienced counsel on one side or the other or both;
- Have discretion to call witnesses other than those presented by the Parties and may question any Party or witness directly, irrespective of questions that may be posed by the Advisors;

- Remove from the hearing any Advisor or other attendee at the hearing who refuses to comply with the University's rules of decorum, acts disrespectfully, or is abusive during a hearing;
- Make relevancy determinations regarding all questions prior to a response to the question and providing an explanation for excluding any question to the Parties and their Advisors. Absent an affirmative ruling that a question is not relevant, the Chair will be deemed to have determined that a question is relevant;
- Ensure that the Hearing Board does not rely on any statement provided by a Party or witness who does not submit to cross-examination at the live hearing in reaching a determination regarding responsibility;
- Deliberate with the Hearing Board and by majority vote (no abstentions are allowed), make the determination of responsible or not responsible utilizing the preponderance of evidence standard;
- In the case of a finding of responsible, reconvene to deliberate with the Hearing Board to determine sanctions by majority vote (no abstentions are allowed); and
- Provide the Title IX Coordinator with a letter within ten (10) Days containing the decision as to responsibility and sanctions, if applicable. Both Parties will need to be notified simultaneously of the decision.

d. Hearing Board Panelist

The Hearing Board Panelist will:

- Inform Hearing Official of any actual or potential conflict of interest related to the Complainant, Respondent, or Advisor;
- Attend and listen to all portions of the hearing and engage in questioning as deemed appropriate by the Chair;
- Deliberate in closed session, after dismissing the Parties and their Advisors, utilizing the preponderance of evidence standard, to determine the finding of responsible or not responsible by a majority vote (no abstentions allowed);
- If there is a finding Respondent responsible, reconvene and determine sanctions by a majority vote (no abstentions allowed).

e. Advisor[\[1\]](#)

A Party's Advisor will:

- Confer and give advice to their respective Party in a quiet, confidential, and non-disruptive manner;
- Be permitted to cross-examine the other Party and witnesses by asking all relevant questions and follow-up questions, including those challenging credibility. Questions challenging the credibility of a Party or a witness can touch on topics such as honesty, inconsistency, or that the individual has given a contrary statement at another time;
- At all other times during the hearing or any other part of the process at which the Advisor is present, the Advisor will have no other role except to advise their Party;
- Any Advisor who refuses to comply with the University's rules of decorum, acts unprofessionally or otherwise disruptive during a hearing may be removed from the hearing at the discretion of the Chair of the Hearing Board. In that event, the Party may substitute a different Advisor (if immediately available), or the hearing will be continued until a replacement Advisor is secured; and
- If a Party does not choose to bring their own Advisor to the hearing, the University will provide the Party with an Advisor for the purpose of cross-examining witnesses only.

f. Hearing Decision

The Chair of the Hearing Board, who cannot be the same person as the Title IX Coordinator or the Investigator, will issue a written finding regarding responsibility. The Chair of the Hearing Board will draft and issue the Board's decision within ten (10) Days of the hearing. To reach a finding of responsibility, the Hearing Board must utilize the preponderance of evidence standard.

The written determination must include:

- Identification of the allegations potentially constituting Sexual Misconduct;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of this policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed

on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and

- The University's procedures and permissible bases for the Complainant and Respondent to appeal.

The University will receive the Hearing Board's decision and subsequently provide the written determination to the Parties simultaneously. The determination regarding responsibility becomes final either on the date that the University provides the Parties with the written determination of the result of the appeal if an appeal is filed; or the date on which an appeal would no longer be considered timely.

3. Appeal Process

The University will allow both Parties to appeal the outcome (responsible or not responsible) and any sanction imposed. The appeal is a review of the case file relative to the basis of appeal and is not intended to provide a second hearing of the case. To initiate an appeal of a Title IX hearing decision, the appealing Party must complete the [Title IX Hearing Appeal Form](#). A Party's [Title IX Hearing Appeal Form](#) must be submitted to the Title IX Office within ten (10) Days after the issuance of the hearing decision. When the ten (10) Day deadline for appeal has expired and no appeal is submitted, the Hearing Board decision is final.

The Respondent or Complainant may request an appeal for one or all of the following reasons:

- whether there was a procedural irregularity that affected the outcome of the hearing;
- whether there was sufficient information presented at the hearing to establish, by a preponderance of the information, that a violation of the prohibited conduct section occurred;
- whether the sanction(s) imposed was appropriate;
- whether there is new information that was not known to the person requesting the review at the time of the hearing and that, if presented at the hearing, would more likely than not have altered the hearing decision; or
- whether the Title IX Coordinator, Investigator(s), or Hearing Board had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

After Parties are informed of the hearing board's decision, and if an appeal is submitted by the Complainant or Respondent, the other Party shall be given a copy of the appeal and an opportunity to respond within five (5) Days. If the Party who was provided the opportunity to respond does not reply within (5) Days, their opportunity to respond is forfeited.

Upon receipt of an appeal, the Title IX Office will inform the Dean of Students of the appeal. The Dean of Students or their designee will serve as the appellate decision maker (Appeal Officer). The Appeal Officer, an impartial decision-maker, will conduct the appeal in an efficient and fair manner. The Appeal Officer will first review all requests for appeal to determine if the request invokes one or more of the permissible bases for appeal and are within the appeal filing timeline. If a Party does not meet the established criteria for appeal or the appeal is not submitted within the allotted timeframe, the Hearing Board decision will be the final decision of the University.

The Appeal Officer has the authority to:

- Uphold the decision of the Hearing Board, including the sanction(s) imposed;
- Reverse the responsibility decision of the Hearing Board;
- Alter the sanction imposed by the Hearing Board by reducing or increasing the severity of the sanction(s); or
- Remand the case to the Hearing Board for further consideration, or for a new hearing.

The Title IX Office will transmit the Appeal Officer's written decision to the Parties within fourteen (14) Days after the deadline for appealing has expired. The Appeal Officer's decision on all Title IX hearing appeals is the final decision of the University.

4. Expulsion Review

A student who has been expelled from the University may apply for special consideration for readmission after a period of not less than five (5) years. The former student must submit a written petition for readmission to the Title IX Office. This written request must outline a strong justification for readmission. Additional pertinent documentation may also be required. The Title IX Coordinator will contact the Dean of Students Office, and the Dean of Students, or their designee, will review relevant information and make a final decision. Factors to be considered in review of such a petition will include, but may not be limited to:

- The present demeanor of the petitioner;
- Presence of Complainant(s) on University premises;
- The conduct subsequent to the expulsion (documentation may be required);
- The nature of the violation causing the expulsion; and
- The severity of damage, injury, and/or harm that occurred.

CONFIDENTIALITY, PRIVACY, AND REPORTING

Students should be aware of confidentiality, privacy, and mandatory reporting requirements in order to make informed choices.

If a person desires details of the incident be kept confidential, the resources listed below are appropriate. In addition, members of the clergy and chaplains are allowed by law to keep reports confidential. Seeking support from any of these resource organizations is not considered an official report of any type of Sexual Misconduct to the University. The individuals at these resource organizations listed below facilitate a report and advocate for individuals who request assistance.

A person may seek advice from certain individuals who are not required to report to anyone else private, personally identifiable information unless there is cause or fear for the reporting person's safety or the safety of others. Confidential resources are individuals whom the University has not specifically designated as "responsible employees" for purposes of putting the University on notice and for whom mandatory reporting is not required, other than in the stated limited circumstances, such as statistical reporting for the Clergy Act.

[\[1\]](#) If a University-initiated investigation results in a hearing, the Title IX Coordinator will appoint a University member to represent the "Complainant." Specifically, the University member may present an opening statement, present witnesses and cross examine the Respondent and the Respondent's witnesses.