Information

Title IX Employee Sexual Misconduct

Effective

August 14, 2020

Number

PER 1.23

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 an employee and the jurisdictional requirements of Title IX are met. If the Respondent is a student, the complaint will be reviewed and addressed in accordance with the University's Title IX Student 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 Legal Compliance and Investigations

Title IX Office

Grawemeyer Hall, Suite 202B

Email: titleix@louisville.edu

History

Revision Date(s): August 24, 2020; April 9, 2021; October 19, 2021; December 1, 2021 (minor edits to email); August 16, 2022; November 16, 2022; April 13, 2023; August 16, 2023;September 13, 2023; April 3, 2024; November 13, 2025

Reviewed Date(s): April 9, 2021; November 13, 2025

Categories

Reason for Policy:

To inform the members of the University community about the University's Title IX Employee Sexual Misconduct Policy and reaffirm the University's commitment to prohibiting and responding to Sexual Misconduct. This Policy also outlines the procedures for handling Sexual Misconduct complaints made against University employees, reporting options, and resources for all members of the University community.

Statement:

The University is committed to fostering an atmosphere free from Sexual Misconduct. The University will take prompt and appropriate action to eliminate Sexual Misconduct, prevent recurrence, and remedy any effects on the Complainant or those involved in the complaint process. If, in the process of the investigation, the University determines that the alleged conduct does not fall within the scope of this or other University policies, both the Complainant and the Respondent will be notified in writing.

Any University employee who is the victim of or been a witness to Sexual Misconduct in the workplace should promptly notify the Title IX Office at 502-852-1198 or titleix@louisville.edu. In an emergency, individuals should contact ULPD at 502-852-6111 or call 911.

This policy will be utilized if the Respondent is an employee and the jurisdictional requirements of Title IX are met. If the case does not meet the jurisdictional requirements for Title IX, the case may be administered through other University policies as applicable. If the Respondent is a student, the Report will be addressed in accordance with the University's Title IX Student Sexual Misconduct Policy. If the Respondent is a third Party, the Report will be routed to ULPD for resolution which may include criminal or administrative responses.

This policy and associated procedures are not intended to restrict any rights that would otherwise be protected by the First Amendment of the U.S. Constitution; deprive a person of any rights that would otherwise be protected under the Due Process Clauses of the Fifth and Fourteenth Amendments of the U.S. Constitution; or restrict any other rights guaranteed by the U.S. Constitution.

The University cannot impose any restrictions on the ability of the Parties to discuss the allegations or gather evidence throughout the investigative process. Nor can the University use questions or evidence throughout the investigation that constitute or seek disclosure of information protected under a legally recognized privilege unless the person holding the privilege has waived the privilege.

Language in this policy notwithstanding, the University reserves the right to investigate activities or behaviors that potentially violate other University's policies, procedures, and standards, irrespective of whether an investigation moves forward under this policy.

JURISDICTION

Once the University has Actual Knowledge of an alleged violation, jurisdiction under Title IX requires that any act prohibited occur:

- Against a person within the United States, and
- Within the University's education programs or activities including locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which Sexual Misconduct occurs. This includes any building(s) owned or controlled by a student organization that is officially recognized by the University.

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, Vice Provosts, Associate and Assistant Provosts; any employee in a supervisory or management role; all Faculty; ULPD Officers; and any contracted security personnel.

RETALIATION

The University prohibits Retaliation against any person who makes a report in good faith under this policy. Individuals who feel they are victims of Retaliation as prohibited by this policy shall contact the Title IX Office at 502-852-1198 or titleix@louisville.edu.

Related Information:

Reports of Bias, Discrimination, and Harassment Policy

Duty to Report and Non-Retaliation Policy

Intimate Relationships Policy

Sexual Harassment Policy

Title IX Student Sexual Misconduct Policy

Sexual Misconduct Resource Guide

CONFIDENTIALITY, PRIVACY, AND REPORTING

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

If a person desires the details of the incident to 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 required by the Clery Act.

Prevention, Education and Advocacy on Campus and in the Community (PEACC) Center is available to provide advocacy and confidential assistance to University students, staff, and faculty who are affected by Sexual Misconduct. An advocate can listen, discuss options, and assist in accessing medical care, housing accommodations, academic concerns, and/or referrals to various resources.

Campus Resources

PEACC Center

2100 S. Floyd Street

Student Activities Center, W309 Louisville, KY 40292

Phone: (502) 852-2663

Website: louisville.edu/peacc

University Counseling Services

2100 S. Floyd Street, W204 Louisville, KY 40208

Phone: (502) 852-6585

Website: louisville.edu/counseling

Health Sciences Campus

500 S. Preston St.

A Building -- Rooms 219 and 220

Louisville, KY 40292

Phone: (502) 852-0996

Website: louisville.edu/medicine/studentaffairs/student-services/hsc- counseling-services

Campus Health Services Clinic Cardinal Station Center

215 Central Avenue - Suite 110

Louisville, KY 40208

Phone: (502) 852-6479

Website: louisville.edu/campushealth

Health Sciences Center

University of Louisville Outpatient Care Center

401 E. Chestnut Street, Suite 110

Louisville, KY 40202

Phone: (502) 852-6446

Community Resources

Center for Women and Families Crisis Line:

927 S. 2nd Street

Louisville, KY 40201

Phone: (877) 803-7577

Sexual Assault Nurse Examiner (SANE)

In Jefferson County, most examinations that include the collection of evidence (Sexual Assault, Sexual Misconduct, intimate partner abuse) are performed by the Louisville SANE Program at one of their two locations:

University of Louisville Hospital Emergency Room

530 S. Jackson Street

Louisville, KY 40202

Phone: (502) 562-4064

Center for Women and Families SAFE Services

927 S. 2nd Street

Louisville, KY 40201

Phone: 1-844-BE-SAFE-1

All emergency rooms in the Commonwealth of Kentucky are authorized and required to provide this service. These services can be provided by a physician, Sexual Assault nurse examiner, and/or another qualified medical professional. Physical evidence of a criminal Sexual Assault must be collected from the alleged victim's person as soon as possible. Having evidence collected will help to keep all options available to a victim, but this will not obligate the victim to any course of action. The evidence collected may assist the authorities should the victim decide later to pursue criminal charges.

FEDERAL AND STATE OFFICES

Some forms of harassment and discrimination may violate federal and state laws, and a Complainant or Respondent may choose to contact the following agencies regarding their complaint:

U.S. Department of Education

Office for Civil Rights (Atlanta Office)

61 Forsyth St. S.W., Suite 19T10

Atlanta, GA 30303-8927

Telephone: 404-974-9406

FAX: 404-974-9406; TDD: 800-877-8339

Email: OCR.Atlanta@ed.gov

https://www.ed.gov/laws-and-policy/civil-rights-laws/file-complaint

Kentucky Commission on Human Rights

332 W. Broadway, 7th Floor

Louisville, KY 40202

Phone: (502) 595-4024 or 1-800-292-5566

Email: kchr.mail@ky.gov

Federal Equal Employment Opportunity Commission

600 Dr. Martin Luther King, Jr. Place, Suite 268

Louisville, Kentucky 40202

Phone: 1-800-669-4000

TTY: 1-800-669-6820

Website: www.eeoc.gov

FEDERAL STATISTICAL REPORTING OBLIGATIONS

Certain campus officials have a duty to report Sexual Misconduct for federal statistical reporting purposes such as the Clery Act. All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus; in the surrounding area, but no addresses are given) for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety.

FEDERAL TIMELY WARNING REPORTING OBLIGATIONS

Parties should also be aware that the University must issue timely warnings for incidents reported that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The University will make every effort to ensure that personally identifiable information such as a victim's name and other identifying information is not disclosed, while still providing sufficient information for community members to make safety decisions in light of the danger. The report for timely warning is intended to help to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety.

KENTUCKY LAW REQUIRING MANDATORY REPORTING

Kentucky law requires that any person who suspects that a minor child (under 18) is the victim of abuse or neglect must immediately contact a local law enforcement agency or other agency authorized by statute KRS 620.030. ULPD constitutes a local law enforcement agency for purposes of Kentucky's mandatory reporting law for child abuse and neglect. Failure to report suspected abuse may result in criminal charges and/or disciplinary action.

Kentucky law also requires that any professional who has reasonable cause to believe that a victim with whom they have had a professional interaction has experienced Domestic Violence and abuse or Dating Violence and abuse, the

professional shall provide the victim with educational materials related to Domestic Violence and abuse or Dating Violence and abuse including information about how the victim may access regional Domestic Violence programs or rape crisis centers and information about how to access protective orders per KRS 209A.100. The ULPD can be reached at 502-852-6111.

Definitions:

ACTUAL KNOWLEDGE means notice of allegations of Sexual Misconduct to any University Official who has the authority to institute corrective measures on behalf of the University. The Actual Knowledge standard is not met when the only University Official with Actual Knowledge is the Respondent.

ADVISOR is an individual required to accompany the Complainant and Respondent for the purpose of cross-examining the opposing Party and any witnesses at the hearing. The Advisor cannot be a Party or witness to the complaint.

BIAS INCIDENT is defined as noncriminal conduct that is alleged to constitute an act or statement against a particular group or individual because of the group's or individual's religion, race, sex, color, or national origin, or perceived religion, race, sex, color, or national origin.

COMPLAINANT is an individual who is alleged to be the victim of conduct that could constitute Sexual Misconduct.

CONSENT means freely given agreement by a person with capacity to engage in sexual activity at issue. A person who is incapacitated (as defined below), lacks capacity and cannot give effective Consent. In order for individuals to engage in sexual activity of any type, all involved individuals must Consent to such activity prior to and throughout any sexual encounter. Consent to one sexual act does not constitute Consent to any other such acts; Parties to a sexual encounter must ensure that they have the affirmative Consent of the other individual(s) involved for each sexual act. Affirmative Consent may manifest itself differently depending on the context. "No" always means "no." Words or perceptible actions other than an explicit "yes" may be sufficient to indicate Consent, depending on the totality of the circumstances of each case. Regardless of the circumstances, Consent to any form of sexual activity can be withdrawn at any time, by any Party to a sexual encounter,

at any point during the encounter. This is true regardless of what sexual acts (or with whom) the individual(s) in question may have engaged in or agreed to previously, and regardless of the nature of the relationship between the Parties.

DATING VIOLENCE means violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; (B) where the existence of such a relationship shall be determined based on the consideration of the following factors:

- Whether or not a dating relationship exists is determined (1) by the length of the relationship, (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.
- This includes threats, assault, property damage, and violence or threat of violence to one's self or to pets of the romantic or intimate partner when used as a method of coercion, control, punishment, intimidation, or revenge.

DAYS means business days as defined by the University academic calendar.

DECISION-MAKER is the individual who will preside over the Title IX hearing and is charged with determining whether the Respondent is responsible for violating this policy. The Decision-Maker will make all determinations of relevancy, evaluate the evidence presented, control the tone and tenor of the hearing, and make findings of fact and conclusions as to whether Sexual Misconduct or violations of University policy occurred. The Decision-Maker will be a retired judge or experienced attorney who has contracted with the University to preside over Title IX hearings.

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

FORMAL COMPLAINT is a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Misconduct against a Respondent and requesting that the University investigate the alleged Sexual Misconduct. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to

participate in the education program or activity of the University with which the Formal Complaint is filed.

HEARING OFFICIAL is an individual who will facilitate the hearing's logistics. The Title IX Coordinator, or their designee, will serve as the Hearing Official.

INVESTIGATOR is a person or persons designated by the University to conduct and/or oversee the investigation of a Formal Complaint. The Investigator is a neutral, trained professional that gathers evidence, interviews Parties involved, and prepares an investigative report, ensuring a fair and equitable process for all. Officials serving as Title IX Investigators may include both external individuals and employees.

INCAPACITATION is a state in which a person cannot make rational decisions as to whether or not to engage in sexual activity because the person lacks the ability to give knowing Consent (i.e., to understand the "who, what, when, where, why, or how" of the sexual interaction). A person may be incapacitated due to mental disability, being asleep, unconsciousness, involuntary physical restraint, from the effects of alcohol or other drugs, or because they are below the minimum age of Consent in the state where the sexual activity occurred. It is important to note that while a person can be incapacitated by intoxication, intoxication (in which case a person is under the influence of alcohol or drugs) does not constitute Incapacitation unless it renders the person unable to Consent as described herein. In every case, the facts are evaluated to assess whether the person in question was capable of providing Consent, and whether a reasonable person in the Parties' positions would perceive the person as being capable or incapable of providing Consent.

PARTY OR PARTIES means Complainant or Respondent and is signified by the singular "Party", and both are signified by the plural "Parties."

PROBABLE CAUSE means a reasonable basis for believing that a violation of this policy may have occurred.

REPORT is a disclosure of an incident of Sexual Misconduct, which can be done in person, online, or through other designated methods. A report notifies the University about a potential Title IX violation and generates outreach to the Complainant. A report does not automatically start a formal investigation.

See FORMAL COMPLAINT.

RESPONDENT is an individual who has been reported to be the perpetrator of conduct that may constitute Sexual Misconduct.

RETALIATION is any form of adverse action, or threat of adverse action, taken against an individual because an individual reported a complaint of actual or suspected misconduct or participated in an investigation or complaint review process.

SEXUAL ASSAULT means any forcible and non-forcible sex offenses from the Federal Bureau of Investigation's classification system, to include rape, criminal sexual contact, incest and statutory rape.

- **Rape** is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or by a sex-related object. This definition also includes instances in which the victim is incapable of giving Consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of Consent.
- **Criminal Sexual Contact** is the intentional touching of the clothed or unclothed body parts without Consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the victim of the actor's clothed or unclothed body parts, without Consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- **Incest** is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape** is nonforcible sexual intercourse with a person who is under the statutory age of Consent.

SEXUAL EXPLOITATION occurs when an individual takes non-consensual or abusive sexual advantage of another for that individual's own advantage or benefit, or to benefit or advantage anyone other than the individual being exploited. Examples of sexual exploitation include, but are not limited to:

- Secretly watching, recording, or photographing someone in a private setting, such as a restroom or changing area, without their knowledge or Consent (voyeurism);

- Allowing or enabling a person to surreptitiously observe, photograph, audiotape, videotape, or record an image of another person who is engaging in sexual act(s), or another person's breasts, buttocks, groin, or genitals, when the person observed, photographed, audiotaped, or recorded is in a place in which the person has a reasonable expectation of privacy;
- Exposing one's genitals in non-consensual circumstances or inducing another to expose their genitals;
- Knowingly transmitting a sexually transmitted infection (STI) to another;
- Taking non-consensual pictures, video-, or audio-recording of sexual activity, or the nonconsensual distribution of; or
- Prostituting another.

[Sexual Exploitation that meets the definition of Sexual Harassment (Title IX) will be addressed pursuant to that definition and associated procedures.]

SEXUAL HARASSMENT means conduct on the basis of sex that satisfies one or more of the following:

- An employee of the University conditioning the provision of an aid, benefit or service of the University on an individual's participation in unwelcome sexual conduct (often referred to as quid pro quo);
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or
- Sexual Assault, Dating Violence, Domestic Violence or Stalking (otherwise defined herein).

SEXUAL MISCONDUCT is an omnibus term that applies to all misconduct covered by this policy. Sexual Misconduct includes Sexual Harassment (includes quid pro quo and hostile environment); Sexual Assault; Domestic Violence; Dating Violence; and Stalking.

STALKING is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. Stalking behaviors may include persistent patterns of leaving or sending the person(s) unwanted items or gifts ranging from seemingly romantic to bizarre, following the person(s), or lying in wait for the person(s), harassing the person(s) via the internet or other forms of online and/or

electronic communications (i.e., cyberstalking), or interfering with a person's property.

STANDARD OF PROOF for incidents of Title IX Sexual Misconduct is a preponderance of evidence. Preponderance of evidence means that the evidence supports that a given allegation is more likely to be true than not true. The technical rules of evidence applicable to civil and criminal cases shall not apply when resolving incidents as outlined in this policy.

SUPPORTIVE MEASURES means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint. Supportive measures may be offered to either party, irrespective of whether a Formal Complaint is filed or not. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the recipient's educational environment, or deter Sexual Misconduct. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

TITLE IX COORDINATOR is responsible for ensuring University compliance with Title IX, a federal law prohibiting sex discrimination. The Title IX Coordinator is responsible for oversight of responses to all reports of possible Sexual Misconduct under this policy. The Title IX Coordinator is synonymous with Title IX Director.

UNIVERSITY OFFICIAL for the purposes of this policy is either the Title IX Coordinator (Title IX Director), Deputy Title IX Coordinator, or Title IX Coordinator's designee.

Procedures:

REPORTING SEXUAL MISCONDUCT

The purpose of reporting Sexual Misconduct 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. 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. 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

You may also Report to the University's compliance hotline, which allows for anonymous reporting. Information on how to Report using the compliance hotline is available at https://louisville.edu/compliance/ico/hotline.

Reporting Sexual Misconduct enables the University to provide Supportive Measures and information regarding the University's complaint 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 complaint 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 appropriate steps including but not limited to:

- Fully review the initial report;
- Promptly contact the Complainant and offer to meet;
- 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 of 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 will generally 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 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 promptly take steps 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. Interim and Supportive 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 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 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 individual arising from the allegations of Sexual Misconduct that justifies the interim measure. In the case of an interim suspension, the Respondent will be notified and have an opportunity to challenge the decision via the grievance procedures set forth in *The Redbook*. The University always retains discretion to place an employee on paid leave, irrespective of whether there is an immediate threat to the physical health or safety of any student, so long as such leave is in accordance with the provisions of *The Redbook*.

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 Investigation

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. In situations where an individual does not file a Formal

Complaint but it is determined an investigation is necessary to protect the University, 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 a particular group, whether there have been other reports of Sexual Misconduct, or whether the University possesses appropriate means to obtain relevant evidence. The Title IX Coordinator must sign a Formal Complaint to initiate a 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 an employee 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 Respondents, 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 Employee Title IX Sexual Misconduct Policy and other University policies, the University may investigate these matters jointly and/or simultaneously and any final investigative report/s may be used to address all allegations presented. If a hearing is necessary to adjudicate the Title IX allegations, the hearing will be conducted in accordance with this policy. The non-Title IX allegations will be addressed consistent with the

applicable University policy.

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 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).

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 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 the Formal Complaint or the decision to dismiss any allegation in a Formal Complaint. The appeal must be delivered to the Title IX Office within ten (10) Days of the date of the dismissal notice. The Title IX Office will immediately inform the Vice President for Human Resources (VPHR) of the appeal. The VPHR 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.

Either Party may appeal the decision to dismiss the Formal Complaint 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 Decision-Maker 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 must specify the grounds for appeal and provide a written explanation in support of the appeal. The appeal should be in hard copy or electronic format and should contain clear and concise information to support each basis of appeal. The Complainant or Respondent may use the Title IX Formal Complaint Dismissal Appeal Form for their appeal.

a. Appeal Notice

Upon receipt of an appeal, the Title IX Office must

- Notify the Appeal Officer of the appeal;
- 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 any written responses from the other Party.

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 appeal. After

consideration of the appeal, the Appeal Officer must

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

The Appeal Officer will issue a written decision that must describe the determination 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:

- The University's complaint review process, including any informal resolution process and the University's Duty to Report and Non-retaliation Policy;
- 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;
- Sufficient details include the identities of the Parties involved in the incident, if known, the conduct allegedly constituting Sexual Misconduct and the date and location of the alleged incident, if known;
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the process;
- 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;
- 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;
- 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;
- Any provision in the University's Employee or Student Code of Conduct that prohibits knowingly making false statements or knowingly submitting false

information during the investigation, charging/hearing, or appeal phases of the process, as well as the policies in which the University prohibits any form of retaliation; and
- Notice that if, in the course of an investigation, additional allegations relating to violations of Title IX about the Complainant or Respondent are discovered, Parties whose identities are known 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.

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

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 the formal investigative process.

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 the informal resolution 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.

B. 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 shall 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;
- record all investigative interviews;
- 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;
- 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 the Party to prepare to participate.
- 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 the Party to prepare to participate.
- Request to interview other witnesses who may have relevant information
    - Written notice of the date, time, location, and purpose of the interview must be sent to witnesses with sufficient time for the Parties to prepare to participate; 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.

- Written notice of the date, time, location and purpose of the interview must be sent to Complainant with sufficient time for the Party to prepare to participate.

- Written notice of the date, time, location and purpose of the interview must be sent to Respondent with sufficient time for the Party to prepare to participate.

- Written notice of the date, time, location, and purpose of the interview must be sent to witnesses with sufficient time for the Parties to prepare to participate; 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 determinations regarding violations of University policy
- 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 complaint is dismissed, a notice of dismissal will be sent to both parties and include information regarding the right to appeal.

If the alleged conduct may constitute Sexual Misconduct, the matter will proceed through the process.

Determination of Probable Cause:

A. After reviewing the final investigative report, the Title IX Coordinator, or their designee, will determine whether there is probable cause to believe Respondent committed Sexual Harassment or Sexual Misconduct.

B. If the Title IX Coordinator, or designee, concludes there is not probable cause to believe Respondent committed Sexual Harassment or Sexual Misconduct, the Title IX Coordinator will state this conclusion in writing and notify both the Complainant and Respondent. The Complainant may appeal this decision to the Appeals Officer. If the Formal Complaint is not dismissed in its entirety, the dismissal is not subject to appeal until the adjudication process is complete.

C. Alternatively, if the Title IX Coordinator, or designee, concludes there is Probable Cause, then the Title IX Coordinator will prepare a written statement of charges and present this written statement of charges to both the Complainant and Respondent.

D. The written statement of charges will include a summary of the complaint, the alleged policy violation(s), the date and time of the pre-hearing meeting, and, if applicable, interim restrictions or supportive measures. For allegations involving individuals, the statement of charges will be sent to Respondent's and Complainant's official University email addresses no less than five (5) calendar days prior to a scheduled pre-hearing meeting. Failure to read and comply with the statement of charges is not suitable grounds for an appeal. In scheduling a pre-hearing meeting, the Title IX Coordinator, or designee, considers the availability of Respondent, Complainant, and their respective Advisors, based on Complainant and Respondent's class schedules, if students, and work schedules, if employees.

E. Pre-Hearing Meetings: The Title IX Coordinator, or designee, will meet with Respondent and Complainant separately to: (1) discuss the hearing process; and (2) attempt to resolve the matter without conducting a live hearing. These meetings will occur separately. With the exception of Advisors, pre-hearing meetings are closed meetings. If Respondent chooses to resolve the allegation during the meeting, the case will be closed, and the appropriate unit administrator(s) will be notified. If the allegation is not resolved during the meeting, the case will be referred to the Decision Maker for a live hearing consistent with the procedures herein.

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, Decision-Maker, 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.

Notice of a hearing will be provided at least ten (10) Days from the date the final investigative report is issued but absent extenuating circumstances no more than 30 Days out; and

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. The Decision-Maker 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;
    - Each Party may make an opening statement. The Complainant will present witnesses and evidence first, followed by the Respondent. The Decision-Maker shall 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. Following the completion of all testimony, the Parties may make a closing statement.
- 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 Decision-Maker 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 Decision-Maker 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 Decision-Maker deems appropriate;
    - The Decision-Maker 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 Decision-Maker, 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;
- Proceed with the hearing in the Party's absence if a Party fails to appear. The Hearing Official has the discretion to continue the hearing if the Party's absence is due to extenuating circumstances; 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.

- Each Party may make an opening statement. The Complainant will present witnesses and evidence first, followed by the Respondent. The Decision-Maker shall 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. Following the completion of all testimony, the Parties may make a closing statement.

- 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 Decision-Maker 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 Decision-Maker 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 Decision-Maker deems appropriate;
- The Decision-Maker 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 as to the date, time and location of the hearing to ensure that the Parties have the opportunity to participate in the hearing;
    - Although the University will attempt to notify all witnesses, the Parties are responsible for notifying and securing the appearance of their witnesses;
- Handle all details for the hearing such as reserving space, ensuring availability of equipment needed, and coordinating witness movement;
- Answer questions and provide clarity to the Parties and to the Decision-Maker regarding the University's Title IX process;
- Provide the written determination to the Parties simultaneously; and
- Provide the written determination to the appropriate University Official, who will determine sanctions and remedies in consultation with appropriate University administrators.

- Although the University will attempt to notify all witnesses, the Parties are responsible for notifying and securing the appearance of their witnesses;

b. Decision-Maker

The Decision-Maker will:

- 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 unprofessionally or otherwise disruptive ;
- 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 Decision Maker will be deemed to have determined that a question is relevant;
- Not draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions;
- Make the determination of responsible or not responsible utilizing the preponderance of evidence standard;
- In the case of a finding of responsibility, determine appropriate sanction based upon the University's recommendation. Persons found to have violated the provisions set forth in this policy will be subject to disciplinary action and penalties as set forth in the University's policies and procedures outlined in *The Redbook* and applicable policies. These penalties include, but are not limited to, suspension, demotion and/or termination. No disciplinary action may be taken against an employee until the appeal process is concluded.
- Provide the Title IX Coordinator with a letter within ten (10) Days of the hearing's conclusion containing the decision as to responsibility and sanctions, if applicable. The written determination must include:
    - identification of the allegations potentially constituting Sexual Misconduct;
    - identification of the allegations potentially supporting other charges;
    - 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 evidence, and hearings held;
    - findings of fact supporting the determination;
    - conclusions regarding application of the University's Employee Title IX Policy to the facts;
    - a statement and rationale for the result as to each allegation, including a determination regarding responsibility;

    - recommendation for any disciplinary sanction for the Respondent; and
    - the University's procedures and permissible bases for the Parties to appeal.

- identification of the allegations potentially constituting Sexual Misconduct;
- identification of the allegations potentially supporting other charges;
- 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 evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding application of the University's Employee Title IX Policy to the facts;
- a statement and rationale for the result as to each allegation, including a determination regarding responsibility;
- recommendation for any disciplinary sanction for the Respondent; and
- the University's procedures and permissible bases for the Parties to appeal.

c. Advisor

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.

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 Decision-Maker. In that event, the Party may substitute a different Advisor (if immediately available), the University may appoint another Advisor, or the hearing will be postponed 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.

3. Appeal Process

Either Party may appeal the outcome (responsible or not responsible) and any sanction imposed based on one or all of the reasons set forth below. 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 Decision-Maker's determination 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 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 Decision-Maker 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 Decision-Maker's judgment hearing, 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 Vice President for Human Resources (VPHR) of the appeal. The VPHR 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 Decision-Maker's judgment will be the final decision of the University.

The Appeal Officer has the authority to:

- Uphold the decision of the Decision-Maker, including the sanction(s) imposed;
- Modify the responsibility or sanction decision of the Decision-Maker; or
- Remand the case back to the Decision-Maker 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 is the final decision of the University. The Title IX Office will provide this decision to the appropriate University personnel to impose sanctions, if applicable.