Virginia State University
Policies Manual

Title IX Complaint Resolution Procedures — Policy 1105

Table of Contents

I. Purpose

II. Authority, Responsibility, and Duties

III. The Title IX Coordinator

IV. How to Initiate the Formal Complaint Procedures

V. Informal Resolution

VI. Promptness

VII. Mandatory Dismissal of a Complaint

VIII. Initial Intake and Assessment

IX. Emergency Removal

X. Notice of Allegations

XI. Investigation Procedures

XII. Investigative Report

XIII. Advisors

XIV. Hearing Procedures

XV. Hearing Determinations

XVI. Range of Sanctions and Remedies

XVII. Appeals

XVIII. Retaliation

XIX. Documentation and Recordkeeping

Title IX Complaint Resolution Procedures Policy 1105

I. Purpose

These formal resolution procedures address allegations of sexual harassment as required by the United States Department of Education's Title IX Regulations. The University's Title IX Sexual Harassment Policy is incorporated by reference into these resolution procedures.

Formal complaints of sexual misconduct seeking redress under the Department's regulations must: (a) meet the Department's definition of sexual harassment, and (b) relate to a VSU educational program or activity conducted in the United States.[1] Conduct that is not subject to this policy may be prohibited by one or more of the following: the University's *Discrimination, Harassment, and Retaliation Prevention Policy 1101; Department of Human Resources Management Policy 1.60; Standards of Conduct for Classified Employees and Policy 2.30; Prohibiting Workplace Harassment; the University's Student Code of Conduct; the University's Faculty Handbook; and other policies approved by the University's Board of Visitors, the Governor, or agencies of the Commonwealth of Virginia.*

Complainants and Respondents are referred to as the parties, and they will receive equal treatment. Respondents are presumed not responsible for alleged sexual harassment unless a determination of responsibility is rendered at the conclusion of the grievance process as provided in these procedures. Criminal conduct may be prosecuted independently by campus or local law enforcement. Those investigations and procedures are not subject to these policies and may occur in parallel to the resolution(s) offered in this policy.

II. Authority, Responsibility, and Duties

These Title IX Complaint Resolution Procedures apply to University students, faculty, and staff. These procedures also apply to individuals participating or seeking to participate in the University's educational and employment programs, such as applicants for admission or employment. Questions regarding these procedures or Title IX of the Education Amendments of 1972, should be addressed to University's Title IX Coordinator:

Deborah D. Howard
Office of EEO & Title IX Compliance
Colson Hall - Room 101-J
(804) 524-5371 or titleix@vsu.edu

III. The Title IX Coordinator

The Title IX Coordinator coordinates the University's compliance with the U.S. Department of Education's Title IX discrimination laws. The Title IX Coordinator does not serve as an

[1] While the University does not have jurisdiction over conduct occurring outside the United States, the University may have jurisdiction where the conduct impacts or affects an individual's access to educational programs or activities within the United States. See 34 C.F.R. Section 106.44(a).

advocate for either the Complainant or the Respondent. The University's treatment of a Complainant or a Respondent in response to a formal complaint of sexual harassment ***may constitute discrimination on the basis of sex under Title IX***.

The Title IX Coordinator shall:

- Explain the resolution procedures to the parties and witnesses.
- Provide both parties, as appropriate, information about medical, counseling, support, and advocacy services, making a criminal report, and other University and community resources.
- Explain to all parties the University's prompt, adequate, reliable, and impartial investigation process, including: each party's opportunity to identify witnesses and offer evidence, and the right to have a personal advisor present and to review and respond to the allegations and evidence.
- Advise the parties and witnesses that retaliation for reporting sexual harassment or sexual misconduct, or participating in an investigation, is strictly prohibited and that any retaliation should be reported immediately.
- Coordinate the effective implementation of supportive measures for the parties—non-punitive, individualized supports offered to Complainants, Respondents, and witnesses—which may include counseling, academic or work adjustments, campus escort services, mutual no contact orders, changes in work or housing locations, leaves of absence, increased campus security and monitoring, and other similar measures. The University shall keep any supportive measures provided confidential to the extent that doing so would not impair the ability of the University to provide the supportive measures. Confidential information may be shared with a limited number of Recipient employees with a "need to know" in order to facilitate implementation of the supportive measures.
- Ensure the posting and dissemination of the University's *Title IX Sexual Harassment Policy* and these *Title IX Complaint Resolution Procedures* to students and employees upon their adoption and revision.

IV. How to Initiate the Formal Complaint Process

The University encourages all members of the campus community who experience or become aware of an incident of sexual harassment or retaliation to report the incident to the Title IX Coordinator immediately.

A. A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment, as defined by Title IX regulations and University policy, against a respondent and requesting the University to initiate an investigation.

B. A Formal Complaint must be in writing and may be filed with the Title IX Coordinator in person, or by mail or email. The Formal Complaint must contain the Complainant's physical or digital signature, or some other indication that the Complainant is the person

filing it. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in a University educational program or activity.

C. The Title IX Coordinator will honor the Complainant's request that the University not investigate a complaint unless the Title IX Coordinator determines that the failure to investigate could be harmful to the University community, or threaten the safety or security of any student or member of the University's faculty or staff.

D. Formal Complaints against employees will also be referred to the Office of EEO & Title IX Compliance and simultaneously evaluated under applicable employee conduct policies and procedures.

E. Complaints and reports of sexual assault, dating violence, domestic violence, and stalking should be made immediately to the Title IX Coordinator, the Virginia State University Department of Police and Public Safety, or local law enforcement. A Complainant who wishes to pursue criminal action in addition to, or instead of, making a report or filing a Formal Complaint under these procedures should contact law enforcement directly.

- 911 (for emergencies)
- VSU Campus Police (804) 524-5411 (for campus emergencies); (804) 524-5360 (for non-emergencies)
- Chesterfield County Police (804) 748-1269 (for non-emergencies)
- City of Petersburg Police (804) 732-4225 (for non-emergencies)
- City of Colonial Heights Police (804) 520-9300 (for non-emergencies)

F. University employees who receive reports of sexual harassment or other sexual misconduct should immediately notify the Title IX Coordinator and should not undertake any independent effort to determine whether the report has merit before reporting it.

G. All individuals who report incidents of sexual harassment or misconduct will be contacted promptly for an interview with the Title IX Office and/or the VSU Campus Police.

H. A Complainant may withdraw a Formal Complaint at any time by providing written notice to the Title IX Coordinator. Withdrawal of the Formal Complaint will conclude the Formal Complaint Resolution Process unless the Title IX Coordinator deems it necessary to continue the process to fulfill the University's obligations under Title IX and Virginia law in instances where the Title IX Coordinator has actual knowledge of acts of sexual violence or other conduct that threatens individuals or the University community.

V. Informal Resolution

Prior to a determination of responsibility, the parties may choose to resolve a complaint through an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The parties' desire to engage in informal resolution does not

indicate the presence or absence of responsibility, nor does it indicate the University or participants' viewpoints of the severity of the conduct. The University may not offer an informal resolution process unless a formal complaint is filed. Both parties must voluntarily agree to participate in an informal resolution process, and if they do, the formal complaint resolution process stops. Either party may withdraw from the informal process and resume the formal complaint resolution process at any time before an informal resolution is reached. The University will not require the parties to participate in an informal resolution process, and will not require them to waive their rights to a formal complaint resolution process. Informal resolution is not be available in matters where the allegations involve a faculty or staff member's assault of a student.

Prior to facilitating an informal resolution process, the University will obtain the parties' voluntary, written consent to the informal resolution process and provide written notice to the parties disclosing the following:

A. The allegations;
B. The requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations;
C. The fact that, at any time prior to agreeing to an informal resolution, any party may withdraw from the informal resolution process and resume the formal resolution process; and
D. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Once the parties have agreed to an informal resolution, the Formal Complaint is deemed withdrawn and the formal complaint resolution process will be terminated. Agreements reached during the informal resolution will be final three business days following the date of the agreed resolution. The informal resolution is considered binding, and its breach could give rise to a new Formal Complaint, which may restart the process.

VI. Promptness

The University acts promptly when it receives notice of a formal complaint. Complaints generally take sixty (60) to ninety (90) business days from the date of filing to resolve. Extenuating circumstances may cause a resolution to take longer, but the University will avoid all undue delays within its control.

When a delay beyond the general timeframes for resolution occurs, the University will provide to all parties written notice of the delay, the cause of the delay, and an estimate of the additional time needed for resolution as a result of the delay.

VII. Mandatory Dismissal of a Complaint

A. The University Title IX Coordinator is *required* to dismiss formal complaints of Title IX sexual harassment if:

1. the conduct did not occur against a person in the United States;
2. the Complainant was not participating in or attempting to participate in the education program or activity of the University when the complaint was filed;
3. the conduct did not occur in a University educational program or activity; or
4. the conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Department of Education's regulations even if proved.

B. The University Title IX Coordinator has the *discretion* to dismiss formal complaints of Title IX sexual harassment if:

1. at any time during the investigation or hearing, a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
2. the Respondent is no longer enrolled or employed by the University; or
3. specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.

C. Notification: If a decision is made to dismiss the complaint, the parties will be promptly and simultaneously notified in writing of the dismissal and the reasons for the dismissal. The University's Title IX Coordinator may pursue the complaint under other University anti-discrimination or harassment policy options that may apply as more information is learned following the initial assessment. The parties will be notified accordingly.

VIII. Initial Intake and Assessment

A. Upon receipt of a report of sexual harassment, the Title IX Coordinator shall:

1. Promptly contact the Complainant to discuss the availability of supportive measures and explain the process involved in filing a Formal Complaint;
2. Consider the Complainant's wishes with respect to supportive measures;
3. Offer supportive measures, as appropriate, to the Complainant, the Respondent, and other affected members of the campus community;
4. Conduct an initial assessment to gain a basic understanding of the allegation and any risks to the campus community; and

5. Conduct a limited, threshold review to determine whether the alleged conduct meets the jurisdictional requirements of the University's Title IX Sexual Harassment Policy and these procedures.

B. If the allegation does not meet Title IX definitional and jurisdictional requirements, formal complaints may be referred to the appropriate University office for review and investigation under other University or Commonwealth of Virginia standards of conduct or disciplinary policies for students, faculty, staff, visitors, contractors or volunteers.

IX. Emergency Removal

The University may implement emergency removal of a Respondent (entirely or partially) from an education program or activity—separate from any police trespass—if, following an individualized safety and risk analysis, it determines that the Respondent poses an immediate threat to the physical health and safety of any student or other individual arising from the allegations of sexual harassment. If, following the initial assessment, the Title IX Coordinator has reason to believe, based on specific facts, that a Respondent may pose such a threat, the Title IX Coordinator shall promptly forward to the Title IX Review Committee all information then known about the reported incident, including , if known, the names and/or any other information that personally identifies the Complainant, the Respondent, any witnesses, and/or any other third parties with knowledge of the reported incident.

The Title IX Review Committee will convene, as appropriate (in person, by telephone, or by videoconference), within seventy-two (72) hours after receiving information from the Title IX Coordinator, and will convene again, as necessary, to review any new material information as it becomes available. The meeting of the Title IX Review Committee is not a hearing on the merits of the allegations(s), but rather is an administrative process intended to determine solely whether emergency removal is appropriate.

The Title IX Review Committee may include any and all members of the University Threat Assessment Team and shall include, at a minimum: (1) the Title IX Coordinator, (2) a representative of the University Police Department, and (3) a representative from the Division of Student Success and Engagement. In addition, the Committee may include a representative from the Office of Human Resources or the Office of the Provost, depending on the circumstances of the reported incident and the status of the Complainant and the Respondent.

The Title IX Review Committee will determine whether the reported information and any other pertinent publicly available information[2] provides a rational basis for concluding that the Respondent imposes an immediate threat to the health or safety of the Complainant or to any other member of the University community. The Committee will make this determination based upon a review of the totality of the known circumstances, and will be guided by a consideration of risk factors such as, but not limited to:

- A history physical violence, including domestic or interpersonal violence;
- Prior arrests or conduct in violation of policy;
- Credible threats of harm to self or others;
- Access to or possession of weapons;
- significant substance abuse with potential harm to self or others ;
- A mental health crisis with potential harm to self or others; and
- The number of respondents involved in the incident.

Other factors may be considered as well, as long as their consideration is relevant to the safety and risk analysis of the Respondent.

The Title IX Review Committee shall ensure that its decision does not modify any individual's rights under Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Supportive measures are a way the University may protect the safety of the parties without emergency removal. The right to remove a Respondent on an emergency basis encompasses a lesser authority to instead impose a partial exclusion from specific programs or activities.

Before imposing an emergency removal, the Committee shall, in its assessment of the safety and risk factors, consider the implementation of supportive measures that are the least restrictive emergency actions possible in light of the circumstances and safety concerns. The supportive measures may permissibly affect and even burden a Respondent, so long as the burden is not unreasonable.

Supportive measures may include, but are not limited to:

- Removing a student from a residence hall
- Issuing mutual no contact orders
- Restricting a student's access to or use of facilities or equipment

[2] The Title IX Review Committee operates pursuant to Va. Code § 23.1-806 and has access, under Virginia law, to certain otherwise confidential information, including law enforcement records, criminal history record information, as provided in Va. Code §§ 19.2-389 and 389.1, health records as provided in Va. Code § 32.1-127.1.03; University disciplinary academic and/or personal records, and any other information or evidence known to the University or to law enforcement. The Title IX Review Committee may seek additional information about the reported incident through any other legally permissible means.

- Implementing alternative coursework options to minimize academic impact
- Allowing a student to withdraw or take grade of incomplete without financial penalty
- Suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate or intermural athletics

The Committee must ensure—through the administration of a transparent, fair and balanced process—that the supportive measures imposed do not equate to or effectuate an improper imposition of sanctions or other actions without first following the Title IX grievance process.

If the Committee determines that supportive measures will not mitigate the health and safety risk, or if the least restrictive emergency action is removal from campus, the Title IX Office will proceed with the emergency removal process.

The Chair of the Committee shall inform the parties simultaneously, in writing, of the emergency removal decision. The Notice of Removal shall include the Committee's findings, the length and scope of the emergency removal imposed, and a rationale for removal that explains the application of the relevant risk factors. The decision should be sufficiently detailed to inform the Respondent of the specifically identified emergency threat of physical safety or harm that compelled the removal decision, and to provide the Respondent sufficient information from which to generate an appeal should the Respondent choose to do so.

If the Committee removes a Respondent on an emergency basis, the Title IX Coordinator will work with the Respondent to minimize the impact of the emergency removal where possible, including the alternative coursework delivery methods (i.e., virtual participation) or other reasonable modifications.

While there is no time limit on the term of an emergency removal the Committee may impose, the Committee may, in its sole discretion and on a case-by-case basis, conduct interim assessments of whether the immediate threat to physical health or safety of a student or another individual remains unchanged or has sufficiently dissipated to support a Respondent's return to programs or activities, in whole or in part.

A. Employee Respondent Removal

In consultation with the Virginia Department of Human Resources Management ("DHRM"), the University may place an employee Respondent on administrative leave during the pendency of the Title IX process. The Human Resources Director, in consultation with DHRM, on a case-by-case basis, will decide whether administrative leave will be with or without pay and/or benefits. This provision does not apply to student employees.

B. Student Respondent Removal

A student Respondent has an immediate right to challenge the removal decision. A student Respondent who wishes to challenge the decision must submit a written appeal to the Associate Vice President for Student Success and Engagement or their assigned designee, as appropriate, at dsse@vsu.edu within three business days after receipt of the Notice of Removal. The appeal letter should include:

(1) the student Respondent's name, address, university email address and phone number;

(2) detailed grounds for the student Respondent's appeal;

(3) a statement of the resolution requested (ex. that the Emergency Removal be modified or rescinded)

The Associate Vice President for Student Success and Engagement shall review the student Respondent's appeal within one (1) business day its receipt and render a decision, which shall be final, within two (2) business days thereafter. This review is not a review on the merits of the allegations; it is an administrative review intending to determine solely whether the Emergency Removal is warranted. The student Respondent will remain in emergency removal status during the pendency of the appeal.

If no appeal is received within the three-day time period, objections to the Emergency Removal are deemed waived and the Emergency Removal is deemed final (subject to interim assessments conducted at the discretion of the Committee) pending the outcome of the Title IX process.

X. Notice of Allegations

A. Upon receipt of a Formal Complaint, the University will provide to the parties a written notice that includes:

1. Information about the University's Formal Complaint Resolution Process; and
2. Notice of the allegations of sexual harassment as defined by the University's Sexual Harassment Policy, which shall include (a) the identities of the parties involved in the incident, if known; (b) the conduct allegedly constituting sexual harassment; and (c) the date and location of the alleged incident, if known.

B. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence. The written notice must warn the parties that they are prohibited from knowingly making false statements or knowingly submitting false information during the investigation and resolution process.

C. The notice must be given as soon as practicable and allow the parties sufficient time to prepare responses before any initial investigation interview.

D. If at any point during the course of the investigation the University decides to investigate allegations that are not included in the original notice, it will provide notice of the additional allegations to the parties.

XI. Investigation Procedures

A. The Title IX Coordinator will appoint an Investigator to investigate the allegations of the complaint. The investigation may include interviews with the Complainant, the Respondent, and any witnesses and examination and review of available law enforcement investigation documents; relevant student or employment files; and other relevant documents, photographs, statements and affidavits of the parties and witnesses, social media posts, and any other evidence.

B. Relevant evidence is any evidence that tends to make the allegations at issue more likely (corroborating or "inculpatory") or less likely (contradictory or "exculpatory") to be true. All relevant evidence presented at a hearing will be considered. The Adjudicator, however, may give less weight to information or evidence that was available to a party before the hearing but not previously provided to the Investigator.

C. The burden to gather evidence rests with the University, but it is expected that both parties will present evidence and identify witnesses to the Investigator. The Investigator will evaluate and consider all relevant evidence for inclusion in the investigative report and will not filter or exclude evidence or decide the weight or credibility of evidence unless the evidence is clearly irrelevant. The parties may also elect to submit records of medical examinations, treatment, or mental health services. The University will not access, consider, disclose, or otherwise use such records, unless the submitting party voluntarily consents in writing to their use in the Formal Complaint Resolution Process.

D. Prior to completion of the investigative report, the University will send to each party (and advisor, if any), all evidence subject to inspection and review in electronic or hard-copy form. Each party shall have ten (10) business days to

submit a written response. The Investigator will consider timely response(s), if any, prior to completion of the investigative report.

E. The University will make all evidence obtained through the investigation that is directly related to the allegation available for inspection and review available at the hearing. Each party will have an equal opportunity to reference it, including for purposes of cross-examination.

F. After the investigation, the Investigator will draft an investigation report summarizing the relevant evidence. The Investigator will not make any finding or recommendation as to policy violations or sanctions to be imposed as to either party.

The opportunity for inspection and review of the evidence is intended to help each party meaningfully respond to the evidence prior to conclusion of the investigation.

XII. Investigative Report

A. Prior to completion of the investigative report, the University will send, in electronic format or hard copy to each party, and their advisor, if any, a preliminary investigative report and the evidence. Such evidence will be available at any hearing to give each party equal opportunity to refer to the evidence during the hearing, including for purposes of cross-examination.

B. The parties will have business ten (10) days to submit a written response to the preliminary investigative report. Responses are limited to no more than ten (10) double-spaced pages and must be submitted by hand delivery to the Title IX Office, Colson Hall, Room 101-J, or by email attachment to the Investigator by no later than 5:00 p.m. on the tenth (10^{th}) business day following the parties' receipt of the preliminary investigative report. Requests for extensions must be submitted to the Investigator prior to the expiration of the 10-day period. The investigator will consider the parties' responses prior to completion of the final investigative report.

C. Upon receipt of the parties' responses to the preliminary investigation report, the Investigator will prepare a final investigation report that summarizes all relevant information gathered. The final investigative report will not draw any conclusion as to whether a policy violation has occurred or recommend potential sanctions. The Investigator will deliver the final investigation report and all attached materials to the Title IX Coordinator.

D. The Title IX Coordinator will simultaneously transmit to both parties, in electronic format or hard copy, the final investigation report and all attached materials, including all information submitted by the parties in response to the preliminary report, and all information and materials gathered as additional investigative steps, which are not otherwise privileged. The Title IX Coordinator will also transmit

information about the hearing process, and may begin the process of scheduling a hearing before the Adjudicator to make an independent determination of responsibility.

E. The Title IX Coordinator will provide all statement(s) and the final investigation report to the Adjudicator at least ten (10) business days prior to the hearing.

XIII. Advisors

A. The University will provide the both the Complainant and the Respondent the opportunity to have an advisor present during the investigative process, including meetings and interviews, and hearings. The University will not limit the Complainant or Respondent's choice of an advisor or the presence of an advisor in any meeting or resolution proceeding, but the University will restrict the extent to which the advisor may participate in the proceedings.

B. Advisors are not permitted to participate directly in any proceeding, with the exception of hearings and certain related meetings, as specified in Section XIV - *Hearing Procedures*. Otherwise, Advisors may attend to provide advice or support, but are prohibited from speaking directly to the Investigator, Adjudicator, other parties, or witnesses.

C. For all non-hearing investigative interviews or meetings, the University will provide the invited party at least five (5) days' notice.

XIV. Hearing Procedures

A formal complaint shall be resolved at a live hearing before an Adjudicator selected by the Title IX Coordinator. The Adjudicator shall not be the Title IX Coordinator or the Investigator.

Adjudicators shall be (1) trained on the Department of Education Office of Civil Rights definition of sexual harassment; (2) educated about the scope of the University's activities; and (3) trained on the ways to serve impartially without prejudice, bias, or conflict of interest.

The Title IX Coordinator will identify the Adjudicator to the parties at least five (5) days in advance of the hearing. Either party may submit to the Title IX Coordinator at least three (3) business days in advance of the hearing a written challenge to the named Adjudicator. The challenge, which shall be limited to grounds of bias or conflict of interest, shall specify the reasons for such belief. The Title IX Coordinator has sole discretion to retain or replace the challenged Adjudicator, and may postpone the hearing if necessary to allow for a replacement adjudicator.

1) Five (5) days in advance of the hearing, the parties shall file a written notice identifying their attendees (including advisors) and witnesses, and the anticipated witness sequencing. The Title IX Coordinator will share the disclosure with the other party.

2) The University may require the Complainant, Respondent, and their advisors to participate in a pre-hearing conference.

3) At the live hearing, the Adjudicator will review and hear evidence to determine whether the Respondent is responsible for violating the *Title IX Sexual Harassment Policy* by having engaged in some or all of the reported conduct.

4) The hearing may be conducted in person or, at the University's discretion, virtually, with technology enabling the parties, witnesses, and other participants to see and hear one another simultaneously.

5) If a party does not have an advisor present at the hearing, the University must provide one of its choosing free of fee or charge, to conduct cross-examination on that party's behalf.

6) At the hearing, the Adjudicator must permit each advisor to ask the other party and witnesses any relevant questions and follow-up questions, including questions challenge credibility.

7) Before a Complainant, Respondent, or witness answers a question, the Adjudicator must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

8) Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are (a) offered to prove that someone other than the Respondent is responsible for the conduct alleged by the Complainant; or (2) concern specific incidents of the Complainant's prior sexual behavior with the Respondent and are offered to prove consent.

9) All participants, including parties and advisors, shall behave respectfully during the hearing. Advisors may not interrupt or interfere with the proceedings. If an Advisor's conduct causes, in the Adjudicator's discretion, interference, delay or interruption of the proceedings, the Adjudicator may remove that Advisor from such proceedings.

XV. Hearing Determinations

The Adjudicator will issue a written determination, typically within fifteen (15) business days following the hearing. Based on a preponderance of the evidence, the Adjudicator will determine whether the Respondent is responsible for engaging in the alleged conduct, and if so, what disciplinary action may be appropriate. The determination will be provided to both parties simultaneously.

The written determination shall include:

1) Identification of the allegations potentially constituting sexual harassment under the Title IX regulations and University's *Title IX Sexual Harassment Policy*;
2) A description of the procedural steps, from the receipt of the Formal Complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods, used to gather evidence, and hearings held;
3) Findings of fact supporting the determination;
4) Conclusions regarding the application or the University's *Title IX Sexual Harassment Policy* to the facts;
5) A statement of and rationale for the determination as to each allegation, including:
    i. A determination regarding responsibility;
    ii. Any disciplinary sanctions the Adjudicator imposes on the Respondent; and
    iii. Whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided to the Complainant.
6) Procedures and permissible bases for the parties to appeal the determination.

Supportive Measures designed to restore or preserve equal access to the University's education program or activity also may be provided to the Complainant, even if they are not listed in the written determination. The Title IX Coordinator is responsible for effective implementation of any remedies and supportive measures.

All findings and determinations of responsibility under these procedures will be made using a preponderance of the evidence standard. This standard requires determining whether it is more likely than not that a fact exists or that a violation of the *Title IX Sexual Harassment Policy* occurred. The preponderance of the evidence standard is not the standard used for criminal culpability in most jurisdictions. A determination of responsibility under the *Title IX Sexual Harassment Policy* does not equate to a criminal conviction.

XVI. Range of Sanctions and Remedies

A. Sanctions can include, but are not limited to, the following:

Students
1) No Contact Order
2) Formal Counseling
3) Disciplinary Probation
4) Deferred Disciplinary Probation
5) Educational Conference
6) Suspension
7) Expulsion

Employees
1) Formal Counseling
2) Disciplinary Probation

3) No Contact Order
4) Demotion
5) Revocation of Tenure
6) Suspension
7) Termination of Employment

Additional components of sanctions may include, but are not limited to restrictions, which may include limiting or barring access to certain facilities or activities, and removal or reassignment from University housing.

B. Remedies can include, but are not limited to, the following:

1) Access to on-campus counseling services and assistance in setting up an initial appointment with those services;
2) No contact orders;
3) Rescheduling of academic exams and assignments;
4) Providing alternative course completion options;
5) Changing class schedules. including the ability to transfer course section, or withdraw from a course;
6) Changing work schedules, job assignments, or job locations for University employment;
7) Changing residence hall room assignments;
8) Providing an escort for transit between University classes and activities;
9) Providing academic support services, such as tutoring; and
10) Leaves of absence.

The determination regarding responsibility becomes final either: (1) if an appeal is filed, on the date that the University provides the parties with the written determination of the result of the appeal, or (2) if an appeal is not filed, the date on which an appeal would no longer be considered timely.

XVII. Appeals

A party may appeal from a determination of responsibility or from a full or partial dismissal of a Formal Complaint. The appeal is an objective, independent review intended to detect any significant errors in the investigation or determination. The appeal is not a reexamination of every aspect of the Adjudicator's entire decision, nor is it a new hearing. The bases for an appeal are is limited, and focus on specific aspects of the written determination. Either party may appeal on the following bases:

1. A procedural irregularity (a failure to follow the process outlined in this resolution process) that affected the outcome;
2. New evidence that was not reasonably available to the appealing party at the time of the hearing or dismissal that could affect the outcome;

3. The Title IX Coordinator, Investigator, or Adjudicator 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 notice of appeal must describe with specificity the basis upon which such conflict of interest or bias is alleged and how it allegedly affected the outcome;
4. The determination cannot reasonably be supported by the evidence; and
5. The severity of the sanction.

A. Appeals must be submitted in writing to the Title IX Coordinator within ten business (10) days of the date that the written determination is provided to the parties. The written appeal must include the name of the appealing party, and the grounds for the appeal, and bear evidence that it was submitted by the appealing party. The appeal must contain a statement sufficient to support the grounds for appeal. If a stated ground for appeal is that there is new evidence that could affect the outcome of the matter that was not reasonably available to the appealing party before or during the hearing or dismissal, then the written appeal must include the new evidence and why it was not reasonably available to the appealing party before or during the hearing or dismissal.

B. Upon receipt of an appeal, the University will:

1. Notify the other party in writing within three (s) business days when the appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker for the appeal (the Appellate Officer) is not the same person as the decision-maker who reached the original determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker for the appeal does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent, and that the decision-maker for the appeal has received the appropriate and necessary training; and
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

C. The University will provide a copy of the appeal to the non-appealing party within three (3) business days. Within ten (10) business days after receipt, the non-appealing party may submit a written statement that seeks to affirm the initial decision and/or respond to the appeal statement.

D. The Appellate Officer will, within a reasonably prompt timeframe, typically within ten (10) days following receipt of all appellate materials, issue a written decision describing the result of the appeal and the rationale for the result. The appeal will determine whether the Adjudicator made an error on the grounds alleged in the appeal statement. The appeal decision will be given simultaneously to both parties.

E. The Appellate Officer will act on the appeal based on the relevant ground(s) for appeal according to the following:

1) In cases where there has been a material procedural error sufficient to affect the determination, the Appellate Officer will remand the case to the Title IX Office with instructions, as appropriate.

2) In cases where the Appellate Officer determines there is new evidence that was not reasonably available to the appealing party at the time of the hearing of dismissal that could affect the outcome of the matter, the Appellate Officer will remand the case to the Title IX Office with instructions, as appropriate.

3) In cases where the Appellate Officer determines the Title IX Coordinator or Investigator had a conflict of interest or bias for or against the Complainant or the Respondent generally or the individual Complainant or Respondent that affected the outcome of the matter, the Appellate Officer will refer the case to the University President or designee to insure the University provides a resolution process without conflict of interest or bias.

4) In cases where the Appellate Officer determines that the determination, including sanctions, cannot reasonably be supported by the evidence, the Appellate Officer will reverse the determination.

The Title IX Coordinator will maintain and publish a list of Appellate Officers and their designees. Where the Appeals Officers delegate their responsibility, they must inform the Title IX Coordinator of their designees on an annual basis prior to the start of the academic year to ensure adequate time to provide training.

- Where the Respondent is a Student, the Appeals Officer is the Senior Vice President and Chief Operating Officer or their designee.
- Where the Respondent is an Employee that reports directly to the University President, the Appeals Officer is the President or the President's designee.
- Where the Respondent is a non-faculty Employee that reports directly or indirectly to an Executive Vice President, Vice President, College Dean, or Chief of Staff, the Appeals Officer is the Assistant Vice President for Institutional Integrity and Compliance or their designee.
- Where the Respondent is a member of the Academic Faculty, the Appeals Officer is the Provost and Senior Vice President for Academic Affairs or their designee.

XVIII. Retaliation

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or these Complaint Resolution Procedures. This includes retaliation against individuals who make a report, file a complaint, testify, assist, or participate, or refuse to participate in any investigation,

proceeding, or hearing. Retaliation also includes intimidation, threats, coercion, or discrimination, as well as charging an individual with unrelated conduct violations when those charges arise out of the same facts or circumstances as a report or complaint of sex discrimination or sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or these resolution procedures. Complaints alleging retaliation may be filed with the Title IX Coordinator and will be addressed through the procedures outlined in the University *Title IX Sexual Harassment Policy.*

XIX. Documentation and Recordkeeping

The Title IX Coordinator shall maintain confidential records, of complaints, supportive measures, investigations, hearings (including recordings), appeals, informal resolutions, training materials, and related documents for a period of seven (7) years. Additionally, the Title IX Coordinator will prepare a monthly summary of pending complaints to be presented to the Office of Institutional Integrity and Compliance. This summary, also retained for seven (7) years, will contain sufficient information to enable the Title IX Coordinator, and the President to assess the University's compliance with the Title IX requirements.

XX. Confidentiality

The University will maintain the confidentiality of the identities of complainants, respondents, and witnesses involved in Title IX grievance procedures, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), required by law, or necessary to carry out the Title IX grievance process, including the assessment, investigation, and resolution of a sexual harassment complaint. All parties are advised that information may be disclosed as needed to ensure a fair and thorough investigation and resolution.

These procedures will be reviewed, at a minimum, annually and/or revised as needed by University Legal Counsel.

APPROVED BY:

PRESIDENT

DATE: 10/2/26