



WHITWORTH
UNIVERSITY

TITLE IX
POLICIES AND
PROCEDURES

TITLE IX PROCEDURES

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POLICY PROHIBITING TITLE IX SEXUAL HARASSMENT/Discrimination

This Title IX Sexual Harassment Policy shall supersede all other Title IX Sex Discrimination Policies heretofore adopted by this University.

I. POLICY STATEMENT

Whitworth University (“the University”) is committed to creating and maintaining a learning and work environment that is free from discrimination based on sex. This Title IX Sexual Discrimination, Harassment, & Sexual Misconduct Policy (the “Policy”) prohibits sex-based discrimination, including sex-based harassment, in all operations of the University. The Policy is intended to meet the University’s obligations under Title IX of the Education Amendments of 1972 (“Title IX”); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended by the Violence Against Women Reauthorization Act of 2013 (“VAWA”), with respect to its application to sex-based misconduct; and other applicable laws and regulations. The Policy also prohibits retaliation against an individual: (1) who makes a report or files a Formal Complaint of Title IX Sexual Harassment or Discrimination; (2) about whom a report is made or against whom a Formal Complaint is filed; (3) who participates in the reporting, investigation, or adjudication of possible violations of this Policy; or (4) who engages in good faith opposition to what another individual reasonably believes to be Title IX Sexual Harassment/Discrimination under this Policy. The University’s Title IX Coordinator is responsible for administering the Policy and related procedures. Any inquiries about the Policy or procedures should be referred to the University’s Title IX Coordinator, Rhosetta Rhodes, who may be contacted as follows:

Rhosetta Rhodes, Title IX Coordinator
300 W Hawthorne Road
Spokane, WA 99251
Phone: 509-777-3718
Email: rrhodes@Whitworth.edu

All references in the Policy to the Title IX Coordinator should be understood to also include any individual acting as an assigned designee of the Title IX Coordinator.

II. APPLICABILITY AND SCOPE

This Policy applies to all members of the University community. This includes but is not limited to, full and part-time students; full and part-time employees, including faculty members, staff, student employees, and temporary and contract employees; and certain third parties, including applicants for admission and employment, visitors, employees of University contractors, and individuals who are participating in a University Education Program or Activity, but who are neither enrolled in an academic program/course at the University nor employed by the University (e.g. individuals participating in a University summer camp or attending a University Education Program or Activity by invitation or that is open to the public). The Policy applies regardless of the gender, gender identity, or sexual orientation of the parties.

This Policy prohibits Title IX Sexual Harassment/Discrimination committed against any member of the University community in the United States and within a University Education Program or Activity.

The University retains the discretion to determine whether the conduct that occurs outside of the United States or outside of a University Education Program or Activity, including online conduct that is not part of a University Education Program or Activity, is within the scope of this Policy. In making this determination, the University will consider the severity of the alleged conduct, the risk of ongoing harm, whether both parties are members of the University community, and the impact on University programs or activities.

Alleged incidents of discrimination/harassment or other misconduct based on sex that this Policy does not cover may be governed by other University policies, including but not limited to:

- Student Code of Conduct
- Faculty Personnel Policies
- Staff Personnel Policies

This Policy supersedes any conflicting information in any other University policy with respect to the definitions and procedures applicable to alleged Title IX Sexual Harassment/sex

discrimination. This Policy and the related procedures provide the exclusive remedy for alleged Title IX Sexual Harassment/Discrimination.

III. DEFINITIONS

A. Definitions of Conduct Prohibited by this Policy

Title IX Sexual Harassment: conduct based on sex that satisfies one or more

of the following –

- A University employee (including a faculty member) conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct. Also known as *quid pro quo* sexual harassment.
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, or objectively offensive that it effectively denies a person equal access to a University Education Program or Activity.
- **Sexual Assault:** any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes and/or genders or gender identities.

Sexual Assault includes the following:

- o **Rape:** the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity;
- o **Sodomy:** oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity;
- o **Sexual Assault with an Object:** to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity;
- o **Fondling:** the touching of the private body parts of another person for sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/age or because of his/her/their temporary or permanent mental or physical incapacity;
- o **Incest:** sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or

Statutory Rape: sexual intercourse with a person who is under the statutory age of consent.

- **Domestic Violence:** a felony or misdemeanor crime 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 Washington State, 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 Washington State.

- **Dating Violence:** an act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship is determined based on a consideration of the (1) length of the relationship, (2) type of relationship, and (3) frequency of interaction between the persons involved in the relationship.

- **Stalking:** a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for his/her/their safety or the safety of others, or (2) suffer substantial emotional distress.

Retaliation: an adverse action or other form of negative treatment, including but not limited to intimidation, threats, coercion, discrimination, or harassment, carried out in response to a good-faith reporting of or opposition to Title IX Sexual Harassment/Discrimination; an individual's or group's participation, including testifying or assisting in the University's Title IX Procedures; an individual's or group's refusal to participate in the University's Title IX Procedures; or other forms of good faith opposition to what an individual reasonably believes to be Title IX Sexual Harassment/Discrimination under this Policy. Individuals are also protected from retaliation for making good-faith requests for accommodations based on religion or disability.

To be a Policy violation, the challenged actions or treatment must be sufficiently serious to discourage a reasonable person from further reporting, participation, or opposition.

Charging an individual with a Policy violation for making a materially false statement in bad faith in the course of the University's Title IX process does not constitute Retaliation. The exercise of rights protected under the First Amendment also does not constitute Retaliation.

B. Additional Definitions

Official with Authority: an official of the University with the authority to institute corrective action on behalf of the University and notice to whom causes the University to respond to Title IX Sexual Harassment. For a full list of University officials that meet this definition, see Appendix A attached to this Policy.

Complainant: an individual who is alleged to be the victim of Title IX Sexual Harassment/Discrimination.

Effective Consent: Effective consent is the basis of the analysis applied to unwelcome sexual contact. Lack of consent is a critical factor in any incident of sexual misconduct. Effective consent is informed, freely, and actively given and requires clear communication between all persons involved in the sexual encounter. It is active, not passive. Effective consent can be communicated verbally or by actions. But in whatever way consent is communicated, it must be mutually understandable.

1. **Silence and consent:** Silence, in and of itself, cannot be interpreted as consent. It is the responsibility of the initiator of sexual contact to make sure they understand fully what the person with whom they are involved wants and does not want sexually.

2. **Transferability of consent:** Effective consent to one form of sexual activity does not imply consent to other forms of sexual activity. Previous relationships or consent do not imply consent to future sexual acts.

3. **Consent and force:** Effective consent cannot be procured by using physical force, compelling threats, intimidating behavior, or coercion.

4. **Inability to consent:** Effective consent cannot be given by minors, mentally disabled individuals, or persons incapacitated as a result of drugs or alcohol. If you have sexual activity with someone you know to be or should know to be, mentally or physically incapacitated (by alcohol or other drug use, unconsciousness, or blackout), you are in violation of this policy.

Incapacitation is a state where one cannot make a rational, reasonable decision because he/she/they lack(s) the ability to understand the “who,” “what,” “when,” “where,” “why,” or “how” of the sexual interaction.

5. Consent and drugs/alcohol: This policy also covers someone whose incapacity results from mental disability, sleep, involuntary physical restraint, or the taking of a so-called “date-rape” drug. Possession, use, and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student to induce incapacity is a violation of this policy.

Administering alcohol to another person to induce incapacity, even if the person is of legal drinking age, is also a violation of this policy. Use of alcohol or drugs will

never function as a defense to a violation of this policy. The initiator of sexual activity is responsible for obtaining consent regardless of the initiator’s own incapacity.

Consensual Relationships: The potential for abuse or the appearance of abuse and the inherent differential in authority prompts the University to prohibit any faculty member or an employee of the University from engaging in a romantic and/or sexual relationship or in romantic and/or sexual conduct with any student of any gender or identity currently enrolled at Whitworth University.

Likewise, the potential for abuse or the appearance of abuse and the inherent differential in authority prompt the University to prohibit any member of the University community from engaging in a romantic and/or sexual relationship or in romantic and/or sexual conduct with any employee of any gender or gender identity whom that person supervises or evaluates in any way.

It should be noted that exceptions to any of these prohibitions will be considered by the Provost/ Vice President for Academic Affairs on a limited, case-by-case basis. If you have questions about the applications or effect of this policy on an existing or potential relationship, it is your responsibility to consult with the Provost/Vice President for Academic Affairs.

In keeping with this policy, if charges of sexual harassment are made, the existence of a

consensual relationship in any of the contexts stated above shall not be a defense in any proceeding resulting from such charges.

University Education Program or Activity: all operations of the University, including those locations, events, and circumstances where the University exercises substantial control, and (2) any building owned or controlled by a student organization recognized by the University. Conduct that occurs on-campus occurs within the University's Education Program or Activity.

Formal Complaint: a document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment/Discrimination against a Respondent and requesting that the University investigate the allegation of Title IX Sexual Harassment/Discrimination. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, by phone, or by email.

Report: formal notification to the Title IX Coordinator or an Official with Authority, either orally or in writing, of the belief that Title IX Sexual Harassment/Discrimination occurred.

Respondent: the person or office, program, department, or group against whom an allegation or complaint is made (e.g. the individual[s], organizational unit[s], or group[s] who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment/Discrimination).

Responsible Employee: an individual designated by University policy who is required to report information regarding Title IX Sexual Harassment/Discrimination to the Title IX Coordinator.

Student: an individual who was selected for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at the University.

IV. REPORTING AND RESOURCE OPTIONS

A. Reporting Title IX Sexual Harassment/Discrimination to the University

The University encourages all individuals to report allegations of Title IX Sexual Harassment/Discrimination directly to the Title IX Coordinator or to an Official with Authority. Any person, regardless of whether they are the Complainant, may report Title IX Sexual Harassment/Discrimination to the Title IX Coordinator.

Reporting an incident of Title IX Sexual Harassment/Discrimination to the Title IX Coordinator or an Official with Authority allows the University to provide Supportive Measures (as described below), but does not necessarily result in the initiation of a grievance procedure.

A report may be made in person, in writing, by telephone, by email, or through the electronic reporting system on the University's website.

To make a report, contact the Title IX Coordinator at:

Rhoretta Rhodes, Title IX Coordinator

300 W. Hawthorne Road, HUB 253

Spokane, WA 99251

Phone: 509-777-3718

Email: rrhodes@whitworth.edu

A report can also be made anonymously by telephone, in writing, or electronically. Depending on the level of information available about the incident or the individuals involved, the University's ability to respond to an anonymous report may be limited. The University will, however, take appropriate steps it deems appropriate, consistent with the information available.

Any report involving a minor will be shared with law enforcement agencies and child protective services within 24 hours, as required by Washington State law, RCW 26.44.030.

B. Required Reports by Responsible Employees

Responsible Employees are expected to be discreet but are required by the University to promptly consult with the Title IX Coordinator by telephone, email, or online reporting form to share known details of an incident of alleged Title IX Sexual Harassment/Discrimination or Sexual Misconduct.

Click Here to see the Policy. [The Whitworth University Mandatory Reporting Policy](#)

C. Emergency Resources and Law Enforcement

Emergency medical assistance and campus safety/law enforcement assistance are available 24/7 both on and off campus. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that may pose a threat to safety or physical well-being or following a potential criminal offense.

Law Enforcement Assistance: Members of the University community who believe their safety or the safety of others is threatened or who have experienced or witnessed Title IX Sexual Harassment/Discrimination that may be criminal in nature should immediately call Campus Security at x4444 or call 911 to reach local law enforcement.

Emergency Medical Assistance: The University encourages individuals to seek assistance from a medical provider or crisis response service immediately after an incident that may require medical attention. This provides the opportunity to address physical well-being or health concerns, preserve any available evidence, and begin a timely investigative and remedial response. Emotional care, counseling, and crisis response are available on and off campus:

On Campus Phone Numbers:

- Campus Security: 509-777-4444
- Title IX Coordinator: 509-777-3718
- 24/7 Counseling Access: 509-777-3259
- Health Services: 509-777-3259

Off-Campus Phone Numbers:

- Emergencies: 911

D. All Reports Treated with Discretion

All inquiries, complaints, and investigations are treated with discretion. Information is revealed only as law and policy permit or require. However, the identity of the complainant is usually revealed to the person(s) accused of such conduct and any witnesses with the consent of the complainant. Publicizing information about alleged sex discrimination or retaliation is strictly prohibited and may be considered a violation of University policy. The Family Educational Rights and Privacy Act ("FERPA") also protects students' records by restricting the amount of people who have access to Title IX investigative materials and/or records.

V. TIME FRAME FOR REPORTING

To maintain and support a community that is respectful and free from Title IX Sexual Harassment/Discrimination and to maximize the University's ability to respond promptly and effectively, the University urges individuals to come forward with reports of Title IX Sexual Harassment/Discrimination as soon as possible. The sooner a report is made, the more effectively it can be investigated, e.g. while witnesses are still available, memories are fresh, and documentation may still be available. There is, however, no time limitation for reporting Title IX Sexual Harassment/Discrimination.

VI. AMNESTY

Sometimes students are reluctant to seek help after experiencing Title IX Sexual Harassment/Discrimination, or may be reluctant to help others who may have experienced Title IX Sexual Harassment/Discrimination, because they fear being held responsible by the University or law enforcement for drug use or underage alcohol consumption.

The University generally will not pursue disciplinary action against a student who makes a good faith report to the University, or who participates as a party or witness in the grievance process related to Title IX Sexual Harassment, for personal consumption of alcohol or

other drugs (underage or illegal) that would otherwise be a violation of the Student Code of Conduct, provided the misconduct did not endanger the health or safety of others.

VII. PARTICIPANT PRIVACY AND CONFIDENTIALITY

The University recognizes that privacy is important. The University will attempt to protect the parties' privacy to the extent reasonably possible. The Title IX Coordinator, investigators, advisors, facilitators of informal resolution, and any others participating in the process on behalf of the University shall keep the information obtained through the process private, to the extent possible, confidential. All other participants in the process (including the Complainant, Respondent, non-University advisors, and witnesses) are encouraged to respect the privacy of the parties and the confidentiality of the

proceedings and circumstances giving rise to the dispute and to discuss the matter only with those persons who have a genuine need to know. While the University is committed to respecting the confidentiality of all parties involved in the process, it cannot guarantee complete confidentiality. Examples of situations in which confidentiality cannot be maintained include, but are not limited to, the following:

- When the University is required by law to disclose information (such as in response to a subpoena or court order).
- When disclosure of information is determined by the Title IX Coordinator to be necessary for conducting an effective investigation of the claim.
- When confidentiality concerns are outweighed by the University's interest in protecting the safety or rights of others.
- When a Formal Complaint is filed.

A. Anonymous Reporting

If you would like to report an incident or speak to someone about an incident and you desire that details of the incident be kept strictly confidential, you should speak with

the Title IX Coordinator. Staff members of the Chapel, Health Services staff, the Counseling Center staff, and off-campus rape crisis resources, will maintain confidentiality to the extent permitted by law. Campus counselors are available to help you free of charge, and can be seen on an emergency basis. In addition, you may speak on and off campus with clergy and chaplains, who will also keep reports made to them confidential to the extent permitted by law.

B. Limited Response for Anonymous Reporting

If a person wishes to make a complaint anonymously, the University's ability to respond will be limited. Additionally, if the victim does not wish to proceed, an investigation will not follow unless the Title IX Coordinator determines that the safety of the University community or legal compliance is jeopardized.

VIII. INTAKE PROCESS FOR REPORTS OF TITLE IX SEXUAL HARASSMENT

Once a report of Title IX Sexual Harassment/Discrimination is made to or received by the Title IX Coordinator, the Title IX Coordinator shall review the report to determine appropriate next steps. If the allegations reported, if true, would not constitute Title IX Sexual Harassment/Discrimination as defined in this Policy, the Title IX Coordinator will not proceed under this Policy and its Procedures. Instead, if the allegations reported, if true, would not constitute Title IX Sexual Harassment/Discrimination as defined in this Policy, the Title IX Coordinator may take one of the following actions: (1) address the report under the Student Code of Conduct, Faculty Personnel Policies, and/or Staff Personnel Policies as appropriate; (2) refer the matter to Human Resources, or other departments, as appropriate, or (3) if the reported conduct would not constitute a violation of any University Policy, take no further action. The Title IX Coordinator will notify the Complainant of the action or referral. After receiving a report of conduct that, if true, would constitute Title IX Sexual Harassment/Discrimination as defined in this Policy, the Title IX Coordinator will promptly contact the Complainant and:

- Discuss the availability of Supportive Measures;

- Explain that Supportive Measures are available with or without the filing of a Formal Complaint of Title IX Sexual Harassment/Discrimination;
- Inform the Complainant of the process for filing a Formal Complaint of Title IX Sexual Harassment/Discrimination; and
- Inform the Complainant that even if they decide not to file a Formal Complaint of Title IX Sexual Harassment/Discrimination, the Title IX Coordinator may do so by signing a Formal Complaint.

The Title IX Coordinator will also ensure that the Complainant receives a written explanation of available resources and options, including the following:

- Support and assistance available through University resources, including the Complainant's option to seek Supportive Measures regardless of whether they choose to participate in a University or law enforcement investigation;
- The Complainant's option to seek medical treatment and information on preserving potentially key forensic and other evidence;
- The process for filing a Formal Complaint of Title IX Sexual Harassment/Discrimination, if appropriate;
- The University's procedural options including Formal and Informal resolution;
- The Complainant's right to an advisor of the Complainant's choosing;
- The University's prohibition of Retaliation against the Complainant, the Respondent, the witnesses, and any reporting parties, along with a statement that the University will take prompt action when Retaliation is reported (and how to report it); and
- The opportunity to meet with the Title IX Coordinator in person to discuss the Complainant's resources, rights, and options.

IX. SUPPORTIVE MEASURES

Supportive Measures are non-disciplinary, non-punitive individualized services, accommodations, and other assistance that the University offers, after receiving notice of possible Title IX Sexual Harassment/Discrimination. Supportive Measures are designed to restore or preserve access to the University's Education Program and Activity, protect the

safety of all parties and the University's educational environment, or deter Title IX Sexual Harassment/Discrimination, while not being punitive or unreasonably burdening any party. Supportive Measures are available regardless of whether the matter is reported to the University to initiate any formal grievance proceeding before, after, and regardless of whether a Formal Complaint is filed. A Complainant who requests Supportive Measures retains the right to file a Formal Complaint, either at the time the Supportive Measure is requested or at a later date. The Title IX Coordinator will contact a Complainant after receiving notice of possible Title IX Sexual Harassment/Discrimination (1) to discuss the availability of Supportive Measures and (2) to explain that Supportive Measures are available with or without the filing of a Formal Complaint of Title IX Sexual Harassment. The Title IX Coordinator will consider the Complainant's wishes concerning implementation of Supportive Measures. Supportive Measures may also be requested by and made available to Respondents, witnesses, and other impacted members of the University community. The Title IX Coordinator will ultimately serve as the point of contact for any individual requesting Supportive Measures.

Examples of Supportive Measures include, but are not limited to, the following:

- Academic support services and accommodations, including the ability to reschedule classes, exams, and assignments, transfer course sections, or withdraw from courses without penalty;
- Academic schedule modifications (typically to separate Complainant and Respondent);
- Work schedule or job assignment modifications (for University employment);
- Changes in work or housing location; • An escort to ensure safe movement on campus;
- On-campus counseling services and/or assistance in connecting to community-based counseling services;
- Assistance in connecting to community-based medical services;
- Mutual no-contact directives (to instruct individuals to stop all attempts at communication or other interaction with one another);
- Placing limitations on an individual's access to certain University facilities or activities;
- Work schedule or job assignment modifications, including suspending employment with or without pay consistent with any applicable written procedures (for University positions);

- Information about and/or assistance with obtaining personal protection orders;
- Leaves of absence;
- Increased monitoring and security of certain areas of the campus; or
- A combination of any of these measures. The University will maintain Supportive Measures provided to the Complainant or Respondent as confidential to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures.

EMERGENCY REMOVAL AND ADMINISTRATIVE LEAVE Emergency Removal of a Student-Respondent: Where there is an immediate threat to the physical health or safety of any students or other individuals arising from reported Title IX Sexual Harassment, the University can remove a Student-Respondent from the University's Education Program or Activity and issue any necessary related no-trespass and no-contact orders. The Title IX Coordinator will make the decision to remove a Student-Respondent from the University's Education Program or Activity based on an individualized assessment and risk analysis. If the Title IX Coordinator makes such a decision, the Student-Respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal.

Administrative Leave of an Employee/Faculty-Respondent: The University may place an Employee/Faculty-Respondent on administrative leave during the pendency of a Formal Complaint. An employee alleged to have committed Title IX Sexual Harassment/Discrimination will not be placed on administrative leave unless and until a Formal Complaint has been filed with the University.

Title IX Sexual Harassment Grievance Procedures

XI. FORMAL COMPLAINTS OF TITLE IX SEXUAL HARASSMENT

A. Filing a Formal Complaint

A Complainant has the option to file a Formal Complaint against a Respondent alleging Title IX Sexual Harassment and requesting that the University investigate those allegations. To file a Formal Complaint, the Complainant should contact the Title IX Coordinator. This may be done online, in person, or by email. When a Complainant does not wish to file a Formal Complaint on their own behalf, the Title IX Coordinator may, at their discretion, file a Formal Complaint.

When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not the Complainant or otherwise a party. While the Complainant may choose to not participate in the grievance process initiated by the Title IX Coordinator's signing of a Formal Complaint of Title IX Sexual Harassment/Discrimination, the Complainant will still be treated as a party entitled to inspect and review evidence and to receive all notices, including the notice of allegations, the notice of hearing, and the notice of outcome. At no time will the University coerce or retaliate against a Complainant to convince the Complainant to participate in the grievance process.

B. Mandatory Dismissal of Formal Complaint for Title IX Purposes

When the Title IX Coordinator receives a Formal Complaint alleging conduct, which, if true, would meet the definition of Title IX Sexual Harassment/Discrimination, the Title IX Coordinator will evaluate the allegations in the Formal Complaint to determine whether the allegations satisfy the following conditions:

- The Title IX Sexual Harassment conduct is alleged to have taken place within the University's programs and activities; and
- At the time of the filing or signing of the Formal Complaint, the Complainant is participating in or attempting to participate in the University's programs or activities.

If the Title IX Coordinator determines that all of the above conditions are satisfied, the University will address the Formal Complaint of Title IX Sexual Harassment/Discrimination under these Procedures. If the Title IX Coordinator determines that the allegations in the Formal Complaint do not meet the definition of Title IX Sexual Harassment or that not all of the conditions above are satisfied, the University will dismiss the Formal Complaint for Title IX purposes. However, if the University dismisses the Formal Complaint for Title IX purposes, it may, in its discretion, address the Formal Complaint under the Student Code of Conduct, Faculty Personnel Policies, or the Staff Personnel Policies as appropriate. Additionally, if the Title IX Coordinator investigates a matter as Title IX Sexual Harassment/Discrimination based on the allegations in the Formal Complaint, but, during the course of the investigation, the Title IX Coordinator determines that all of the above conditions are no longer satisfied, the University will dismiss the Formal Complaint for Title IX purposes and instead pursue the matter under the Student Code of Conduct or the Staff Personnel Policies as appropriate and applicable, or will dismiss the Formal Complaint in its entirety. If the Title IX Coordinator determines that a Formal

Complaint of Title IX Sexual Harassment will not be adjudicated under the Title IX Procedures, either at the outset after reviewing the Formal Complaint or during the investigation, the parties will receive simultaneous written notice of the dismissal and the reasons for that dismissal. Either party may appeal the decision to dismiss a Formal Complaint.

C. Discretionary Dismissal of Formal Complaint for Title IX Purposes

In addition to the reasons discussed above regarding mandatory dismissals, the University may, in its discretion, choose to dismiss a Formal Complaint or any allegations therein, if at any time during the investigation:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- The Respondent is no longer enrolled or employed by the recipient; or
- Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein. The University retains discretion on a case-by-case basis to determine if it will dismiss a Formal Complaint for Title IX purposes based on any of the above reasons. Just because one or all of the conditions above are satisfied, does not mean the University will automatically dismiss the Formal Complaint for Title IX purposes as is the case with respect to the conditions listed in the “Mandatory Dismissal” section above. Instead, the University will determine if such a decision is appropriate under the circumstances. If the University dismisses a Formal Complaint for Title IX purposes, it may in its discretion address the Formal Complaint under the Student Code of Conduct, Faculty Personnel Policies, or the Staff Personnel Policies as appropriate. The parties will receive simultaneous written notice of the dismissal and the reasons for the dismissal. Either party may appeal the decision to dismiss as explained below.

D. Consolidation of Formal Complaints

In their discretion, the Title IX Coordinator may consolidate multiple Formal Complaints for resolution under this Policy. Consolidation might involve a single Complainant or multiple Complainants, a single Respondent or multiple Respondents, and allegations of conduct that is temporally or logically connected (even where some of that alleged conduct is not Title IX Sexual Harassment or where the above conditions are not met with respect to some of the alleged conduct). If Formal Complaints involving multiple Complainants and/or multiple Respondents are consolidated, each party will have access to all of the information being

considered; including as provided by all involved Complainants, all involved Respondents, and all involved witnesses. The decision to consolidate Formal Complaints is not subject to appeal.

E. Notice of Allegations

If a Complainant files a Formal Complaint of Title IX Sexual Harassment/Discrimination within the scope of this Policy, the Title IX Coordinator will simultaneously send both parties a written Notice of Allegations that contains the following:

- Notice that the Informal and Formal Resolution processes comply with the requirements of Title IX;
- Notice of the allegations potentially constituting Title IX Sexual Harassment/Discrimination, providing sufficient detail for a response to be prepared before any initial interview, including (1) identities of the parties, if known; (2) the conduct allegedly constituting Title IX Sexual Harassment; and (3) the date and location of the alleged incident, if known;
- A statement that the Respondent is presumed not responsible for the alleged Title IX Sexual Harassment/Discrimination and a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that each party may have an advisor of their choice
- Information regarding the availability of support and assistance through University resources and the opportunity to meet with the Title IX Coordinator in person to discuss resources, rights, and options;
- Notice of the University's prohibition of Retaliation of the Complainant, the Respondent, and witnesses; that the University will take prompt action when Retaliation is reported; and how to report acts of Retaliation; and
- Notice that the Student Code of Conduct prohibits knowingly making false statements and knowingly submitting false information during the grievance process. If, during the course of an investigation, the Title IX Coordinator decides to investigate additional allegations about the Complainant or Respondent relating to the same facts or circumstances but not included in the earlier written notice, the Title IX Coordinator will provide an amended Notice of Allegations to the parties.

XII. TIMELINES

Throughout these Procedures, the University designates timelines for different steps of the process. The Title IX Coordinator has the authority to extend such timelines for good cause.

Good cause may include, but is not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disability. In the case of such an extension, the Title IX Coordinator will notify the affected parties of the extension, including the reason(s) for the extension. The phrase "business days" shall refer to those days ordinarily recognized by the University administrative calendar as workdays.

XIII. ADVISORS Throughout the resolution process (whether informal or investigative), the Complainant and the Respondent may each have an advisor of their choice to provide support and guidance. An advisor may accompany the Complainant/Respondent to any meeting with the Title IX Coordinator or the investigator. A party's advisor has an exclusively non-speaking role, and may not otherwise present evidence, argue, or assert any right on behalf of the party.

XIV. INFORMAL RESOLUTION

Informal Resolution is an alternative resolution process that does not include an investigation or hearing. Informal Resolution is typically a spectrum of facilitated, or structured, and adaptable processes between the Complainant, the Respondent, and/or other affected community members. Informal Resolution is not available in cases involving a Student-Complainant and Employee-Respondent. The Title IX Coordinator reserves the right to determine whether Informal Resolution is appropriate in a specific case. Before the Title IX Coordinator commences the Informal Resolution process, both parties must provide informed consent in writing. In addition, where both parties and the University determine that Informal Resolution is worth exploring, the University will provide the parties with a written notice disclosing:

- The allegations;
- The requirements of the Informal Resolution process; and
- Any consequences resulting from participating or withdrawing from the process, including the records that may be maintained by the University.

A. Types of Informal Resolution

- **Mediation**

Written Notice of Outcome Deadline: Written notice of the outcome of this informal resolution shall be given to the parties involved by the Title IX Coordinator or designee within three (3) days of the outcome.

At any time prior to resolving, either party may withdraw from the Informal Resolution process and proceed with the formal grievance process for resolving the Formal Complaint. Once an Informal Resolution is agreed to by all parties, the resolution is binding and the parties generally are precluded from resuming or starting the formal grievance process related to that Formal Complaint. Any breach of the terms of an Informal Resolution agreement may result in disciplinary action.

XV. FORMAL RESOLUTION PROCESS

A. The Investigation

An investigation allows both the Complainant and the Respondent to submit information and other evidence and to identify witnesses. Although the parties have the option to submit evidence and suggest witnesses to be interviewed, the burden of gathering information in the investigation is with the University. When the formal resolution process is initiated, the Title IX Coordinator will designate an investigator who will be responsible for gathering evidence directly related to the allegations raised in a Formal Complaint of Title IX Sexual Harassment. The investigator must be impartial, free of any actual conflict of interest, and have specific and relevant training and experience. Specifically, the investigator will be trained on (1) issues of relevance; (2) the definitions in the Policy; (3) the scope of the University's Education Program or Activity; (4) how to investigate; and (4) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. A Complainant or a Respondent who has concerns that the assigned investigator cannot conduct a fair and unbiased review (e.g., has a personal connection with one of the parties or witnesses, etc.) may report those concerns to the Title IX Coordinator, who will assess the circumstances and determine whether a different investigator should be assigned to the matter.

1. Investigation Timeframe

The investigation of a Formal Complaint will be usually concluded within 90 days of the filing of the Formal Complaint. The parties will be provided with updates on the progress of the investigation, as needed, and will be alerted if the process will go beyond the 90-day timeframe.

2. Interviews and Gathering Evidence Interviews:

The investigator will interview the Complainant and Respondent to review the disciplinary process and to hear an overview of each party's account of the incident. Before any interview, the individual being interviewed will be informed in writing of the date, time, location, participants, and purpose of the interview. Such notice will be provided with sufficient time for the individual to prepare for the interview. The Respondent will be informed in writing

if, during the investigation, additional information is disclosed that may constitute additional Title IX Sexual Harassment/Discrimination under the Policy. Following the interview, each party will be provided with a draft summary of their statement so that they have the opportunity to comment on the summary and ensure its accuracy and completeness. The parties' feedback may be attached or otherwise incorporated into the final investigative report to the extent deemed relevant by the investigator.

Evidence: During the interview, and as the investigator is gathering evidence, each party will be given the opportunity to identify witnesses and to provide other information, such as documents, communications, photographs, and other evidence. Although the University has the burden of gathering evidence sufficient to reach a determination regarding responsibility, all parties are expected to share any relevant information and/or any information that is requested by the investigator. The investigator will review all information identified or provided by the parties, as well as any other evidence they obtain. Evidence obtained as part of the investigation that is directly related to the allegations in the Formal Complaint will be shared with the parties for their review and comment, as described below.

3. Draft Investigative Report and Opportunity to Inspect and Review Evidence

After all the evidence is gathered, and the investigator has completed witness interviews, the investigator will prepare a draft investigative report. The investigator will send each party, and the party's advisor, if any, the draft investigative report.

The investigator will also provide the parties, and their advisors, if any, with copies of all evidence directly related to the allegations of the Formal Complaint that was gathered during the investigation. Before doing so, the investigator may redact information in the evidence that is not directly related to the allegations of the Formal Complaint; information prohibited from disclosure according to a recognized legal privilege; and/or a party's medical or mental health information/records unless the party consents in writing to the disclosure. The evidence may be provided in either an electronic format or a hard

copy. Parties and their advisors may be required to sign a non-disclosure agreement that permits the review and use of the evidence only for purposes of the Title IX grievance process.

The parties will have ten (10) days to review the draft investigative report and evidence and to submit a written response. The parties' written responses must include any comments, feedback, additional documents, evidence, requests for additional investigation, names of additional witnesses, or any other information they deem relevant to the investigation. Any party providing new evidence in their written response should identify whether that evidence was previously available to them, and if so, why it was not previously provided. The parties' feedback will be attached to the final investigation report.

Generally, only information that is provided to, or otherwise obtained by, the investigator during the course of the investigation will be considered in the determination of whether a Policy violation occurred. The investigator will review the feedback to the report, and interview additional relevant witnesses (as the investigator deems appropriate).

4. Final Investigative Report

After the time has run for both parties to provide any written response to the draft investigative report and evidence, and after the investigator completes any additional investigation, the investigator will complete a final investigative report. The investigator will submit the final investigative report of relevant information to the Title IX Coordinator. The investigator shall not make any credibility determinations in the investigative report regarding witness testimony and/or evidence. The Title IX Coordinator will review the report for completeness and relevance, and direct further investigation as necessary before the report is provided to the Complainant and Respondent. The investigator and/or Title IX Coordinator, as appropriate, may exclude and/or redact information or evidence from the final investigative report as follows:

- Information that is not relevant to the allegations raised in the Formal Complaint;

- Information about a Complainant’s prior or subsequent sexual activity, unless such information about the Complainant’s prior sexual behavior is 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; and

- Medical or mental health information, treatment, and/or diagnosis, unless the party consents. After the Title IX Coordinator reviews the report and any further investigation, if necessary, is completed, the final report will be shared with the Complainant, Respondent, and their advisors. The parties will have ten (10) business days to respond in writing to the final investigative report.

The Complainant and Respondent must also submit in writing by that time the names of any witnesses the Complainant/Respondent wishes to testify and a summary of information each witness would provide through their testimony. Names of witnesses provided by the Complainant/Respondent will be shared with the other party. After the ten (10) business day deadline, the Complainant and Respondent may not provide any additional written information unless that information was not reasonably available prior to the closing of the ten (10) business day window. Exceptions to this ten (10) business day deadline may be granted at the discretion of the Title IX Coordinator. The Title IX Coordinator will determine what if any, final changes or additions are made to the final investigative report based upon its review of the report and feedback as described above from the Complainant and Respondent.

C. Determination Regarding Responsibility

Following the review of the investigation and subsequent information provided by both parties, a determination will be made, based on the recommendation by the investigators and a preponderance of the evidence standard, whether the Respondent has violated the Policy. A preponderance of the evidence standard means that, based on the information acquired during the investigation, it is more likely than not the Respondent engaged in the alleged conduct.

D. Remedies and Sanctions

In the event the Respondent is responsible for a violation of the University's policies, appropriate remedies and sanctions will be determined by the Provost/Vice President for Academic Affairs and the Vice President of Student Affairs. Upon a finding of responsibility, the Complainant will be provided with remedies designed to restore access to the University's educational and employment programs and activities.

Sanctions for a finding of responsibility for Student Respondents include, but are not limited to, expulsion, suspension, disciplinary probation, recommended counseling, community service, essay, and/or other educational sanctions. In determining (a) sanction(s), the Vice President for Student Affairs will consider whether the nature of the conduct at issue warrants removal from the University, either permanent (expulsion) or temporary (suspension). Other factors pertinent to the determination of what sanction applies include, but are not limited to, the nature of the conduct at issue, prior disciplinary history of the Respondent (shared only upon a finding of responsibility for the allegation), previous University response to similar conduct, and University interests (e.g., in providing a safe environment for all).

Sanctions for findings of responsibility for Employee and Faculty Respondents include, but are not limited to, progressive disciplinary action; prohibition from various academic or managerial responsibilities involving the Complainant or others; letter of reprimand placed in a Respondent's personnel file; restrictions on a Respondent's access to University programs or facilities; limitations on merit pay or other salary increases for a specific period; or demotion, suspension, or dismissal/termination from the University.

E. Written Notice Regarding Outcome and, if applicable, Sanctions/Remedies

After a determination regarding responsibility and, if applicable, a determination regarding appropriate remedies and/or sanctions has been made, the Complainant and Respondent will receive a simultaneous written notification including the decision regarding responsibility and, as applicable, remedies and sanctions. The written notification will include the following:

- Identification of the allegations potentially constituting Title IX Sexual Harassment/Discrimination;

- A description of the procedural steps taken from the receipt of the Formal Complaint of Title IX Sexual Harassment, with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; • Findings of fact supporting the determination;
- A statement of, and rationale for, the result of each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the University's Education Program or Activity will be provided by the University to the Complainant; and
- The University's procedures and permissible bases for the Complainant and Respondent to appeal.

The written notification of the outcome becomes final seven (7) days after it is sent to the Parties, unless an appeal is filed on or before that day.

XVI. APPEALS

A Respondent and Complainant both have the right to appeal (1) The Title IX Coordinator's decision to dismiss a Formal Complaint of Title IX Sexual Harassment; and (2) the decision regarding responsibility. A party wishing to appeal the Title IX Coordinator's decision to dismiss a Formal Complaint of Title IX Sexual Harassment/Discrimination must file a written appeal statement within five business days of the date the decision to dismiss is communicated to the parties. Appeal statements are limited to five pages. The written appeal statement must identify the ground(s) upon which the appeal is being made. The only grounds for appeal are:

- New information not reasonably available at the time of the decision that could affect the outcome of the matter;
- The Title IX Coordinator, investigator, Vice President of Student Life and Dean of Students, had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent specifically that affected the outcome of the matter;
- Procedural error(s) that affected the outcome of the matter.
- To determine whether the sanction(s) imposed were appropriate.

An appeal is not a re-hearing of the case. The University may summarily deny an appeal if it is not based on one of the enumerated grounds for appeal.

Response to Appeal: A written notice will be provided to both parties that an appeal has been submitted and that a written response to the appeal ("response") may be submitted. The response is due three (3) business days from the date the University provides written notice of the appeal. Response can be no more than five (5) pages. The University will provide the Appellant an opportunity to review the Appellee's response, and the Appellant shall have an additional three (3) business days to provide an additional response in writing.

Written Decision: The appellate decision-maker will provide written notification of the final decision to the Appellant and Appellee simultaneously. The appellate decision-maker will typically notify the parties of its decision regarding an appeal in writing within fourteen (14) business days from receipt of the appeal statement. If the decision will take longer, the parties will be informed. The decision of the appellate decision-maker will be final and no subsequent appeals are permitted.

XVII. CONFIDENTIALITY

The University will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Title IX Sexual Harassment/Discrimination, any Complainant, any individual who has been reported to by the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or other proceeding arising thereunder.

XVIII. RECORD RETENTION

The University shall retain for a period of seven (7) years after the date of case closure: the official file relating to a formal resolution, including any investigation hearing, sanctioning, and/or appeals processes involving allegations of Title IX Sexual Harassment/Discrimination. In cases in which a Respondent was found to have violated the Policy and was expelled or terminated, the University may retain such official case files indefinitely.