

Title IX Grievance Procedures

I. Policy Statement

Southeastern Louisiana University, hereinafter referred to as Recipient, prohibits sexual harassment and is committed to providing a learning, working, and living environment that promotes integrity, civility, and mutual respect in an environment free from sexual harassment as provided in Title IX and other applicable laws. Recipient shall take prompt and appropriate action to investigate and effectively discipline those accused of such conduct in a manner consistent with the law and due process. Recipient shall provide support and assistance to those alleging sexual harassment and shall report instances of sexual harassment in accordance with law. Recipient will strive to create and maintain safe learning, working, and living environments for all individuals who participate in Recipient's education programs and activities, including online instruction. Any non-confidential report of sexual harassment, as defined herein, must be investigated, addressed, and resolved by Recipient under the appropriate procedures as outlined in this policy.

II. Purpose of Policy

This policy was designed to provide a grievance process for violations of **Title IX of the 1972 Education Amendments** which (i) prohibits discrimination on the basis of sex in educational institutions and (ii) requires colleges and universities receiving federal funding to combat gender-based violence and harassment, and respond to survivors' needs in order to ensure that all students have equal access to education.

III. Applicability

This policy applies to Recipient's students and faculty/staff. This policy prohibits sexual harassment committed by or against students and faculty/staff by other students, faculty/staff, or third parties.

As to cases covered by Title IX, this policy applies when sexual harassment, as defined in the policy, occurs in Recipient's education program or activity, against a person in the United States.

All other forms of Sexual Misconduct not covered by Title IX and the process for addressing same are contained in Recipient's Power-Based Violence & Sexual Misconduct Policy.

The Title IX Grievance Procedure and its terms supersede any policies pertaining to the investigation or adjudication or “sexual harassment” as defined in this protocol, with the exception of certain procedures related to complaints against employees who are members of the State Civil Service or are tenured faculty members.

IV. Scope

The USDOE’s Title IX Regulations apply to both:

- a. Conduct on the basis of sex that constitutes “**sexual harassment**” (Sec.106.30); and
- b. Conduct that relates to an institution’s “**education program or activity**” against a person in the United States on or after August 14, 2020.

A Sexual Harassment (Sec. 106.30)

Sexual Harassment is defined as conduct on the basis of sex that satisfies one or more of the following criteria:

1. An employee of Recipient conditioning the provision of an aid, benefit, or service of the Recipient on an individual’s participation in unwelcome sexual conduct:
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Recipient’s education program or activity; and/or
3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30)

B Education Program or Activity

An education program or activity includes locations, events, or circumstances in which Recipient exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Recipient. The Title IX Regulations exclude any education program or activity that does not occur in the United States. (Sec. 106.44(a).)

V. Equitable Treatment

As required by the Title IX Regulations, Recipient is to treat Complainants and Respondents equitably by: (1) offering Supportive Measures to a complainant, and (2) following a grievance process that complies with the procedural requirements of the Title IX Regulations before the imposition of any disciplinary sanctions against a Respondent. Sec. 106.44(a); Sec. 106.45(b)(1)(i).) Supportive Measures also may be offered as need to Respondents and other individuals who belong to Recipient’s community and who may be affected by sexual harassment.

An individual's status as a Respondent shall not be considered a negative factor during any process under this policy. Respondents are entitled to, and will receive the benefit of, a presumption that they are not responsible for the alleged conduct unless and until the process concludes and a determination regarding responsibility issued. Similarly, a person's status as a Complainant, Respondent, or witness will not determine whether that person is deemed credible. (Sec. 106.45(b)(1)(ii-iv).)

Remedies are to be provided to a Complainant only if the grievance process described in this policy results in a determination that the Respondent is responsible for sexual harassment. Remedies are designed to restore or preserve equal access to Recipient's education program or activity and may include the same individualized services as Supportive Measures. Remedies may be disciplinary and punitive and may burden a Respondent (Sec. 106.45(b)(1)(i).)

Title IX Coordinators, Investigators, Decision Makers, and any person who facilitates an informal resolution process (collectively, Title I Administrators) will not have a conflict of interest or bias in favor of or against any party or participant in sexual misconduct (i.e., Complainants, Respondents, or witnesses).

VI. Overview of Key Terms

For purposes of these Title IX Grievance Procedures, key terms are defined as follows:

Actual Knowledge: Notice of sexual harassment or allegations of sexual harassment to an institution's Title IX Coordinator or any official of Recipient who has authority to institute corrective measures on behalf of Recipient.

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Decision Maker: The individual or the panel that makes the decisions regarding the outcome of a hearing. Makes determinations regarding relevancy of questions in cross-examination. Writes and issues the written decision letter.

Formal Complaint: Under the Title IX Grievance Procedures, a document filed by Complainant or signed by the Title I Coordinator alleging sexual harassment against a Respondent and requesting that Recipient investigate the allegation. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of Recipient with which the Formal Complaint is filed. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, by e-mail, or by any additional method designated by Recipient.

Investigator: The individual who collects statements and other evidence regarding a Formal Complaint of sexual harassment. The Investigator also writes a summary report.

Parties: The Complainant(s) and Respondent(s) involved in a Formal Complaint.

Perpetrator: An individual found guilty of sexual misconduct.

Recipient: An education entity receiving federal funds.

Relevance: The tendency of a given item of evidence to prove or disprove one of the legal elements of the case, or to have probative value (“tending to prove”) to make one of the elements of the case likelier or not.

Remedies. Methods of restoring or preserving equal access to Recipient’s education program or activity. Such remedies may include supportive measures; remedies need not be non-disciplinary or non-punitive and need not avoid burdening Respondent.

Respondent: An individual alleged to be the perpetrator of conduct that could constitute sexual harassment under Title IX.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Recipient’s educational environment, or deter sexual harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Victim: An individual who, after all due investigation and/or adjudication, has been found to be the target of sexual harassment.

VII. Formal Grievances Process

This section outlines the steps taken to initiate a grievance and procedural requirements for investigations and adjudications of Formal Complaints in accordance with federal regulations.

A. Filing a Formal Complaint

A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment as defined by the Title IX Regulations against a Respondent and requesting Recipient investigate the allegation of sexual harassment. The submission of a Formal Complaint and its receipt by the Title IX Coordinator triggers the Formal Grievance Process.

A Formal Complaint must be in writing and may be filed with the Title IX Coordinator in person, by mail, by e-mail, or online at www.southeastern.edu/reportit. The Formal Complaint must contain the Complainant’s physical or digital signature, or some other indication that the Complainant is the person filing it. (Sec. 106.30) At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity.

When Recipient receives an allegation of sexual misconduct that falls within the scope of the Title IX Grievance Procedures, whereby it meets both the Title IX Regulations' definition of "sexual harassment" and their jurisdictional requirements (See Section II), but no Formal Complaint is filed, then the Title IX Regulations prevent Recipient from administering a formal grievance process (including any normal or early resolution) that permits the imposition of any disciplinary sanctions or other actions against a respondent. Supportive Measures, however, may still be offered.

B. Title IX Coordinator Filing a Complaint

In the event that a Complainant ultimately requests that Recipient not investigate a potential Title IX violation, that request should be respected unless the Title IX Coordinator determines that signing a Formal Complaint to initiate an investigation, or to continue the Formal Grievance Process, is necessary in order to meet Recipient's obligation to provide a safe and nondiscriminatory environment and Recipient determines that it must take additional steps to protect the campus community.

Signing a Formal Complaint does not make a Title IX Coordinator a Complainant or otherwise a party.

C. Withdrawal

After filing a Formal Complaint, a Complainant may withdraw their Formal Complaint at any time by providing written notice to the Title IX Coordinator. That withdrawal concludes the Formal Grievance Protocol process unless the Title IX Coordinator takes action under Subsection B of this section.

D. Consolidation

Recipient, at its discretion, may consolidate Formal Complaints alleging covered sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of covered sexual harassment arise out of the same facts or circumstances.

E. Mandatory Dismissal

If the conduct alleged in the Formal Complaint does not satisfy the requirements of sexual harassment as defined by Sec. 106.30, the harassment did not occur in Recipient's education program or activity, or it did not occur against a person in the United States, Recipient must dismiss the Formal Complaint under this grievance process. However, the Title IX Coordinator may transfer the complaint, under the Power-Based Violence & Sexual Misconduct Policy, to the Office of Advocacy and Accountability for review and possible investigation under their standard disciplinary process.

Recipient will simultaneously notify the parties (via written notice) that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Procedures, and of the transfer, if applicable. Each party may appeal this dismissal using the procedures outlined in this policy.

F. Permissive Dismissal

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

1. 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 in or employed by Recipient; or
3. Specific circumstances prevent Recipient from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Upon dismissal, Recipient must promptly send written notice of the dismissal and reason(s) simultaneously to the parties.

VIII. Initial Steps and Determination of Appropriate Procedures

Upon Actual Knowledge of a Report of alleged sexual misconduct, the Title IX Office is required to perform an initial assessment consistent with information outlined in Section VI(A) and Section VI(B) in the Power-Based Violence & Sexual Misconduct Policy, which includes making initial contact with the alleged victim.

As soon as is practicable (but no later than five working days following actual notice), the individual investigating the complaint shall contact the Complainant and schedule an initial meeting. At the initial meeting the Investigator will:

- a. Provide a copy of this policy which explains the process and rights of all parties;
- b. Request additional information regarding the reported incident;
- c. Explain the investigatory process;
- d. Explain the options for reporting to law enforcement authorities (whether on campus or local police) and the Office of Student Advocacy and Accountability;
- e. Discuss confidentiality standards and concerns with the complainant and advise that confidentiality may impact the University's ability to investigate fully;
- f. Determine whether the Complainant wishes to pursue a resolution (formal or informal) through Recipient and that the decision to begin with an informal resolution does not preclude formal resolution;
- g. Explain to the Complainant the process for filing a formal complaint;
- h. Refer the Complainant, as appropriate, to the Counseling Center or other resources which may include law enforcement, medical assistance, psychological counseling, victim advocacy resources, legal resources, University disciplinary action, immigration services, and criminal prosecution;
- i. Inform the Complainant that they have the right to utilize a Confidential Advisor and/or any other Advisor of their choosing throughout the process;
- j. Discuss with the Complainant, as appropriate, possible Supportive Measures as defined hereinabove and explain that these can be offered with or without the filing of a Formal Complaint;
- k. If the Respondent is a student, interim Supportive Measures may be imposed, such as a no contact order or an interim suspension from school/removal from an activity to protect the safety of the

Complainant. Prior to an emergency suspension/removal, Recipient must undertake an individualized safety and risk analysis to determine if an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies suspension/removal. Further, Recipient must provide the Respondent with notice and an opportunity to challenge the decision immediately following the suspension/removal. The Office of Student Advocacy & Accountability extends additional rights in disciplinary procedures to victims of Sexual Harassment which can be found at southeastern.edu/code;

- I. If the Respondent is a member of the Recipient's faculty or staff, Supportive Measures provided by Recipient may include modification of work schedules, campus escort services, mutual restrictions on contact between parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

If the initial assessment reveals that the alleged conduct does meet the definition of sexual harassment as contained within the USDOE's Title IX Regulations, the investigation will proceed pursuant to the Title IX Formal Grievance Procedures below. If the alleged conduct does not meet the USDOE's definition of sexual harassment, the investigation will be handled by the Office of Student Advocacy and Accountability pursuant to Recipient's Power-Based Violence & Sexual Misconduct Policy.

IX. Confidentiality

Recipient, once in receipt of a report of sexual misconduct, shall take all reasonable measures to protect the privacy of the Complainant and of the Respondent, while promptly investigating and responding to the report. Recipient shall take appropriate action to maintain the confidentiality of the information reported, which information is subject to privacy requirements of the Family Educational Rights and Privacy Act ("FERPA"), while considering its responsibility to provide a safe and non-discriminatory environment for students, including the Complainant.

The Recipient will respect the confidentiality of alleged victims of possible sexual misconduct, consistent with Recipient's legal obligations. Individuals who wish to report or discuss incidents of sexual misconduct should be aware that employees on campus have different reporting responsibilities and different abilities to maintain confidentiality or privacy, depending on their roles at the University.

A. Limited Confidentiality of Reports to Employees

When considering reporting options, Complainants should be aware that certain Recipient personnel must maintain strict confidentiality, while others have mandatory reporting and response obligations. Recipient personnel who are Mandatory Reporters and who receive a report of alleged sexual misconduct are required to share the information with appropriate administrative authorities for investigation and follow up. Recipient will protect a Complainant's confidentiality by refusing to disclose his or her information to anyone outside Recipient to the maximum extent permitted by law. As for confidentiality of information within Recipient, Recipient must balance a Complainant's request for confidentiality with its responsibility to provide a safe and non-discriminatory environment for the Recipient community.

B. Employees Required to Maintain Confidentiality

The following individuals are not required to report information about an incident to the Title IX Officer without a Complainant's permission. Non-reporters include physical and mental health professionals, including licensed

counselors who provide mental health counseling to members of the University community and those who act under the supervision of a health care employee. Those offices are:

University Counseling Center

Location: 912 N. Oak St.
War Memorial Student Union
303 A Union Avenue
Phone: (985) 549-3894
Fax: (985) 549-5007
Email: slucc@selu.edu
Website: <http://www.southeastern.edu/admin/counseling/>

University Health Center

Location: War Memorial Student Union Annex
303 Union Avenue
Phone: 985-549-2242
Fax: 985-549-2093
Email: health@selu.edu
Website: http://www.southeastern.edu/admin/health_ctr/

These offices will maintain confidentiality in accordance with the law and their professional rules of conduct. They will assist in a crisis and provide information about possible resources, some of which may include law enforcement, medical assistance, psychological counseling, victim advocacy assistance, legal assistance, University disciplinary action, immigration services, and criminal prosecution. They will not reveal the Complainant's identity to anyone without the Complainant's permission except under very limited exceptions (e.g., if an immediate threat to the complainant or others is present, or if the complainant is a minor). Complainants need not reveal their names if calling these individuals for information. These offices are obligated to report complaints to the University Police Department for purposes of the Clery Act but not in a way that identifies an alleged victim or an accused individual unless otherwise required to do so by law.

C. Confidentiality Requests and Supportive Measures

Recipient's inability to take disciplinary action against a Respondent accused of sexual misconduct because of a Complainant's insistence of confidentiality will not restrict the Recipient's ability to provide appropriate Supportive Measures for the reasonable safety of the Complainant or the Recipient community. Recipient may also use the information as an anonymous report for data collection purposes under the Clery Act.

D. Victim Identity Protected from Open Records

The identity of those complaining of sexual misconduct will be withheld unless mandated by court order or otherwise required to be released by law.

X. Investigation

A. Prohibition on Dual Roles

No individual can serve in more than one role in any investigation – the Title IX team members, specifically the Investigator(s), Decision Maker(s), appeals officer(s), coordinator(s), and advisor(s) must all be different officials.

B. Bias or Conflict of Interest

When making decisions regarding the selection of all Title IX team members in each case, Recipient must vet all of the potential members to ensure that none of them have a bias or conflict of interest regarding any part to the proceeding. If an official believes that they cannot serve for one of these reasons, they may recuse themselves from the proceeding. In the event that a party believes that any official may have a bias or conflict of interest, the party may challenge that official. Said challenge would be made to the Deputy Title IX Coordinator unless that individual is the subject of the challenge, in which event, the challenge would be made to the Chief Title IX Coordinator. After a review of the challenge, if found meritorious, the individual will be replaced.

C. Delays/Extensions

In the event that there is a legitimate good cause need for a delay or a limited extension of time at any stage in the Title IX proceedings (whether at the request of any official party), Recipient shall notify in writing all parties of the rationale for the delay or extension as well the new timeframe. Good cause may include 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 disabilities.

D. Notice

Upon receipt of a Formal Complaint, Recipient must provide written notice of the following to known parties:

1. The investigation and adjudication process, including any informal processes (a copy of all relevant policies maintained by Recipient shall be provided to all parties);
2. Allegations of sexual harassment, including sufficient details known at the time. Sufficient details include the identities of the parties involved in the incident; if known; the conduct allegedly constituting sexual harassment; the specific section(s) of the policy alleged to have been violated; and the date and location of the alleged incident, if known;
3. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is only made at the conclusion of the grievance process;
4. The parties may have an advisor of their choice, who may be, but is not required to be, an attorney;
5. At any proceeding, if a party is without an advisor, one will be provided at no cost to the party;
6. Advisors may be present during any stage of the process, including all meetings, interviews and, proceedings;
7. Restrictions regarding the extent to which the advisors may participate in the proceedings are allowed, as long as the restrictions apply equally to all parties;

8. Advisor will cross examine opposing parties during the live hearing;
9. Complainant and Respondent and their respective advisors all have the right to inspect and review evidence;
10. Parties are prohibited from knowingly making false statements or knowingly submitting false information during the investigation and adjudication process; and any violations will be addressed through the Student Code of Conduct or the appropriate employee policy and procedure;
11. All parties, as well as all others whose participation in the grievance process is invited or expected, shall be provided with written notice of the date, time, location, participants, and the purpose of all hearings, investigative interviews or other proceeding, with sufficient time for preparation to participate;
12. If Recipient decides to investigate additional allegations not included in the original notice, it must provide notice of the additional allegations to the parties whose identities are known.

E. Investigation Process

Appointment of an Investigator. The Title IX Coordinator shall appoint an Investigator to investigate the allegations documented in the Formal Complaint.

Investigative Time Frame. The investigation should begin within five working days of the notice to the Respondent.

Equitable Treatment. Investigator will remain neutral throughout the investigation and provide both Complainant and Respondent opportunities to respond in person and in writing, to submit relevant documents, and to produce relevant witnesses. Both parties shall also be afforded simultaneous notices of the opportunity to have a representative or advisor present at all meetings, and the ability to inspect any information that will be used after the investigation during informal and formal disciplinary meetings. At no time will either party be offered mediation as an option to resolve a sexual misconduct case that involves violent or criminal conduct.

Written Notice. The Investigator shall provide written notice to each party of the date, time, location, participants, and purposes of each Formal Grievance Process meeting in which they are invited to participate, with sufficient time for the party to prepare to participate.

Objective Evaluation. While investigating the allegations of any Formal Complaint of sexual harassment, the Investigator will conduct an objective evaluation of all relevant evidence. (See Sec. 106.45(b)(1)9ii.)

Possible Steps. The investigation may include, among other steps, interviewing the Complainant, the Respondent, and any witnesses, reviewing law enforcement investigation documents if applicable; reviewing relevant student or employment files; and gathering and examining other relevant documents, social media posts, and other evidence.

Burden of Proof. The Investigator shall ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on Recipient and not on the parties.

Collection of Evidence. The Investigator will attempt to collect all relevant information and evidence. Following the investigation, the Investigator will draft an investigation report succinctly describing all collected information. The Investigator will not make any determination as to whether a policy violation has occurred or recommend potential sanctions.

Recipient cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Recipient obtains that party's voluntary written consent.

Presentation of Witnesses. The Investigator shall provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

Right to Have Third Parties Present. The Investigator shall provide the parties with the same opportunities to have others present during any investigation or adjudication proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding; however, Recipient may establish restrictions regarding the extent to which an advisor may participate in the proceedings, all along as the restrictions apply equally to both parties;

Discussion of Allegations. The Investigator shall not restrict the ability of either party to discuss the allegations under investigation.

Right to Inspect, Review, Access, and Respond to Evidence. All parties shall be provided an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including evidence upon which Recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source.

After said review, parties shall have ten working days to submit a written response to said evidence, which the Investigator will consider prior to completion of the report.

Recipient must make all such evidence available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross examination.

Investigative Report. No later than ten days following the completion of the investigation, the Investigator will complete a written investigative report that includes summaries of interviews conducted; photographs, if any; documents and materials received; descriptions of relevant evidence; summaries of relevant electronic records; and a detailed report of the events related to the incident.

At least ten working days prior to a hearing on the determination regarding responsibility, the report shall be sent (via hard copy or electronic format) to each party and each party's advisor.

F. Hearings

Live Hearing. Recipient shall provide for a live hearing. A Decision Maker(s) shall be appointed who will consider all of the evidence presented and determine whether a Respondent is responsible for a violation of this protocol.

The Decision Maker(s) will not be the same person as the Title IX Coordinator or the Investigator. Cases will be adjudicated by a third-party Decision Maker(s).

At the request of either party, Recipient must provide for the live hearing to occur with the parties located in separate rooms, with technology enabling the Decision Maker(s) and parties to simultaneously see and hear the party or the witness answering questions.

Notice of Hearing. All parties shall be notified of the details of the hearing, including date, time, location, participants, and purpose. Said notice shall be provided ten working days prior to the hearing, and whether the matter will be decided by an individual or a panel.

Standard of Evidence. Recipient shall apply the “preponderance of the evidence” standard for including responsibility in all Title IX cases.

Transcript/Recording. Recipient shall create a transcript or recording (audio or audiovisual) of any adjudicative hearing to be made available to the parties for inspection and review pursuant to FERPA.

Availability of Evidence. Recipient must make available at any hearing all such evidence subject to the parties’ inspection and review, to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination;

Cross Examination. At the live hearing, the Decision Maker(s) must permit each party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s advisor of choice and never by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness.

Refusal to Submit to Cross Examination. In reaching a determination regarding responsibility, the Decision Maker(s) may rely, if appropriate, on a statement of a party or a witness even if that party or witness does not submit to cross-examination. However, the Decision Maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions.

Relevance. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision Maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party does not have an advisor present at the live hearing, Recipient must provide without fee or charge to that party, an advisor of Recipient’s choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

Prior Sexual Predisposition/Sexual Behavior. Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concerning specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent are offered to prove consent.

G. Determination Regarding Responsibility

The Decision Maker(s) shall issue, simultaneously to both parties, a written determination regarding responsibility, which must include:

1. Identification of the allegations potentially constituting sexual harassment;
2. A description of the procedural steps taken from receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusion regarding the application of Recipient's policy to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any sanctions Recipient will impose on the Respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to Complainant; and
6. Procedures and permissible bases for parties to appeal.

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

H. Sanctions

In the event of a disciplinary proceeding, both Complainant and Respondent will be informed in writing of the results of any disciplinary proceedings no later than ten working days after the resolution. If Respondent is found responsible for sexual misconduct, Recipient will initiate a sanctioning process designed to eliminate the misconduct, prevent its recurrence, and remedy its effects, while supporting Recipient's educational mission and Title IX obligations. Sanctions or interventions may also serve to promote safety or deter students and employees from similar future behavior. Some behavior is so harmful to the Recipient's community or so detrimental to the educational process that it may require more serious sanctions or interventions, such as removal from Recipient housing, removal from specific courses or activities, suspension or expulsion from Recipient, or employment discipline/termination.

1. Possible Sanctions or Interventions for Student Respondents.

- a. Formal Reprimand.** A formal notice that Respondent has violated Recipient policy and that future violations may be dealt with more severely.
- b. Disciplinary Probation.** A designated period of time during which Respondent is not in good standing with Recipient. The terms of probation may involve restrictions of student privileges and/or set specific behavioral expectations.
- c. Restitution.** Reasonable and limited compensation for loss, damage, or injury to the appropriate party in the form of money or material replacement.
- d. Restriction from Employment at Recipient.** Prohibition of, termination from, or limitation on Recipient employment.
- e. Class/Workshop/Training/Program Attendance.** Enrollment in and completion of a class, workshop, training, or program that could help Respondent or the Recipient community.

f. University Housing Transfer or Removal. Placement in another room or housing unit or removal from Recipient housing. Housing transfers or removals may be temporary or permanent depending on the circumstances.

g. Professional Assessment. Completion of a professional assessment that could help Respondent or Recipient ascertain Respondent's ongoing supervision or support needs to successfully participate in Recipient's community.

h. Removal from Specific Courses or Activities. Suspension or transfer from courses or activities at Recipient for a specified period of time.

i. No Contact. Restriction from entering specific Recipient areas and/or from all forms of contact with certain persons.

j. Suspension. Separation from Recipient for a specified period of time or until certain conditions are met.

k. Expulsion. Permanent separation from Recipient.

l. Transfer Notification. If a student is found responsible for a sexually-oriented criminal offense upon the completion of such investigation and/or adjudication and seeks to transfer to another institution, Recipient is required to communicate such a violation, when Recipient becomes aware of the student's attempt to transfer, with the institution(s) to which the student seeks to transfer or has transferred.

2. Possible Sanctions for Faculty and Staff Members. For violations of this policy by faculty or staff members, disciplinary sanctions may include (in accordance with the employment policies governing the employee in question) counseling or training, written warning, financial penalty, unpaid leave of absence, suspension (or recommendation for termination) in accordance with applicable policies. Recipient may place a faculty or staff member on administrative leave during the pendency of a grievance process, provided that such action shall not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

3. Possible Sanctions Applicable to Non-members of Recipient's Community. For violations of this policy by non-member of Recipient's community, including alumni, disciplinary sanctions may include being temporarily or permanently barred from the campuses of Recipient or subject to other restrictions.

XI. Appeals

Both parties may appeal a determination regarding responsibility, and of a dismissal by Recipient of a Formal Complaint or any allegations therein, on the following bases:

- a. A procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time that the determination regarding responsibility or dismissal was made, which could affect the outcome of the matter; or
- c. The Title IX Coordinator, Investigator(s), or Decision Makers had 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.
- d. The sanctions/interventions are not designed to restore or preserve Complainant's access to Recipient's education or program activity.
- e. The sanctions/interventions are inappropriate or disproportionate to the determined violations.

The dismissal of a Formal Complaint or any allegations contained therein may also be appealed.

A. Student Appeals

A student conduct appeal must be directed to the Vice President for Student Affairs or his/her designee within ten (10) working days of being notified of the decision. Such appeals shall be in writing and shall be delivered to the Vice President for Student Affairs. The rendered sanction is in effect as of the date identified on the sanction letter, or until an appeal is granted. Supportive Measures will continue to remain in place during the appeal process. All other parties shall be notified in writing in the event any party files an appeal. Parties shall be given a reasonable opportunity to submit a written statement in support of, or challenging, the outcome.

Within ten working days, the Vice-President's decision will be made available to the participating parties, in writing, simultaneously. The Vice-President's decision shall be final and unreviewable except in the event of a sanction of expulsion or suspension for a period of one year or longer for the Respondent, in which event the Respondent may appeal to the President or his/her designee. Such appeal must be made within ten working days of notification of the Vice-President's decision. Within ten working days, the President's final and unreviewable decision will be made available to the participating parties, in writing, simultaneously.

B. Employee Appeals

An employee appeal must be directed to the President or his/her designee within ten (10) working days of being notified of the decision. Such appeals shall be in writing and shall be delivered to the President. The rendered sanction is in effect as of the date identified on the sanction letter, or until an appeal is granted. Supportive Measures will continue to remain in place during the appeal process. All other parties shall be notified in writing in the event any party files an appeal. Parties shall be given a reasonable opportunity to submit a written statement in support of, or challenging, the outcome. Within ten working days, the President's final and unreviewable decision will be made available to the participating parties, in writing, simultaneously.

XII. Informal Resolution

At any time prior to reaching a determination regarding responsibility, Recipient may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. Recipient may not offer an informal resolution process unless a Formal Complaint has been filed. Recipient shall not require the parties to participate in an informal resolution process and will not require them to waive their right to a formal grievance process. (Sec. 106.45(b)(9)).

The informal resolution process shall not be allowed in any case where an employee of Recipient is a Respondent.

Recipient shall:

1. Provide written notice to the parties, disclosing:
 - i. The allegations;
 - ii. 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;

- iii. The fact that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the investigation and adjudication process with respect to the Formal Complaint; and
 - iv. Any consequences resulting from participation in the informal resolution process, including the records that will be maintained or could be shared.
2. Obtain the parties' voluntary written consent to the informal resolution process; and
 3. Not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Recipient may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints. Likewise, Recipient may not require the parties to participate in an informal resolution process.

XIII. Retaliation

Acts or attempted acts for the purpose of interfering with any report, investigation, or proceeding under the policy, or as retribution or revenge against anyone who has reported Sexual Harassment, or who has participated (or is expected to participate) in any manner in an investigation or proceeding under this policy. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, and discrimination. Title IX prohibits retaliation. For purposes of this policy, an attempt requires a substantial step towards committing a violation.

XIV. Recordkeeping

Recipient must maintain, for seven (7) years, records of:

- a. Each sexual harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript required, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the education program or activity;
- b. Any appeal and the result thereof;
- c. Any informal resolution process and the result therefrom; and
- d. All materials used to train Title IX Coordinators, Investigators, Decision Makers, and any person who facilitates an informal resolution process. Recipient shall make these training materials publicly available on its website.

Recipient must create and maintain, for seven (7) years, records of any action, including any Supportive Measures, taken in response to a report or Formal Complaint of Sexual Harassment. In each instance, Recipient must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its education program or activity. If Recipient does not provide a Complainant with Supportive Measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstance. The documentation of certain cases or measures does not limit Recipient in the future from providing additional explanations or detailing additional measures taken.

[End of Policy]