

**The University of Arizona
PROCEDURES FOR FORMAL COMPLAINTS
OF TITLE IX SEX DISCRIMINATION**

In accordance with the University of Arizona's [Nondiscrimination and Anti-harassment Policy](#), the University of Arizona (University) is committed to creating and maintaining an environment free of discrimination. In support of this commitment, the University prohibits Sex Discrimination which includes Sex-based Harassment. A person affected by Sex Discrimination can seek confidential support or assistance, can request supportive measures, and can request formal disciplinary proceedings by the University.

SCOPE

These Procedures for Formal Complaints of Title IX Sex Discrimination (Procedures) apply to and describe the exclusive process followed by the University to resolve Formal Complaints and allegations of Sex Discrimination, including Sex-based Harassment and Retaliation, occurring within a University-sponsored educational program or activity in the United States on and after August 1, 2024.

Sex Discrimination includes discrimination on the basis of sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Sex-based Harassment is a form of Sex Discrimination and means Sexual Harassment and other harassment on the basis of sex, that is:

- (1) **Quid Pro Quo Harassment.** An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's educational program or activity explicitly or impliedly conditions the provision of such on participation in unwelcome sexual conduct;
- (2) **Hostile Environment Harassment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity (i.e., creates a hostile environment), even when some of the conduct contributing to the hostile environment occurred outside of a program or activity, or the United States; and/or
- (3) **Specific Offenses.** Sexual Assault, Dating Violence, Domestic Violence, and Stalking as prohibited by law and the University.

Allegations of Title IX Sex Discrimination occurring before August 1, 2024, will be subject to the policies and procedures in place at the time of the alleged conduct. Applicable versions of those policies and procedures are available on the Office of Institutional Equity's website (equity.arizona.edu).

If the facts or occurrences forming the basis of a Formal Complaint of Sex Discrimination would also constitute a violation of other University policies, those potential policy violations

may be addressed outside of these Procedures through the applicable University processes. When appropriate, these Procedures may proceed concurrently or sequentially with any other University process addressing other aspects of the facts and occurrences giving rise to a Formal Complaint of Sex Discrimination.

The University may amend these Procedures from time to time within its discretion. Amendments may apply to ongoing matters at the time the amendment is made unless the effect of the amendment is to reduce the rights of either a Complainant or Respondent, in which case the version of these Procedures in effect at the time the Formal Complaint was made will be followed.

RESPONSES TO REPORTS AND COMPLAINTS OF SEX DISCRIMINATION

Reports and Complaints of Sex Discrimination

Any person may report Sex Discrimination by submitting an online reporting form at equity.arizona.edu/reporting. Reporting by mail, telephone, or electronic mail to the Office of Institutional Equity or the Title IX Coordinator is also acceptable. The receipt of a report provides an opportunity for the University to offer information, resources, and Supportive Measures. A report does not constitute a Complaint subject to investigation and a Determination of Responsibility unless it can be objectively understood to be a request to investigate and determine whether Sex Discrimination occurred.

Supportive Measures

The University offers a range of resources to students and employees impacted by Sex Discrimination, including Supportive Measures. Supportive Measures are non-disciplinary, non-punitive individualized services offered without fee or charge as appropriate and reasonably available to Complainants and Respondents. Supportive Measures are designed to protect the safety of the parties and/or the University's educational environment and/or to provide support during the grievance process without unreasonably burdening either party.

1. Supportive Measures are available regardless of whether a Complainant initiates a Formal Complaint of Sex Discrimination or reports to law enforcement.
2. Supportive Measures can vary depending on the circumstances and may include but are not limited to counseling, extension of deadlines or other course-related adjustments, modification of work or class schedules, campus escort services, mutual restrictions on contact between the parties (Student No Contact Orders), changes in campus work or housing locations, leaves of absence, increased security and monitoring of campus areas, visa and immigration assistance, transportation accommodations, safety planning, community referrals, and other similar measures.
3. Supportive Measures may also include administrative and educational actions that do not unreasonably burden another party. Administrative and educational actions are not disciplinary.
4. A Complainant or Respondent may seek modification or reversal of the University's decision to provide, deny, modify, or terminate Supportive Measures applicable to them

when initially imposed or later if circumstances materially change. Such requests should be submitted in writing to the Office of Institutional Equity for review. A written determination will be provided to the parties and the Title IX Coordinator within five (5) days of receiving a complete written request.

5. The University may, as appropriate, modify, terminate, or continue Supportive Measures at the conclusion of these Procedures.
6. The University will maintain the confidentiality of any Supportive Measure(s) provided to either party to the extent that doing so does not impair the University's ability to provide the Supportive Measures or restore or preserve a party's access to a University program or activity.

Violations of No Contact Orders or other University restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as a collateral allegation to a current Complaint subject to investigation under these Procedures.

Emergency Removal

The Title IX Coordinator may remove a Respondent accused of Sex Discrimination from a University education program or activity after conducting an individualized safety and risk analysis to determine whether the Respondent presents an immediate threat to the physical health or safety of the Complainant or any other individual arising from the allegations of Sex Discrimination.

When an Emergency Removal is imposed:

1. Both the Complainant and Respondent will receive notice of the Emergency Removal, which will include the rationale for and terms of the removal and notice of the right to challenge the decision immediately.
2. A challenge to an Emergency Removal must be submitted in writing to the Title IX Coordinator no later than five (5) days after the removal becomes effective. A party who fails to submit a timely written challenge waives their right to do so.
3. If the removal is challenged, each party will be notified and given two (2) days to submit a written response to the Title IX Coordinator.
4. The Title IX Coordinator will consider a challenge and any response to determine whether the removal should remain in place, be modified, or be lifted and issue a decision within ten (10) days from the date of the notice of removal. The Emergency Removal will remain in effect while a challenge is under review and, if upheld, will remain in effect until the conclusion of these Procedures or the reason(s) for imposing the Emergency Removal no longer exist.
5. The Title IX Coordinator, investigator, or other decision-maker may participate in the Emergency Removal process if their role does not result in a conflict of interest or bias with respect to these Procedures.

Administrative Leave

An employee Respondent may be placed on administrative leave during the Title IX Formal Complaint process in accordance with applicable University employment policies and practices.

INVESTIGATION AND ADJUDICATION

During each phase of these Procedures, all individuals employed by the University or legally recognized as agents of the University with responsibilities directly related to these Procedures (including the Title IX Coordinator, investigators, and hearing officers) will reinforce and affirm the University's commitment to:

1. Equitable treatment of Complainants and Respondents.
2. Share information about all relevant University policies and Procedures with Complainants and Respondents.
3. Evaluate information and all relevant evidence objectively and impartially throughout all phases of the investigative process so that Complainants and Respondents are not disadvantaged due to conflict of interest or bias.
4. Initiate the investigative process with a presumption that the Respondent is not responsible for the alleged conduct and suspend judgment concerning responsibility until all relevant evidence has been considered and a determination is made at the conclusion of these Procedures.
5. Avoid reliance on sex or gender stereotypes.
6. Inform Complainants and Respondents that the Hearing Officer will apply the preponderance of the evidence standard to make the Determination of Responsibility and explain its meaning.
7. Objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence, and provide that credibility assessments will not be made based on a person's status as a party or witness.
8. Provide Complainants and Respondents with information regarding the possible range of disciplinary sanctions that may be issued if there is a Determination of Responsibility.
9. Recognize legal privileges that apply to Complainants and Respondents, including attorney-client and medical privacy privileges, and exclude evidence or questions that seek such evidence unless the privilege was knowingly waived in writing.
10. Complete the overall grievance process within a reasonably prompt timeframe. Reasonable extensions of timeframes will be allowed on a case-by-case basis upon a showing of good cause, with written notice to the parties stating the reason for the extension.
11. Provide Complainants and Respondents with information about how and on what grounds they can appeal the Dismissal of a Formal Complaint or Determination of Responsibility.

Privacy and Confidentiality

The University will take reasonable steps to protect the privacy of the parties and witnesses during the grievance process as set forth in these Procedures. Parties should be aware that

disclosure may occur in some circumstances, including for investigation and evidence-gathering purposes and to notify individuals of the Determination of Responsibility. Other situations where disclosure may occur include, but are not limited to, disclosures permitted by the Family Educational Rights and Privacy Act (FERPA), required compliance with an obligation imposed on the University by law, or in the facilitation of other legitimate University processes.

Parties and Advisors are prohibited from unauthorized disclosure of information obtained by the University during the grievance process to the extent that information was produced, compiled, or written by an investigator in the course of their investigation. It is also a violation of these Procedures to publicly disclose such information or a party's personally identifiable information without their prior written authorization or consent.

Initiating a Formal Complaint

1. Formal Complaints of Sex Discrimination and/or Title IX Retaliation may be submitted by filing an online reporting form at equity.arizona.edu/reporting. Complaints may also be submitted in writing via mail or electronic mail to the Office of Institutional Equity or the Title IX Coordinator. All Complaints must state an allegation of Sex Discrimination and/or Retaliation, identify the Complainant's status as an employee, student, or other individual participating in, or attempting to participate in, a University educational program or activity, and state the action being requested.
2. A Complainant may withdraw some or all of the allegations in their Formal Complaint at any time by providing written notice to the Title IX Coordinator.
3. If more than one Complainant alleges, or more than one Respondent is subject to allegations of, Sex Discrimination arising from the same set of facts or circumstances, the Title IX Coordinator may consolidate the Formal Complaints for the remainder of these Procedures. When consolidation occurs, the parties will be informed in writing.

Initial Assessment

The Title IX Coordinator will conduct an initial assessment, typically within ten (10) days of receiving a report or Formal Complaint of Sex Discrimination, to determine whether it sufficiently alleges conduct that may be addressed through these Procedures. If not, the Complainant will be offered available support, resources, and information regarding other applicable University policies and processes.

Title IX Coordinator's Authority to Initiate or Continue to Pursue a Formal Complaint

In the absence of a Formal Complaint or the Complainant's withdrawal of any or all the allegations in a Complaint, the Title IX Coordinator will determine whether to initiate or continue to pursue a Complaint based on a fact-specific assessment of the following factors:

- The Complainant's request not to proceed with a Complaint;
- The Complainant's reasonable safety concerns regarding the initiation of a Complaint;

- The risk that additional acts of discrimination would occur if a Complaint is not initiated;
- The severity of the alleged Sex Discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the parties, including whether the Respondent is an employee;
- The scope of the alleged Sex Discrimination, including information suggesting a pattern, ongoing Sex Discrimination, or discrimination alleged to have impacted multiple individuals;
- The availability of evidence to assist a Hearing Officer in determining whether Sex Discrimination occurred;
- Whether the University could end the alleged Sex Discrimination and prevent its recurrence without initiating these Procedures.

The Title IX Coordinator may decide to initiate a Complaint or to continue to pursue all or some of the allegations in a Complaint without becoming a party. Before doing so, the Title IX Coordinator will notify the Complainant to reasonably address safety concerns and offer Supportive Measures.

Notice of Allegations

Upon confirmation or initiation of a Formal Complaint, the Title IX Coordinator will provide written notice to the Complainant and Respondent (Notice). The Notice shall be sent to the Complainant and Respondent at least three (3) days before any scheduled meeting to allow the parties sufficient time to prepare for and attend their respective meetings and will contain:

1. A link to the University's Nondiscrimination and Anti-harassment Policy and these Procedures.
2. A link to information regarding each party's rights and options pursuant to the Clery Act, Violence Against Women Act (VAWA), and Title IX.
3. A summary of the allegations, including the identities of those involved in the incident, the precise conduct that is alleged to constitute Sex Discrimination, and the date and location of the alleged incident(s), if known.
4. A statement informing the parties that employees and students are required to attend any meeting scheduled under these Procedures. While attendance is required, students and employees are not required to participate in meetings pursuant to these Procedures. If an individual chooses to participate in the grievance process, they must do so by providing truthful information. Providing false or misleading information in this process may result in disciplinary action under other University policies.
5. A statement that the Complainant and Respondent may have an Advisor of their choice who may be, but is not required to be, an attorney, who may attend all interviews, meetings, and related proceedings, and that they and their Advisor may inspect and review evidence under these Procedures.
6. A statement that the parties will have equal access to the Investigative Report and any relevant and not otherwise impermissible evidence.
7. A statement that the University has the burden of proof and that the Hearing Officer will

apply the preponderance of the evidence standard to determine whether it is more likely than not that the alleged conduct occurred.

8. A statement that the Respondent is presumed not responsible until a Determination of Responsibility is made after a Hearing.
9. A statement that there is no restriction on the ability of either party to discuss the allegations under investigation, their own knowledge of the facts, or to gather and present relevant evidence throughout the grievance process.
10. Details on how a party may request disability accommodations during the grievance process.
11. An instruction to preserve any evidence that is directly related to the allegations.
12. A statement that if, during the course of the investigation, additional allegations about the Complainant or Respondent are identified that were not included in the Notice, an additional supplemental notice of allegations will be provided to all parties.
13. A statement that Determinations of Responsibility are made at the conclusion of the investigative process and that the parties will be given an opportunity to inspect and review all relevant information prior to a decision being made.
14. A statement that retaliation is prohibited.
15. A statement that if the Formal Complaint is dismissed, the allegations may be subject to investigation under the Student Code of Conduct, the Nondiscrimination and Anti-harassment Policy, or other applicable University policy.

Dismissal of Formal Complaint

The Title IX Coordinator may dismiss a Formal Complaint when:

1. The University is unable to identify the Respondent after taking reasonable steps to do so.
2. The Respondent is no longer enrolled in or employed by the University.
3. The Complainant notifies the Title IX Coordinator in writing that they wish to voluntarily withdraw some or all of the allegations in the Formal Complaint, the Title IX Coordinator declines to initiate a Complaint, and the remaining allegations in the Complaint, if any, would not constitute Sex Discrimination even if proven.
4. The Title IX Coordinator determines, after making reasonable efforts to clarify the allegations with the Complainant, that the alleged conduct, even if proven, would not constitute Sex Discrimination.
5. Specific circumstances prevent the University from gathering evidence sufficient to reach a Determination of Responsibility, including, but not limited to, instances where:
 - a. The Formal Complaint is made many years after the Title IX prohibited conduct allegedly occurred;
 - b. The Complainant stops participating or refuses to participate in the investigation process;
 - c. The Formal Complaint contains the same allegations that the University has already investigated.

Notification of Dismissal

In the event of a Dismissal, the Title IX Coordinator will promptly send written notification to the Complainant, including the rationale for the Dismissal and information regarding the Complainant's appeal rights. (See Appeal Process, below). If the Respondent is aware of the Complainant's allegations at the time of the Dismissal, both parties will simultaneously receive written notification with information about their rights and options.

Investigation Process

The investigator will:

1. Gather evidence sufficient for the Hearing Officer to reasonably determine after a Hearing whether it is more likely than not that the Respondent is responsible for the alleged Sex Discrimination based on the preponderance of the evidence standard.
2. Provide the parties with written notice of the date, time, location, participants, and purpose of all investigative interviews, hearings, or other meetings, with sufficient time for the party to prepare to participate.
3. Provide the parties with an equal opportunity to meet with an investigator and present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible.
4. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
5. Allow the Complainant and Respondent to have an Advisor of their choice, who may be, but is not required to be, an attorney and may attend all meetings, interviews, and related proceedings.
6. Allow for reasonable extensions of timeframes on a case-by-case basis with a showing of good cause and written notice to the parties explaining the reason for the extension.
7. Make a good faith effort to complete the investigation within ninety (90) days of receiving the Formal Complaint unless the complexity of the allegations, facts, or evidence, or other good cause for an extension exists.
8. Review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of its relevance.
9. Prepare an initial Investigative Report that fairly and accurately summarizes the investigation, including all interviews/meetings, and the relevant and not otherwise impermissible evidence.
10. Provide the parties and their Advisors, if any, with an electronic copy of the initial Investigative Report and all relevant and not otherwise impermissible evidence and the opportunity to provide a written response within five (5) days of receipt of the Investigative Report. The response should provide the party's reasons for disagreement with the initial Investigative Report, comments regarding the evidence, and/or any additional information or requests for information that the investigator will consider prior to finalizing the Investigative Report. A party who fails to provide a written response within the five (5) day review period waives their right to do so. All responses to the initial Investigative Report will be incorporated into the final Investigative Report, which will include a description of the procedural steps taken from the receipt of the Formal Complaint through the completion of

the Investigation.

11. Take reasonable steps to prevent and address the parties' and/or their Advisors' unauthorized disclosure of information and evidence obtained solely through these Procedures.

Respondent's Acceptance of Responsibility

At any point in the grievance proceedings, a Respondent may elect to admit to the alleged conduct and waive further process. The Hearing Officer is authorized to accept that admission, adopt it as their finding/final determination, and impose sanctions. If the Respondent does not accept responsibility for all of the alleged conduct, the process will continue to its conclusion. By accepting responsibility, the Respondent waives their right to appeal the Determination of Responsibility, but the Complainant retains their appeal rights.

Hearing

When the investigation is complete, the investigator will transfer the final Investigative Report and relevant evidence to the Hearing Officer, who will preside over the Hearing. The Hearing Officer may assign a Hearing Facilitator or other person to organize and facilitate the Hearing process and will ensure the following requirements are met:

1. The Hearing Officer will provide the Complainant and Respondent with written notice of the date, time, place, and nature of the Hearing, the specific allegations made, policies alleged to be violated, and any available pre-hearing process. The Notice, which will be provided to the parties no less than twenty (20) days prior to the set Hearing date, will include the other requirements described in this section and affirm that the Hearing is being conducted under 34 C.F.R. Part 106.46, Arizona Board of Regents Policy, and these Procedures. The Notice will be sent to the Complainant's and Respondent's University e-mail addresses.
2. At least ten (10) days before the Hearing, the parties and their Advisors will be provided with access to an electronic copy of the final Investigative Report and all relevant and not otherwise impermissible evidence.
3. No later than five (5) days before the Hearing, the Complainant and Respondent will identify their expected Hearing attendees, including any Advisor who will serve as their Hearing Advisor, and their expected witnesses (including themselves), indicating the order in which they anticipate they will be called to testify. The Hearing Officer will provide each party's disclosure to the other party, and while the disclosures are not binding, they should be submitted in good faith.
4. If the Complainant or Respondent does not have an Advisor for the Hearing, the Title IX Coordinator will provide them with a Hearing Advisor without fee or charge, solely to conduct cross-examination on their behalf.
5. Each party may submit a written impact statement for the Hearing Officer's consideration in conjunction with any sanction determinations. These statements may be submitted to the Hearing Facilitator up to one (1) day before the Hearing and will not be provided to the Hearing Officer or become part of the record unless the Hearing Officer determines that Sex Discrimination occurred.
6. The Complainant and Respondent are not permitted to ask questions of the other party or

witnesses and must consult with, rely on, and direct their Hearing Advisors to ask questions on their behalf during cross-examination.

7. The Complainant's and Respondent's Hearing Advisors will be permitted to ask relevant questions of the other party and witnesses, including questions that challenge their credibility.
8. The Hearing Officer must exclude any irrelevant or impermissible questions asked by a Hearing Advisor and must explain to the participants why the question is irrelevant or impermissible. Additionally, the Hearing Officer will not permit questions that are unclear or harassing but must provide the Hearing Advisor an opportunity to clarify or revise the excluded question for reconsideration.
9. Evidence and questions that relate to the Complainant's sexual interests or prior sexual conduct are not relevant unless such evidence or questions are offered/asked to prove that someone other than the Respondent committed the alleged conduct or if the evidence or questions concern specific incidents of the Complainant's prior sexual conduct with the Respondent and are offered to prove consent to the alleged Sex Discrimination. The parties' prior consensual sexual conduct does not by itself demonstrate or imply the Complainant's consent to the alleged Sex Discrimination or preclude a determination that Sex Discrimination occurred.
10. Hearing Advisors cannot make factual or legal arguments to the Hearing Officer.
11. The Hearing Officer can only rely on whatever relevant and permissible evidence is available through the investigation and presented at the Hearing in making the ultimate Determination of Responsibility.
12. The Hearing Officer may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions that are deemed relevant and not otherwise impermissible. The Hearing Officer must not draw an inference about whether Sex Discrimination occurred based solely on a party's or witness's refusal to respond to such questions.
13. The Hearing Officer will question the parties and witnesses to assess their credibility to the extent credibility is both in dispute and relevant to the evaluation of one or more allegations of Sex Discrimination.
14. The Hearing must be "live," meaning that the parties and their Hearing Advisors will participate in person or virtually for the entirety of the Hearing.
15. Prior to the Hearing, the Complainant or Respondent may request in writing that the parties be in separate rooms during the Hearing with technology enabling the participants to see and hear each other. If this request is made, the Hearing Officer will ensure the appropriate technology and support are provided to comply.
16. The Hearing Officer may choose to conduct the Hearing, or any portion of the Hearing, virtually provided that the technology used ensures that participants can see and hear each other, the Hearing Advisors, the Hearing Officer, and any witnesses.
17. The Hearing Officer will ensure that a recording or transcript of the Hearing is made and that the parties have access to it.
18. Other than these requirements, the Hearing Officer has the discretion and authority to conduct the Hearing as the Hearing Officer sees fit, with due consideration of treating the Complainant and Respondent equitably concerning the presentation of relevant and not otherwise impermissible evidence. This may include conducting any pre-hearing conferences or communications as necessary.

Hearing Officer's Determination of Responsibility

The Hearing Officer will simultaneously issue a written Determination of Responsibility (Determination) to all parties within twenty (20) days after the conclusion of the Hearing. The Determination will include:

1. A description of the Sex Discrimination alleged in the Formal Complaint or any supplemental notice.
2. Information about the policies and procedures used to evaluate the allegation(s), including a statement of the standard of evidence used (preponderance of the evidence).
3. The Hearing Officer's evaluation of the relevant and not otherwise impermissible evidence and determination of whether Sex Discrimination occurred.
4. Findings of fact.
5. Conclusions regarding the application of the alleged violations to the facts.
6. A statement of any disciplinary sanctions issued in conjunction with a Determination of Responsibility, including the rationale.
7. A statement of whether remedies designed to restore or preserve equal access to a University educational program or activity will be provided to the Complainant and, to the extent appropriate, other students experiencing the effects of Sex Discrimination, and that the Title IX Coordinator is responsible for promptly implementing remedies.
8. The procedures for an Appeal of the Determination of Responsibility and a statement that the Determination of Responsibility is the final adjudication action unless the Complainant or Respondent chooses to Appeal.

Appeal of a Determination or Dismissal

Either party may appeal the Hearing Officer's Determination of Responsibility or the Dismissal of all or part of a Complaint on the following grounds:

1. A procedural irregularity that would change the outcome.
2. New evidence that would change the outcome and was not reasonably available when the Determination or Dismissal was made.
3. The decision was not reasonably justified by the evidence or is contrary to law.
4. Excessive severity of the disciplinary sanction.
5. The Title IX Coordinator, investigator, Hearing Officer, or other decision-maker had a conflict of interest or bias against Complainants or Respondents generally or a specific party that would change the outcome.

Procedures for Appeal

1. If either party chooses to file an Appeal of a Determination of Responsibility or Dismissal of all or part of a Complaint, they must provide a written Statement of Appeal to the Provost and Title IX Coordinator within five (5) days of the Determination or Dismissal. The written Statement of Appeal must specify at least one of the above grounds for an Appeal. If the ground for an Appeal is to consider new evidence that was not reasonably available to the

appealing party at the time the Determination of Responsibility or Dismissal was made, the Appeal must describe the relevant evidence, explain why it was unavailable when the Determination or Dismissal decision was made, and explain how it would have affected the outcome of the matter. Any new evidence should be provided as an attachment to the written Statement of Appeal.

2. The Title IX Coordinator retains the discretion to verify and/or waive minor procedural variations in the timing and content of the Appeal submission and to grant reasonable extensions of time upon a showing of good cause. If the Title IX Coordinator exercises this discretion, the parties will receive a written explanation for the action and the reason(s) for the action.
3. Upon receipt of a timely Statement of Appeal, the Title IX Coordinator or their designee will notify the non-appealing party and provide them with an electronic copy of the written Statement of Appeal, including any attachments.
4. The non-appealing party will have five (5) days after receipt of the written Statement of Appeal to provide the Provost and the Title IX Coordinator with a response to the written Statement of Appeal that requests affirmation of the Determination of Responsibility or Dismissal and/or responds to the Statement of Appeal.
5. Within twenty (20) days of receiving the Response to the written Statement of Appeal, the Provost or their designee will provide a written Appeal Decision to the parties explaining the rationale for the decision. The Appeal Decision of the Provost or their designee is final.

Disciplinary Sanction Status During Appeal

Any sanctions imposed as a result of the Determination of Responsibility are stayed (i.e., not implemented) during the appeal process. Supportive Measures may be maintained or reinstated until the appeal determination is made.

Terms as used in these Procedures:

Advisor/Hearing Advisor

An Advisor is an individual chosen by a Complainant or Respondent to advise them during these Procedures. The Advisor may be an attorney and may also act as a party's Hearing Advisor for the purpose of conducting cross-examination during a live hearing. If a party does not have an Advisor at the time of the Hearing, the University will provide them with a Hearing Advisor for the limited purpose of conducting cross-examination.

Complainant

A student or employee who is alleged to have been subjected to Sex Discrimination; or a person (other than a student or employee) who is alleged to have been subjected to conduct that could constitute Sex Discrimination when participating or attempting to participate in the University's education program or activity when the alleged Sex Discrimination occurred.

Complaint/Formal Complaint

A Complaint is an oral or written request to the University that can be objectively understood as a request to investigate and determine whether the alleged conduct constitutes Sex Discrimination under Title IX or its regulations. A Complaint of Sex-based Harassment may be made by a Complainant, someone legally authorized to act on the Complainant's behalf, or the Title IX Coordinator. A Complaint of Sex Discrimination (other than Sex-based Harassment) can be made by a student, employee, or anyone who was participating or attempting to participate in a University program or activity at the time of the alleged discriminatory conduct. Once an oral or written request to investigate Sex Discrimination, Sex-based Harassment, or Retaliation is memorialized as a Complaint and signed by the Complainant, or a Complaint is initiated by the Title IX Coordinator, it constitutes a Formal Complaint as referenced in these Procedures.

Consent

Consent in the context of sexual activity means informed and freely given words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Consent may not be inferred from 1) silence, passivity, or lack of resistance, 2) a current or previous dating or sexual relationship, 3) acceptance or provision of gifts, meals, drinks, or other items, or 4) previous consent to sexual activity. Consent may be withdrawn during sexual activity. Consent to one form of consensual sexual activity does not imply consent to any other form of sexual activity. Consent may not be obtained through physical force, violence, duress, intimidation, coercion, or an express or implied threat of injury. Consent may never be given by a person who is: incapacitated (by drugs, alcohol, or otherwise), unconscious, asleep, or otherwise physically or mentally unable to make informed, rational judgments. The use of alcohol or drugs does not diminish one's responsibility to obtain consent and does not excuse conduct. Consent cannot be given by someone who, by virtue of age, circumstances, or other factors, is deemed by law to be incapable of giving consent.

Dating Violence¹

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the information available and consideration of the following factors: 1) the length of the relationship, 2) the type of relationship, and 3) the frequency of the interaction between the persons involved in the relationship.

Days

Days means University business days, not including Saturday, Sunday, a University-recognized holiday, or any day the University is closed.

¹ See 34 U.S.C. §12291(a)(11).

Determination of Responsibility

The Hearing Officer's written determination of whether Sex Discrimination occurred, made after applying the preponderance of the evidence standard to the relevant and not otherwise impermissible information presented.

Discrimination

Discrimination occurs when an individual or group of individuals is treated adversely because they belong to a classification of individuals that is protected from discrimination by law or policy.

Dismissal

The Title IX Coordinator's discretionary decision to dismiss all or part of a Complaint or Formal Complaint based on the criteria or circumstances set forth in these Procedures.

Domestic Violence²

Conduct that would meet the definition of a felony or misdemeanor crime of violence committed:

- a. by a current or former spouse or intimate partner of the Complainant, by a person who is cohabitating with, or who has cohabitated with, the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of an applicable jurisdiction;
- b. by a person with whom the Complainant has a child in common, or either party is pregnant by the other party;
- c. by a person residing or having resided in the same household;
- d. where a Complainant is related to the Respondent or the Respondent's spouse by blood or court order as a parent, grandparent, child, grandchild, brother, or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law, or sister-in-law; or where a victim is a child who resides or has resided in the same household as the Respondent and is related by blood to a former spouse of the Respondent or to a person who resides or who has resided in the same household as the Respondent.

Educational Program or Activity

Locations, events, or circumstances in the United States over which the University exercises substantial control over both the Respondent and the context in which the alleged Sex Discrimination occurred, including employment, and includes but is not limited to any conduct that occurs in a building owned or controlled by a student organization that is officially recognized by the University, and conduct that is subject to the University's disciplinary

² See 34 U.S.C. §12291(a)(12).

authority.

Party

A Complainant or Respondent.

Retaliation

Intimidation, threats, or discrimination against anyone by the University, a student, an employee, or anyone authorized by the University to provide an aid, benefit, or service under its education program or activity for the purpose of interfering with the rights and privileges established by Title IX and its implementing regulations, or because the person has reported information, made a Complaint, testified, or participated or refused to participate in an investigation, proceeding, or hearing under these Procedures.

Range of Disciplinary Sanctions

Disciplinary sanctions issued to a student may range from removal from a University educational program or activity to expulsion and degree revocation. Employee disciplinary sanctions may include a written warning, written reprimand, suspension without pay, involuntary demotion, disciplinary probation, and dismissal. Disciplinary sanctions may also be accompanied by other, non-disciplinary actions allowable under existing University rules, policies, and practices.

Respondent

A person who is alleged to have violated the University's prohibition on Sex Discrimination as addressed by these Procedures.

Sexual Assault³

Any attempted or actual sexual act⁴ directed against a Complainant, without their consent, including instances where the Complainant is incapable of giving consent.

³ See 20 U.S.C. 1092(f)(6)(A)(v)

⁴**Sexual Acts include the following forcible and non-forcible sexual acts and sexual violations:**

Rape. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of that person.

Sodomy. Oral or anal sexual intercourse with another person, without the Consent of that person, including instances where that person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacitation.

Sexual Assault with an Object. To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of that person, including instances where that person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacitation.

Fondling. The touching of the private bodyparts of another person for the purpose of sexual gratification without the Consent of that person, including in instances where that person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacitation.

Incest. Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent as defined by law. See 20 U.S.C. 1092(f)(6)(A)(v).

Stalking⁵

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for that person's safety or the safety of others or to suffer substantial emotional distress.

Title IX Coordinator

The Title IX Coordinator is responsible for coordinating the University's compliance with its obligations under Title IX and its regulations. The Title IX Coordinator has the discretion to delegate specific duties to one or more designees.

Effective Date: August 1, 2024
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⁵ See 34 U.S.C. §12291(a)(36).