

The University of Arizona INTERIM PROCEDURES FOR FORMAL COMPLAINTS OF TITLE IX SEXUAL HARASSMENT

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-based discrimination, including harassment and violence. A person affected by discrimination can seek confidential support or assistance, can request supportive measures, and can request formal disciplinary proceedings by the University.

For information about prohibited discrimination based on protected categories, including sex, please see the University's [Nondiscrimination and Anti-harassment Policy](#). For additional information related to prohibited student behavior, please see the [Arizona Board of Regents Student Code of Conduct](#).

Purpose and Application

These Interim Procedures for Formal Complaints of Title IX Sexual Harassment (Procedures) describe the exclusive process that will be followed by the University to resolve Formal Complaints of Title IX Sexual Harassment.

Title IX Sexual Harassment is a subset of Sexual Harassment¹ and is conduct based on sex occurring within a University-sponsored education program or activity in the United States that constitutes one or more of the following:

- **Quid Pro Quo Harassment.** An employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; or
- **Hostile Environment Harassment.** Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a University Education Program or Activity; or
- **Specific Offenses:** Any of the following prohibited crimes and specific acts of Sexual Harassment: Sexual Assault, Dating Violence, Domestic Violence, and Stalking.

If the facts or occurrences forming the basis of a Formal Complaint of Title IX Sexual Harassment 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 Title IX Sexual Harassment.

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

¹ As defined in the [Nondiscrimination and Anti-harassment Policy](#), Sexual Harassment, whether between individuals of the same or different sex, includes unwelcome conduct of a sexual nature that is made, either explicitly or implicitly, a condition of an individual's education, employment, or participation in a University program or activity, and/or when the submission to or rejection of such conduct is a factor in decisions affecting that individual's education, employment, or participation in University-sponsored activities.

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 SEXUAL HARASSMENT

Reports of Sexual Harassment

Any person may report Sexual Harassment 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.

Supportive Measures

The University offers a range of resources to students and employees impacted by sex-based discrimination, including Supportive Measures. Supportive Measures are non-disciplinary, non-punitive individualized services offered without fee or charge as appropriate and reasonably available to all parties. Supportive Measures are designed to restore or preserve equal access to the University's educational and working programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties and the University educational environment and to deter Title IX Sexual Harassment.

1. Supportive Measures are available regardless of whether a Formal Complaint of Title IX Sexual Harassment is filed.
2. Supportive Measures can vary 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. 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 Measure(s).
5. 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 Formal Complaint subject to investigation under these Procedures.

Emergency Removal

The University may remove a Respondent from a University education program or activity after

conducting an individualized safety and risk assessment to determine whether the Respondent presents an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Sexual Harassment.

When an Emergency Removal is imposed:

1. The Complainant and Respondent will receive notice of the Emergency Removal, including the terms of the removal and notice of the right to challenge the decision immediately following the removal.
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 takes effect.
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 responses to determine whether the removal should remain in place or be lifted.
5. Any challenge to an Emergency Removal decision will be reviewed within twenty (20) days from the date of the notice of removal.
6. If upheld, the Emergency Removal will remain in effect until the decision-making process is concluded or the reasons for imposing the emergency removal no longer exist.
7. The Title IX Coordinator, Investigator, or Decision-Maker may have a role in the Emergency Removal process as long as their role does not result in a conflict of interest or bias with respect to the grievance process.

Administrative Leave

An employee Respondent may be placed on administrative leave during the Title IX investigation and adjudication 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. Sharing information about all relevant University policies and these Procedures with Complainants and Respondents.
2. Evaluating information and evidence objectively and impartially throughout all phases of the Procedures so that Complainants and Respondents are not disadvantaged due to bias.
3. Beginning 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 the grievance process.
4. Avoiding reliance on sex or gender stereotypes during the investigation and decision-making process.
5. Informing Complainants and Respondents that the preponderance of the evidence standard will be applied to make the Determination of Responsibility and explaining its

meaning.

6. Providing Complainants and Respondents with information regarding the possible range of disciplinary sanctions that may be issued if there is a Determination of Responsibility.
7. Recognizing legal privileges that apply to Complainants and Respondents unless the privilege has been knowingly waived, including attorney-client and medical privacy privileges.
8. Completing the overall decision-making process within a reasonable timeframe while being flexible concerning deadlines when there is good cause for extensions.
9. Providing 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 seeks to maintain and respect the privacy and confidentiality of information obtained during these Procedures to the extent feasible. Disclosure may occur in some circumstances, including for investigation and evidence-gathering purposes and to notify individuals of the outcome of a Hearing. Other situations where disclosure may occur include, but are not limited to, disclosures permitted by the Family Educational Rights and Privacy Act (FERPA) and required compliance with an obligation imposed on the University by law, or facilitation of other legitimate University processes.

Filing a Formal Complaint

Formal Complaints must be filed directly with the Title IX Coordinator or Office of Institutional Equity in person, by mail, or by electronic mail. To file a Formal Complaint of Title IX Sexual Harassment, a Complainant must submit a document (or electronic submission) that contains the Complainant's physical or digital signature and sets forth:

- a. The Complainant's Sexual Harassment allegations, including the identities of those involved in the incident, the conduct that is alleged to constitute Title IX Sexual Harassment, and the date and location of the conduct, if known;
- b. A statement of what action is being requested; and
- c. A statement that the Complainant is participating in, or attempting to participate in, a University education program or activity.

After filing a Formal Complaint, a Complainant may withdraw some or all of the allegations in their Complaint at any time by providing written notice to the Title IX Coordinator or Office of Institutional Equity. However, the Title IX Coordinator may still elect to continue with the investigative process pursuant to these Procedures. (See Title IX Coordinator's Authority below).

If more than one Complainant alleges or more than one Respondent is subject to allegations of Title IX Sexual Harassment arising from the same set of facts or occurrences, the Title IX Coordinator may consolidate the Formal Complaints for the remainder of the decision-making process. When consolidation occurs, the parties will be informed in writing.

Initial Assessment

The Title IX Coordinator will conduct an initial assessment, based on a limited threshold review, as to whether the Formal Complaint of Title IX Sexual Harassment sufficiently alleges

conduct that may be addressed through these Procedures.

1. The investigative process will proceed if the Formal Complaint appears to allege conduct that may be addressed through these Procedures.
2. If the initial assessment of a Formal Complaint reveals insufficiencies that can be addressed (e.g., the Respondent is not identified), the Title IX Coordinator can request additional information from the Complainant to clarify the allegations in the Formal Complaint. If the amended Formal Complaint appears to fulfill Title IX's jurisdictional requirements, the investigative process will proceed.
3. If the conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment, even if proven, did not occur in a University-sponsored education program or activity, or did not occur against a person in the United States, the Formal Complaint must be dismissed. A mandatory dismissal does not mean that the University cannot or will not review and respond to the alleged behavior under other applicable University policies and processes. In those cases, the Title IX Coordinator will refer the matter as appropriate.
4. If the Formal Complaint is dismissed, the Complainant will receive a written explanation, including information regarding the appeal process, referrals to other appropriate administrative units or University officials, and available resources.

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 the matter based on a fact-specific assessment of the following factors:

- The Complainant's request not to proceed with a Formal Complaint;
- The Complainant's reasonable safety concerns regarding the initiation of a Formal Complaint;
- The risk that additional acts of discrimination would occur if a Formal Complaint is not initiated;
- The severity of the alleged Title IX Sexual Harassment, including whether the harassment, if established, would require the Respondent's removal from campus or imposition of another disciplinary sanction to end the harassment and prevent its recurrence;
- The age and relationship of the parties, including whether the Respondent is an employee;
- The scope of the alleged Title IX Sexual Harassment, including information suggesting a pattern, ongoing harassment, or harassment alleged to have impacted multiple individuals;
- The availability of evidence to assist a Hearing Officer in determining whether Title IX Sexual Harassment occurred.
- Whether the University could end the alleged Title IX Sexual Harassment and prevent its recurrence without initiating these Procedures.

The Title IX Coordinator may decide to initiate a Formal 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 offer Supportive Measures and reasonably address any safety concerns.

Dismissal of a Formal Complaint

Mandatory Dismissal

The Title IX Coordinator must dismiss a Formal Complaint when it is determined, before or during the investigation, that:

1. The conduct as alleged would not constitute Title IX Sexual Harassment even if proven;
2. The conduct did not occur in a University Education Program or Activity;
3. The conduct did not occur against a person in the United States; and/or
4. The Complainant was not participating in or attempting to participate in a University Education Program or Activity when the Formal Complaint was filed.

Discretionary Dismissal

A Formal Complaint may be dismissed when:

1. The Complainant notifies the Title IX Coordinator in writing that they wish to withdraw some or all of the allegations in the Formal Complaint;
2. The Respondent is no longer enrolled in or employed by the University; or
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a Determination, 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 investigative process;
 - c. The Formal Complaint contains the same allegations the University has already investigated and adjudicated.

Notification of Dismissal

In the event of a Dismissal, the Title IX Coordinator will promptly and simultaneously send written notification to the Complainant and Respondent regarding the rationale for the dismissal and information regarding the Complainant's appeal rights (See Appeal Process below).

Notice of Allegations

If, following an initial assessment, the Title IX Coordinator determines that a Formal Complaint meets the requirements of these Procedures and should proceed to an investigation, the parties will receive written notice thereof (Notice). The Notice shall be sent to the Complainant and Respondent at least three (3) days before any scheduled interview to allow 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 alleged to constitute Sexual Harassment, the date and location of the alleged incident(s), if known, and a copy of the signed Formal Complaint.

4. A statement informing the parties that employees and students must attend any meeting scheduled under these Procedures. While attendance is required, students and employees are not required to participate in meetings under this process. If an individual chooses to participate in the process, they must provide truthful information. Providing false or misleading information during 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, and that they and their Advisors may inspect and review evidence under these Procedures.
6. A statement that all evidence directly related to the Formal Complaint will be shared with both parties.
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 knowledge of the facts, or to gather and present relevant evidence throughout the investigation and adjudication process.
10. A statement that if, during an 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.
11. Details on how a party may request disability accommodations during the grievance process.
12. A statement that retaliation is prohibited.
13. A statement that if the Formal Complaint must be dismissed, the allegations might be subject to investigation under the Student Code of Conduct, the Nondiscrimination and Anti-harassment Policy, or other applicable University policy.

During the investigation, 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 Title IX Sexual Harassment based on the preponderance of the evidence.
2. Provide the Complainant and Respondent with written notice of the date, time, location, participants, and purpose of any meeting or interview that includes them, allowing sufficient time for the Complainant or Respondent to meaningfully participate in their respective interviews.
3. Provide the Complainant and Respondent with the same reasonable opportunities to meet with the Investigator, identify and present witnesses, including fact and expert witnesses, and provide any other relevant evidence.
4. Allow the Complainant and Respondent to discuss the allegations, gather evidence, or present relevant evidence to the Investigator at any point during the investigation.
5. Allow the Complainant and Respondent to have an Advisor of their choice.
6. Complete the investigation within ninety (90) days of receiving the Formal Complaint unless the complexity of the allegations, facts, or evidence, or other cause for an extension exists. When an extension is necessary, the Investigator will inform the Complainant and

Respondent of the extension in writing.

7. Provide the Complainant and Respondent with an equal opportunity to reasonably inspect or review any relevant evidence obtained by the Investigator during the investigation before the Hearing.

Initial Investigative Report

An electronic copy of the initial Investigative Report will be provided to the parties and their Advisors. Each party may provide a written response to the initial Investigative Report to the Investigator within ten (10) days of receipt. The response should provide the party's reasons for disagreement with the initial Investigative Report. If the Complainant or Respondent responds to the evidence in writing, the Investigator will consider that response before finalizing the Investigative Report. All responses to the initial Investigative Report will be included in the investigation file.

Final Investigative Report

A copy of the final Investigative Report will be provided to the Hearing Officer who will conduct the Hearing. 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, which fairly summarizes the relevant evidence and includes a description of the procedural steps taken from the receipt of the Formal Complaint through the completion of the Investigative Report.

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. The Hearing Officer will make all decisions concerning how the Hearing will be conducted, including the following requirements:

1. The Hearing Officer will provide the Complainant and Respondent with written notice of their assignment and direction as to the time, place, nature of the Hearing, the specific allegations made, and any pre-hearing process to occur before the Hearing. The Hearing Notice, which will be provided to the parties no less than twenty (20) days before the set Hearing date, will include the other requirements described in this section and a copy of the final Investigative Report, and will affirm that the Hearing is being conducted under 34 C.F.R. Part 106.45, Arizona Board of Regents Policy, and these Procedures. The Hearing Notice will be sent to the Complainant's and Respondent's University e-mail addresses.
2. Any objections to the Hearing Officer must be submitted in writing to the Title IX

Coordinator within (5) days of learning of their appointment and detail the rationale for the objection, The Hearing Officer will only be removed if the Title IX Coordinator determines that their actual or perceived bias or conflict of interest precludes an impartial hearing of the allegations.

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. 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 a Policy violation occurred.
5. 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.
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 has the authority to exclude any irrelevant questions asked by an Advisor but must explain to the participants why the question is irrelevant.
9. Questions about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless such questions are asked to prove that someone other than the Respondent committed the alleged sexually harassing conduct or if the questions concern the Respondent's interaction with the Complainant and are to prove the Complainant's consent to the alleged conduct.
10. Advisors are not permitted to make factual or legal arguments to the Hearing Officer.
11. The Hearing Officer can only rely on whatever relevant evidence is available through the investigation and presented at the Hearing in making the ultimate Determination of Responsibility. The Hearing Officer may not draw any inference solely from one's absence from the Hearing or refusal to submit to cross-examination or answer other questions.
12. The Hearing must be "live," meaning that the parties and their Hearing Advisors will participate in person or virtually for all of the Hearing.
13. Before 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.
14. 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, their Hearing Advisors, the Hearing Officer, and any witnesses.
15. The Hearing Officer will ensure that a recording or transcript of the Hearing is made and that the parties have access to it.
16. 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 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 to all parties within twenty (20) days after the conclusion of the Hearing. The Determination will include:

1. The allegations of Title IX Sexual Harassment in the Formal Complaint or any supplemental notice.
2. A description of the procedural steps taken from receipt of the Formal Complaint, including notifications, dates of meetings or interviews, site visits, and methods used to gather evidence during the investigation and the Hearing.
3. A statement of the standard of evidence used (preponderance of the evidence).
4. Findings of fact.
5. Conclusions regarding the application of the alleged violations to the facts.
6. A statement concerning the reasoning for determining responsibility, or lack of responsibility, for each allegation of Title IX Sexual Harassment in the Formal Complaint or supplemental notice.
7. A statement of any disciplinary sanctions issued in conjunction with a Determination of Responsibility, including the rationale.
8. A statement of whether remedies designed to restore or preserve equal access to a University Education Program or Activity will be provided to the Complainant and that the Title IX Coordinator is responsible for promptly implementing remedies.
9. 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 a Hearing Officer's Determination of Responsibility or the Dismissal of all or part of a Formal Complaint on the following grounds:

1. A procedural irregularity that may have affected the outcome.
2. New evidence exists that was not reasonably available at the time of the Determination of Responsibility or Dismissal that could affect the outcome of the matter.
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 Decision-Maker had a conflict of interest or bias for or against a party that could have affected the outcome.

Procedures for Appeal

1. If either party chooses to file an Appeal of a Determination of Responsibility or Dismissal of a Formal Complaint, they must provide a Written Statement of Appeal to the Provost and Title IX Coordinator within ten (10) days of the Determination or Dismissal. The Written Statement of Appeal must specify the grounds for the Appeal and explain how it could have

affected the outcome. 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 could have affected the outcome of the matter. Any new evidence should be attached 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. 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 Appeal, the Title IX Coordinator or designee will provide the other party with notification of the Appeal.
4. The Title IX Coordinator or designee will provide the non-appealing party with the Written Statement of Appeal, including any attachments.
5. The non-appealing party will have ten (10) 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 submitted Appeal.
6. 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.

Status of Disciplinary Sanctions 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 appoint a Hearing Advisor for the limited purpose of conducting cross-examination on their behalf.

Complainant

An individual alleged to be the victim of conduct that could constitute Title IX Sexual Harassment as addressed by 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 Violence²

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

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

Determination of Responsibility

The Hearing Officer's written decision, issued at the conclusion of a Hearing and after applying the preponderance of the evidence standard to the relevant information presented in the investigative report and during the Hearing.

Dismissal

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

Domestic Violence³

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;

² See 34 U.S.C. §12291(a)(11).

³ See 34 U.S.C. §12291(a)(12).

- 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
- e. 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.

Education 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 sexual harassment occurs, including employment. This also includes any building owned or controlled by a student organization that is officially recognized by the University.

Range of Discipline

Disciplinary sanctions issued to a student may range from removal from a University Educational Program or Activity to expulsion and degree revocation; and for an 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

An individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment as addressed by these Procedures.

Sexual Assault⁴

Any attempted or actual sexual act⁵ directed against a Complainant, without their consent, including instances where the Complainant is incapable of giving consent.

⁴ See 20 U.S.C. 1092(f)(6)(A)(v)

⁵ **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.⁵ See 34 U.S.C. §12291(a)(36).

Stalking⁶

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.

Title IX Retaliation

Taking materially adverse action against any individual by intimidating, threatening, coercing, harassing, or discriminating against them for the purpose of interfering with any right or privilege secured by Title IX, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Title IX Sexual Harassment.

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Revised: February 14, 2025

⁶ See 34 U.S.C. §12291(a)(36).