



**NORTHWEST**  
MISSOURI STATE UNIVERSITY

## Sexual Misconduct Policy and Procedures

Policy Name:	Title IX – Sexual Misconduct Policy and Procedures
Effective Date:	August 30, 2018
Responsible Office:	Diversity, Equity and Inclusion
Category:	Personnel and Student Life

### I. POLICY STATEMENT

Northwest Missouri State University (the “University”) is committed to providing a learning, working, and living environment that promotes personal integrity, civility, and mutual respect in an environment free of discrimination on the basis of sex. The University considers sex discrimination in all its forms to be a serious offense. Sex discrimination constitutes a violation of this policy, is unacceptable, and will not be tolerated.

Sexual harassment is a form of prohibited sex discrimination. Sexual harassment also includes sexual violence/assault. The specific definitions of sexual harassment and sexual violence/assault, including examples of such conduct, are set forth below in Section IV.

It is a violation of this policy to retaliate against any person who reports or assists in making a complaint of sex discrimination or sexual harassment or who participates in the investigation of a complaint in any way.

The University will thoroughly and promptly investigate all complaints of sex discrimination and sexual harassment in accordance with the Complaint Resolution Procedures. If an investigation confirms that discrimination or harassment has occurred, the University will take prompt and appropriate remedial action to prevent the recurrence of the discrimination or harassment, eliminate any hostile environment, and correct its discriminatory effects on

the victim and others, if applicable.

## **II. SCOPE**

This policy applies to administrators, faculty, and other University employees; students; applicants for employment; customers; third-party contractors; and all other persons that participate in the University's educational programs and activities, including third-party visitors on campus (the "University Community"). The University's prohibition on sex discrimination and sexual harassment extends to all aspects of its educational programs and activities, including, but not limited to, admissions, employment, academics, athletics, housing, and student services.

## **III. TITLE IX STATEMENT**

It is the policy of the University to comply with Title IX of the Education Amendments of 1972 and its implementing regulations, which prohibit discrimination based on sex in the University's educational programs and activities. Title IX and its implementing regulations also prohibit retaliation for asserting claims of sex discrimination. The University has designated the following Title IX Coordinator for the entire University system to coordinate its compliance with Title IX and to receive inquiries regarding Title IX, including complaints of sex discrimination:

Margaret Ann Pierre Esq,  
Director of Equity and Accessibility, ADA/504 and Title IX Coordinator 2440 Student Union  
Tel: 660-562-1013  
Email: [mpierre@nwmissouri.edu](mailto:mpierre@nwmissouri.edu)

The University has designated the following Deputy Title IX Coordinator (the "Deputy Employee Coordinator") to assist the Title IX Coordinator in coordinating Title IX compliance with respect to University employees and third-parties and to receive inquiries and complaints of sex discrimination from such persons:

Nola Bond  
Vice-President of Human Resources 125 Administration Building  
Tel: 660-562-1127  
Email: [nbond@nwmissouri.edu](mailto:nbond@nwmissouri.edu)

The University has designated the following Deputy Title IX Coordinator (the "Deputy Student Coordinator") to assist the Title IX Coordinator in coordinating Title IX Compliance with respect to students and student groups and to receive inquiries and complaints of sex discrimination from students:

Kori Hoffman  
Student Development and Conduct Coordinator Union, Room 2140  
Tel: 660-562-1554

Email: [khoff20@nwmissouri.edu](mailto:khoff20@nwmissouri.edu)

A person may also file a complaint of sex discrimination with the United States Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting [www2.ed.gov/about/offices/list/ocr/complaintintro.html](http://www2.ed.gov/about/offices/list/ocr/complaintintro.html) or by calling 1-800-421-3481.

#### **IV. SEXUAL HARASSMENT**

##### **A. Definition of Sexual Harassment**

Sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made or threatened to be made, either explicitly or implicitly, a term or condition of an individual's employment or education
- Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for academic or employment decisions affecting that individual, or
- Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating what a reasonable person would perceive as an intimidating, hostile, or offensive employment, education, or living environment

##### **B. Examples of Sexual Harassment**

Some examples of sexual harassment include:

- Pressure for a dating, romantic, or intimate relationship
- Unwelcome touching, kissing, hugging, or massaging
- Pressure for sexual activity
- Unnecessary references to parts of the body
- Sexual innuendos or sexual humor
- Obscene gestures
- Sexual graffiti, pictures, or posters
- Sexually explicit profanity

- Asking about, or telling about, sexual fantasies
- E-mail and Internet use that violates this policy
- Sexual violence/assault (as defined below)

Further examples of sexual harassment may be found in the Frequently Asked Questions (see page \_\_\_ below).

### **C. Definition of Sexual Violence/Assault**

Sexual violence/assault is a form of prohibited sexual harassment. Sexual violence/assault includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity or because of his or her youth.

### **D. Examples of Sexual Violence/Assault**

Some examples of sexual violence/assault include:

- Sexual intercourse (anal, oral, or vaginal) by a man or woman upon a man or woman without consent
- Unwilling sexual penetration (anal, vaginal, or oral) with any object or body part that is committed by force, threat, or intimidation
- Sexual touching with an object or body part, by a man or woman upon a man or woman, without consent
- Sexual touching with an object or body part, by a man or woman upon a man or woman, committed by force, threat, or intimidation
- Prostituting another student
- Non-consensual video or audio-taping of sexual activity
- Knowingly transmitting a sexually transmitted disease to another

Further examples of sexual violence/assault may be found in the Frequently Asked Questions (see page \_below).

### **E. Definition of Consent**

Lack of consent is a critical factor in determining whether sexual violence/assault has occurred. Consent is informed, freely given, and mutually understood. Consent requires an

affirmative act or statement by each participant. Consent is not passive.

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
- If a person is asleep or unconscious, there is no consent.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.

#### **F. Definition of Domestic Assault, Dating Violence and Stalking**

The crimes of Domestic Assault, Dating Violence and Stalking can also constitute sexual harassment when motivated by a person's sex. These crimes, no matter the motivation behind them, are a violation of this policy.

- Domestic Assault: Domestic Assault is defined in Mo. Rev. Stat. §§ 565.072-565.074. It generally involves violence or attempted violence perpetrated against a family or household member, including children. "Family or household member" is defined as "spouses, former spouses, any person related by blood or marriage, persons who are presently residing together or have resided together in the past, any person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim and anyone who has a child in common regardless of whether they have been married or have resided together at any time. See Mo. Rev. Stat. § 455.010.
- Dating Violence: Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Such a relationship is characterized by the expectation of affection or sexual involvement between the parties. The existence of such a relationship shall be determined based on a consideration of the (a) length of the relationship, (2) type of relationship, and (3) frequency of the interaction between the persons involved in the relationship.
- Stalking: A person commits the crime of stalking if he or she purposely, through his or her course of conduct, harasses or follows with the intent of harassing another person. "Course of conduct" is a pattern of conduct composed of two or more acts, which may include communication by any means, over a period of time, however short, evidencing a continuity of purpose. It does not include constitutionally protected activity. See Mo.

## **V. ROLES AND RESPONSIBILITIES**

### **A. Title IX Coordinator**

It is the responsibility of the Title IX Coordinator to coordinate dissemination of information and education and training programs to: (1) assist members of the University Community in understanding that sex discrimination and sexual harassment are prohibited by this policy; (2) ensure that investigators are trained to respond to and investigate complaints of sex discrimination and sexual harassment; (3) ensure that employees and students are aware of the procedures for reporting and addressing complaints of sex discrimination and sexual harassment; and (4) implement the Complaint Resolution Procedures or to designate appropriate persons for implementing the Complaint Resolution Procedures. The Deputy Title IX Coordinators are responsible for assisting the Title IX Coordinator in carrying out these duties and in receiving inquiries and complaints of sex discrimination and sexual harassment from their respective constituencies.

### **B. Administrators, Deans, Department Chairs, and Other Managers**

It is the responsibility of administrators, deans, department chairs, and other managers (i.e., those who formally supervise other employees) to:

- Inform employees under their direction or supervision of this policy
- Work with the Title IX Coordinator to implement education and training programs for employees and students
- Implement any corrective actions that are imposed as a result of findings of a violation of this policy

### **C. All Employees**

It is the responsibility of all employees to review this policy and comply with it.

### **D. Students**

It is the responsibility of all students to review this policy and comply with it. 6

### **E. The University**

When the University is aware that a member of the University Community may have been subjected to or affected by conduct that violates this policy, the University will take prompt action, including a review of the matter and, if necessary, an investigation and appropriate steps to stop and remedy the sex discrimination or sexual harassment. The University will

act in accordance with its Complaint Resolution Procedures (see page \_\_\_ below).

## **VI. COMPLAINTS**

### **A. Making a Complaint**

#### **1. Employees**

All University employees have a duty to report sex discrimination and sexual harassment to the Title IX Coordinator or the Deputy Employee Coordinator.

#### **2. Students and Other Persons**

Students who wish to report sex discrimination or sexual harassment should file a complaint with the Title IX Coordinator or the Deputy Student Coordinator. Students and other persons may also file a complaint with the United States Department of Education's Office for Civil Rights, as set forth in Section III above.

#### **3. Content of the Complaint**

So that the University has sufficient information to investigate a complaint, the complaint should include: (1) the date(s) and time(s) of the alleged conduct; (2) the names of all persons involved in the alleged conduct, including possible witnesses; (3) all details outlining what happened; and (4) contact information for the complainant so that the University may follow up appropriately.

#### **4. Conduct that Constitutes a Crime**

Any person who wishes to make a complaint of sex discrimination or sexual harassment that also constitutes a crime—including sexual violence/assault, domestic assault, dating violence, or stalking—is encouraged to make a complaint with the University Police Department (Tel: 660- 562-1254) or local law enforcement. If requested, the University will assist the complainant in notifying the appropriate law enforcement authorities. In the event of an emergency, please contact 911. A victim may decline to notify such authorities.

#### **5. Special Guidance Concerning Complaints of Sexual Violence/Assault, Domestic Assault, Dating Violence, or Stalking**

If you are the victim of sexual violence/assault, domestic assault, dating violence, or stalking, do not blame yourself. These crimes are never the victim's fault. The 7

University recommends that you immediately go to the emergency room of a local hospital and contact the University Police Department or local law enforcement, in addition to making a prompt complaint under this policy.

If you are the victim of sexual violence/assault, domestic assault, dating violence, or

stalking, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of sexual violence/assault, domestic assault, or dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination.

It is also important to take steps to preserve evidence in cases of stalking, the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence.

Once a complaint of sexual violence/assault, domestic assault, dating violence, or stalking is made, the complainant has several options such as, but not limited to:

- contacting parents or a relative
- seeking legal advice
- seeking personal counseling (always recommended)
- pursuing legal action against the perpetrator
- pursuing disciplinary action
- requesting that no further action be taken

A complainant will also be given a copy of the document titled "Explanation of Rights and Options After Filing a Complaint Under the Title IX: Sexual Misconduct."

#### 6. Vendors, Contractors, and Third-Parties

This policy applies to the conduct of vendors, contractors, and third parties. Persons who believe they have been discriminated against or harassed in violation of this policy should make a complaint in the manner set forth in this section.

#### 7. Retaliation

It is a violation of this policy to retaliate against any member of the University Community who reports or assists in making a complaint of discrimination or harassment or who participates in the investigation of a complaint in any way. Persons who believe they have been retaliated against in violation of this policy should make a complaint in the manner set forth in this section.

#### 8. Protecting the Complainant



Pending final outcome of an investigation in accordance with the Complaint Resolution Procedures, the University will take steps to protect the complainant from further discrimination or harassment. This may include assisting and allowing the complainant to change his or her academic, transportation, work, or living situation if options to do so are reasonably available.

Such changes may be available regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

If a complainant has obtained a temporary restraining order or other no contact order against the alleged perpetrator from a criminal, civil, or tribal court, the complainant should provide such information to the Title IX Coordinator. The University will take all reasonable and legal action to implement the order.

### **B. Timing**

The University encourages persons to make complaints of sex discrimination and sexual harassment as soon as possible because late reporting may limit the University's ability to investigate and respond to the conduct complained of.

### **C. Investigation and Confidentiality**

All complaints of discrimination and harassment will be immediately and thoroughly investigated in accordance with the Complaint Resolution Procedures, and the University will take disciplinary action where appropriate. The University will make reasonable and appropriate efforts to preserve an individual's privacy and protect the confidentiality of information when investigating and resolving a complaint. However, because of laws relating to reporting and other state and federal laws, the University cannot guarantee confidentiality to those who make complaints.

In the event a complainant requests confidentiality or asks that a complaint not be investigated, the University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, the University's ability to respond may be limited. The University reserves the right to initiate an investigation despite a complainant's request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the University Community.

### **D. Resolution**

If a complaint of sex discrimination or sexual harassment is found to be substantiated, the University will take appropriate corrective and remedial action. Students, faculty, and employees found to be in violation of this policy will be subject to discipline up to and including written reprimand, suspension, demotion, termination, or expulsion. Affiliates and

program participants may be removed from University programs and/or prevented from returning to campus.

Remedial steps may also include counseling for the complainant, academic, transportation, work, or living accommodations for the complainant, separation of the parties, and training for the respondent and other persons.

#### **E. Bad Faith Complaints**

While the University encourages all good faith complaints of sex discrimination and sexual harassment, the University has the responsibility to balance the rights of all parties. Therefore, if the University's investigation reveals that a complaint was knowingly false, the complaint will be dismissed and the person who filed the knowingly false complaint may be subject to discipline.

#### **VII. ACADEMIC FREEDOM**

The University is committed to the principles of free inquiry and free expression. Sex discrimination and sexual harassment are neither legally protected expression nor the proper exercise of academic freedom.

#### **VIII. EDUCATION**

Because the University recognizes that the prevention of sex discrimination, sexual harassment, sexual violence/assault, domestic assault, dating violence, and stalking is important, it offers educational programming to a variety of groups such as: campus personnel, incoming students and new employees participating in orientation, and members of student organizations. Among other items, such training will cover relevant definitions, procedures, and sanctions; will provide safe and positive options for bystander intervention; and will provide risk reduction information, including recognizing warning signs of abusive behavior and how to avoid potential attacks. To learn more about education resources, please contact the Title IX Coordinator or appropriate Deputy Title IX Coordinator.

# FREQUENTLY ASKED QUESTIONS

## 1. What are some additional examples of sexual harassment?

Sexual harassment is a form of prohibited sex discrimination. The University's policy protects men and women equally from sexual harassment, including harassment by members of the same sex. Examples of kinds of conduct that constitute sexual harassment include, but are not limited to, the following:

- Engaging in unwelcome sexual advances
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin
- Sending sexually explicit emails or text messages
- Telling unwelcome, sexually-explicit jokes
- Displaying sexually suggestive or lewd photographs, videos, or graffiti
- Making unwelcome and unwanted physical contact, such as rubbing, touching, pinching, or patting
- Making unwelcome and suggestive sounds, such as cat calls or whistling
- Commenting on a person's dress in a sexual manner
- Making sexual gestures
- Repeatedly asking someone for a date after the person has expressed disinterest
- Giving unwelcome personal gifts such as flowers, chocolates, or lingerie that suggest the desire for a romantic relationship
- Telling another person of one's sexual fantasies, sexual preferences, or sexual activities
- Commenting on a person's body, gender, sexual relationships, or sexual activities
- Using sexually explicit profanity

## 2. What should I do if I have been sexually harassed?

The University encourages you to report sexual harassment as soon as possible. Ignoring sexual harassment does not make it go away. And delayed reporting may limit the University's ability to investigate and remedy the sexual harassment.

If you are a student, you may report sexual harassment to the Title IX Coordinator or the Deputy Student Coordinator. If you are the victim of sexual harassment that constitutes a crime, the University encourages you to also file a complaint with the University Police Department or local law enforcement and to press charges.

You always have the option to directly confront the person who is harassing you. Sometimes, individuals are not aware that their behavior is offensive and quickly apologize and change their behavior once it is brought to their attention. However, you are not required or expected to confront your harasser prior to filing a complaint. 12

### **3. What are some additional examples of sexual violence/assault?**

Sexual violence/assault is a form of prohibited sexual harassment. Sexual violence/assault includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to use of drugs and/or alcohol or to an intellectual or other disability.

Examples of kinds of conduct that constitute sexual violence/assault include, but are not limited to, the following:

- The use of force or coercion to effect sexual intercourse or some other form of sexual contact with a person who has not given consent
- Having sexual intercourse with a person who is unconscious because of drug or alcohol use
- Hazing that involves penetrating a person's vagina or anus with an object
- Use of the date rape drug to effect sexual intercourse or some other form of sexual contact with a person
- One partner in a romantic relationship forcing the other to have sexual intercourse without the partner's consent
- Exceeding the scope of consent by engaging in a different form of sexual activity than a person has consented to
- Groping a person's breasts or groin on the dance floor or at a bar
- Knowingly transmitting a sexually transmitted disease such as HIV to another person through sexual activity
- Coercing someone into having sexual intercourse by threatening to expose their secrets
- Secretly videotaping sexual activity where the other party has not consented

#### **4. What constitutes “consent” for purposes of sexual violence/assault?**

Lack of consent is the critical factor in determining whether sexual violence/assault has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive.

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
- If a person is asleep or unconscious, there is no consent.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.

#### **5. What should I do if I am a victim of sexual violence/assault, domestic assault, dating violence, or stalking?**

Don't blame yourself. These crimes are never the victim's fault. Please contact the Title IX Coordinator or appropriate Deputy Title IX Coordinator as soon as possible for information on options and resources available to you. You may also wish to call the University Police, local law enforcement, or the National Sexual Assault Hotline at 800-656-HOPE.

If you are the victim of sexual violence/assault, domestic assault, or dating violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of sexual violence/assault, domestic assault, or dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination.

It is also important to take steps to preserve evidence in cases of stalking, to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence.

#### **6. Can I make a complaint of sexual violence/assault against my boyfriend or girlfriend?**

Anyone can commit sexual violence/assault, even if you and that person are in a romantic

relationship. The critical factor is consent. If your boyfriend or girlfriend perpetrates a sexual act against you without your consent, such conduct constitutes sexual violence/assault, and you may make a complaint. This type of conduct and other types of conduct perpetrated by your boyfriend or girlfriend may also be classified as Domestic Assault or Dating Violence.

**7. What should I do if I am sexually harassed by someone who is not a University student or employee?**

The University's policies protect you from sexual harassment by vendors, contractors, and other third parties that you encounter in your University learning, living, and employment environment. If you believe that you have been subject to conduct that violates these policies, you should report the sexual harassment just as if it were committed by a University student or employee.

**8. What should I do if I am sexually harassed by a student but we are off campus?**

It is possible for off-campus conduct between University employees or students to contribute to a hostile working or academic environment or otherwise violate the University's policies. You may make a complaint of sexual harassment even if the conduct occurs off-campus.

**9. What should I do if I observe sex discrimination or sexual harassment, but it is not directed at me?**

Anyone who witnesses sex discrimination or sexual harassment, even if it is directed at someone else, can still feel uncomfortable and harassed. If you are a student and witness conduct that you believe constitutes sex discrimination or sexual harassment, please make a complaint in the same manner as if the conduct was directed against you. If you are a University employee, it is your duty to report conduct that constitutes sex discrimination or sexual harassment.

**10. What is the role of the Title IX Coordinator?**

The Title IX Coordinator oversees the University's compliance with Title IX and receives inquiries regarding Title IX, including complaints of sex discrimination and sexual harassment. The Title IX Coordinator has received special training on the University's policies and procedures pertaining to sex discrimination and sexual harassment, and is available to answer questions about those policies and procedures, respond to complaints, and assist you in identifying other resources to aid in your situation. The Deputy Title IX Coordinators are responsible for assisting the Title IX Coordinator in carrying out these duties and in receiving inquiries and complaints of sex discrimination from their respective constituencies.

**11. If I make a complaint of sex discrimination or sexual harassment, will it be treated confidentially?**

The University will take reasonable and appropriate steps to preserve the confidentiality of the parties to the complaint and to protect the confidentiality of information gathered during the investigation. However, the University has an obligation to provide a safe and non-discriminatory environment for all students and employees. Therefore, no unconditional promises of confidentiality can be provided.

**12. Who is typically involved in investigating a complaint of sex discrimination or sexual harassment?**

The University's Title IX Coordinator or his designee will be involved in investigating complaints of sexual harassment. The Title IX Coordinator may appoint one of the Deputy Title IX Coordinators, or another member of the staff to investigate and resolve the complaint. The process of gathering evidence will necessarily require the involvement of the complainant, the respondent, and any witnesses to the incident that gave rise to the complaint. In sum, it will involve those persons necessary to fairly and completely investigate the complaint and resolve it.

**13. What are the possible outcomes of an investigation into a complaint?**

The outcome will be determined based on the totality of the evidence using a preponderance of the evidence standard. If the preponderance of the evidence does not support a finding that the incident occurred, then the complaint is resolved in favor of the accused. If, however, the preponderance of the evidence supports that sex discrimination or sexual harassment occurred, the actions taken by the University will include those necessary to maintain an environment free from discrimination and harassment and to protect the safety and well-being of the complainant and other members of the University Community. Such actions will also include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of discrimination, harassment, and retaliation. Examples of such action include: no-contact orders, classroom reassignment, the provision of counseling or other support services, training, and discipline for the perpetrator, including up to termination, expulsion, or other appropriate institutional sanctions.

**14. May I have a support person with me in the investigation process?**

During the investigation process, both a complainant and a respondent may ask a support person from the University Community to accompany them at all stages of the process. In cases involving multiple complainants or respondents, the support person cannot be another complainant or respondent. The support person does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved in any proceedings, and he or she must agree to maintain the confidentiality of the process. Witnesses to sex discrimination or sexual harassment and others involved in the investigation are not entitled to have a support person present during the investigatory process.

**15. What should I do if I am retaliated against for making a complaint of sex discrimination or sexual harassment?**

The University's Title IX: Sexual Misconduct Policy prohibits retaliation against any person for making a good faith complaint of sex discrimination or sexual harassment and/or cooperating in the investigation of (including testifying as a witness to) such complaint. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the underlying allegation of sex discrimination or sexual harassment. If you feel you are the victim of retaliation in violation of this policy, you should report the retaliation just as you would a complaint of sex discrimination or sexual harassment.

**16. How does the University handle a bad faith allegation of sex discrimination and sexual harassment?**

A bad faith allegation of sexual discrimination or sexual harassment occurs when the accuser intentionally reports information or incidents that he or she knows to be untrue. Failure to prove a complaint of sex discrimination or sexual harassment is not equivalent to a bad faith allegation. The University may impose sanctions against an individual who knowingly makes false allegations of sex discrimination or sexual harassment.



# **TITLE IX COMPLAINT RESOLUTION PROCEDURES**

## **I. GENERAL PRINCIPLES**

### **A. Administration**

For purposes of these complaint resolution procedures, “Investigating Officer” means an appropriate person designated by the Title IX Coordinator. The Investigating Officer shall have responsibility for administering these complaint resolution procedures.

### **B. Promptness, Fairness and Impartiality**

These procedures provide for prompt, fair, and impartial investigations and resolutions. The Investigating Officer shall discharge his or her obligations under these complaint resolution procedures fairly and impartially. If the Investigating Officer determines that he or she cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, the Investigating Officer shall designate another appropriate individual to administer these procedures.

### **C. Training**

These procedures will be implemented by official who receive annual training on the issues related to sex discrimination, sexual harassment, sexual violence/assault, domestic assault, dating violence, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

## **II. INVESTIGATION AND RESOLUTION OF THE COMPLAINT**

### **A. Commencement of the Investigation**

Once a complaint is made, the Investigating Officer will commence an investigation of it as soon as practicable, but not later than seven (7) days after the complaint is made. The purpose of the investigation is to determine whether it is more likely than not that the alleged behavior occurred and, if so, whether it constitutes sex discrimination or sexual harassment. During the course of the investigation, the Investigating Officer may receive counsel from the Director of Human Resources, the Division of Student Affairs, the University Police Department, the University’s attorneys, or other parties as needed.

In certain narrow circumstances, the Investigating Officer may commence an investigation even if the complainant requests that the matter not be pursued. In such a circumstance, the Investigating Officer will take all reasonable steps to investigate and respond to the matter in a manner that is informed by the complainant’s articulated concerns. 18

### **B. The Content of the Investigation**

During the investigation, the complainant will have the opportunity to describe his or her

allegations and present supporting witnesses or other evidence. The respondent will have the opportunity to respond to the allegations and present supporting witnesses or other evidence. The Investigating Officer will review the statements and evidence presented and may, depending on the circumstances, interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint.

All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

In the event the Investigating Officer determines there are genuinely disputed material facts requiring resolution, an evidentiary hearing will be held before a panel of three hearing officers designated by the Investigating Officer. The panel shall select one of its members to preside over the hearing. The Investigating Officer will identify for the panel those genuinely disputed facts requiring resolution. The panel will review the statements and other evidence gathered by the Investigating Officer during the investigation. Both the complainant and respondent will be given an equal opportunity to address the panel. The panel may ask questions of the complainant and respondent, but the complainant and respondent will not be permitted to question each other. In its discretion, the panel may hear live testimony from witnesses, in which case any questioning will be conducted by the hearing panel itself.

The hearing panel shall resolve genuinely disputed material facts under a preponderance of the evidence standard. The hearing panel shall not be bound by the rules of evidence. The hearing panel will provide a written statement of its findings of fact to the Investigating Officer. If such an evidentiary hearing is held, both the complainant and respondent will have similar and timely access to any information that will be used at the hearing.

### **C. Support Person**

During the investigation process, both a complainant and a respondent may ask a support person to accompany him or her at all stages of the process. In cases involving multiple complainants or respondents, the support person cannot be another complainant or respondent. The support person does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved in any proceedings, and he or she must agree to maintain the confidentiality of the process. Witnesses to sex discrimination or sexual harassment and others involved in the investigation are not entitled to have a support person present during the investigatory process.

### **D. Interim Measures**

At any time during the investigation, in consultation with the Title IX Coordinator or appropriate Deputy Title IX Coordinator, the Investigating Officer may determine that interim remedies or protections for the parties involved or witnesses are appropriate. These interim remedies may include separating the parties, placing limitations on contact between the

parties, suspension, or making alternative class-placement or workplace arrangements. Failure to comply with the terms of these interim remedies or protections may constitute a separate violation of the Title IX: Sexual Misconduct Policy.

### **E. Pending Criminal Investigation**

Some instances of sexual harassment or sexual violence/assault may also constitute criminal conduct. In such instances, the complainant is also encouraged to file a report with the University Police Department or local law enforcement. The pendency of a criminal investigation, however, does not relieve the University of its responsibilities under Title IX. Therefore, to the extent doing so does not interfere with any criminal investigation, the University will proceed with its own investigation and resolution of the complaint.

### **F. Findings Of The Investigation**

At the conclusion of the investigation, the Investigating Officer will prepare a preliminary written report. The preliminary written report will explain the scope of the investigation and whether any allegations in the complaint were found to be substantiated by a preponderance of the evidence. The preliminary written report will incorporate any findings of fact resulting from an evidentiary hearing.

The preliminary written report will be submitted to the Title IX Coordinator. The Title IX Coordinator may accept the preliminary written report, request to review additional information, including summaries of party/witness statements or other information, or return the preliminary report for further investigation. After the review of the preliminary written report is complete, the Title IX Coordinator will, for both the complainant and respondent, prepare and deliver a written determination of the complaint. The determination will be one of three outcomes:

#### **1. Finding “No Violation”**

If there is a determination that the behavior investigated did not violate the Title IX: Sexual Misconduct Policy, both parties will be so informed.

#### **2. Finding “Inappropriate Behavior Not Rising To The Level Of A Violation”**

There may be a determination that the behavior investigated did not violate the Title IX: Sexual Misconduct Policy, but was inappropriate, unprofessional, or violated some other University policy. The Title IX Coordinator may determine that such inappropriate behavior merits discipline, ongoing monitoring, coaching, or other appropriate action. If so, the Title IX Coordinator may refer the matter to any appropriate administrator, dean or other manager for further proceedings or disciplinary measures consistent with University policy.

#### **3. Finding “Violation”**

If there is a determination that the behavior violated the Title IX: Sexual Misconduct Policy, the Title IX Coordinator, in consultation with any appropriate administrator, dean, or other manager, will determine appropriate corrective and disciplinary action to be taken. In addition, the Title IX Coordinator will implement reasonable and appropriate measures to ensure that the complainant is not subject to further harassment and to remedy the effects of any discrimination or harassment that may have occurred. Remedial steps may include, but are not limited to, counseling or training, separation of the parties, and/or discipline of the respondent, including written reprimand, suspension, demotion, termination, or expulsion in accordance with University policy. Remedial steps that do not directly affect the respondent shall be redacted from the respondent's copy of the written summary of findings.

#### **G. Special Procedure Concerning Complaints Against The President, The Title IX Coordinator, and Administrators Senior To Title IX Coordinator**

If a complaint involves alleged conduct on the part of the University President, the University Board of Regents will designate an appropriate person to conduct the investigation required by these procedures. The written report of the investigation will be presented to the full Board of Regents, which will prepare and issue the written determination and implement any appropriate and reasonable measures. The resolution issued by the full Board of Trustees is final and not subject to appeal.

If a complaint involves alleged conduct on the part of the Title IX Coordinator or any administrator senior to the Title IX Coordinator, the President will designate an appropriate person to conduct the investigation required by these procedures. The written report of the investigation shall be presented to the President, who will prepare and issue the written determination and implement appropriate and reasonable measures. The resolution issued by the President is not subject to appeal.

#### **H. Informal Resolution**

Informal means of resolution, such as mediation, may be used in lieu of the formal investigation and determination procedure. However, informal means may only be used with the complainant's voluntary cooperation and the involvement of the Title IX Coordinator or appropriate Deputy Title IX Coordinator. The complainant, however, will not be required to work out the problem directly with the respondent. Moreover, the complainant may terminate any such informal means at any time. In any event, informal means, even on a voluntary basis, will not be used to resolve complaints alleging any form of sexual violence/assault.

#### **I. Timing Of The Investigation**

The University will endeavor to conclude its investigation and resolution of the complaint within sixty (60) days of receiving it. Both the complainant and the respondent will be given

periodic updates regarding the status of the investigation. If either the complainant or respondent needs additional time to prepare or to gather their witnesses or information, they shall notify the Investigating Officer in writing explaining how much additional time is needed and why it is needed.

### **III. RIGHTS OF THE PARTIES**

During the investigation and resolution of a complaint, the complainant and respondent shall have equal rights. They include:

- Equal opportunity to identify and have considered witnesses and other relevant evidence
- Similar and timely access to all information considered by the Investigating Officer and Title IX Coordinator in resolving the complaint
- Equal opportunity to review any statements or evidence provided by the other party
- Equal access to review and comment upon any information independently developed by the Investigating Officer
- Equal opportunity to address any hearing panel

### **IV. APPEALS**

#### **A. Grounds of Appeal**

The complainant or respondent may appeal the determination of a complaint only on the following grounds:

- The decision was contrary to the substantial weight of the evidence
- There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the Title IX Coordinator, would result in a different decision
- Bias or prejudice on the part of the Investigating Officer or Title IX Coordinator, or
- The punishment or the corrective action imposed is disproportionate to the offense

#### **B. Method of Appeal**

Appeals must be filed with the appropriate Appeal Officer within ten (10) days of receipt of the written determination of the complaint. The Vice President of Student Affairs (VPSA) serves as Appeal Officer for complaints involving student respondents, and the Vice President of Strategy and Operations (VPSO) serves as Appeal Officer for complaints

involving staff/faculty and third-party respondents. The appeal must be in writing and contain the following:

- Name of the complainant
- Name of the respondent
- A statement of the determination of the complaint, including corrective action if any
- A detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of it, and
- Requested action, if any.

The appellant may request a meeting with the Appeal Officer, but the decision to grant a meeting is within the Appeal Officer's discretion. However, if a meeting is granted, then the other party will be granted a similar opportunity.

### **C. Resolution of the Appeal**

The Appeal Officer will resolve the appeal within fifteen (15) days of receiving it and may take any and all actions that he or she determines to be in the interest of a fair and just decision. The decision of the Appeal Officer is final. The Appeal Officer shall issue a short and plain, written statement of the resolution of the appeal, including any changes made to the Title IX Coordinator's previous written determination. The written statement shall be provided to the complainant, respondent, and the Title IX Coordinator within three (3) days of the resolution.

### **V. DOCUMENTATION**

Throughout all stages of the investigation, resolution, and appeal, the Investigating Officer, the Title IX Coordinator, and the Appeal Officer, as the case may be, are responsible for maintaining documentation of the investigation and appeal, including documentation of all proceedings conducted under these complaint resolution procedures, which may include written findings of fact, transcripts, and audio recordings.

### **VI. INTERSECTION WITH OTHER PROCEDURES**

These complaint resolution procedures are the exclusive means of resolving complaints alleging violations of the Title IX: Sexual Misconduct Policy. To the extent there are any inconsistencies between these complaint resolution procedures and other University grievance, complaint, or discipline procedures, these complaint resolution procedures will control the resolution of complaints alleging violations of the Title IX: Sexual Misconduct Policy.