

University of Puget Sound  
Procedure for Responding to Complaints of  
Sex-Based Discrimination, Sexual Harassment, and Sexual Misconduct

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## I. INTRODUCTION

The university will act on any formal or informal notice/complaint of violation of the Policy Prohibiting Sex-Based Discrimination, Sexual Harassment, and Sexual Misconduct that is received by the Title IX Coordinator<sup>1</sup> or any other Official with Authority by applying these procedures.

The procedures below apply to all incidents of Sex-Based Discrimination, Sexual Harassment, and Sexual Misconduct involving students, staff, administrators, or faculty members, including those not covered by Title IX.

Additionally, the procedures below may be used to address collateral related misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of prohibited behavior unrelated to incidents covered by the Policy will be addressed through procedures described in the Student Integrity Code, Faculty Code, Code of Conduct, or other applicable university policies.

Any individual materially involved in the administration of the Policy/Procedure may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The university operates with the presumption that Respondent is not responsible for the reported misconduct unless and until Respondent is determined to be responsible for a policy violation.

## II. COMPLAINT PROCESS

### A. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of the Policy, the Title IX Coordinator<sup>2</sup> engages in an initial assessment, typically within **one to five (1-5) business days**. The steps in an initial assessment include:

1. Determining whether the allegations are covered by the Policy Prohibiting Sex Based Discrimination, Sexual Harassment, and Sexual Misconduct.
2. Determining whether a "Timely Warning" or "Emergency Notification" to the campus may be necessary<sup>3</sup>.
3. Determining whether the allegations involve abuse of a minor and if so, immediately reporting to the appropriate external agencies (e.g. law enforcement and/or child protective services.)

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<sup>1</sup> Anywhere this procedure indicates "Title IX Coordinator," the University may substitute a trained designee.

<sup>2</sup> The Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator or should the Coordinator be otherwise unavailable or unable to fulfill their duties.

<sup>3</sup> Under the Clery Act, colleges and universities use timely warnings and emergency notifications to inform the campus community of potential threats.

4. Determining whether [Emergency Action](#) may be necessary.
5. Working with Complainant to determine whether they prefer one of the following options.
  - Option #1 - Formal complaint not required  
If a [supportive and remedial response](#) only is preferred, the Title IX Coordinator works with Complainant to identify their wishes, assesses the request, and implements accordingly. No Formal Complaint is required to be filed and no Formal Grievance Process is initiated, though Complainant can elect to initiate one later, if desired.

Note: In cases of a [compelling risk](#) to the health and/or safety of the campus community exists, the Title IX Coordinator may need to proceed despite the wishes of a Complainant.

- Option #2 - Informal Resolution - Formal complaint is required.  
If an [informal resolution option](#) is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available and seeks to determine if Respondent is willing to engage in informal resolution. If an informal resolution process is not possible for any reason, the Complainant may proceed with the formal grievance process or choose to withdraw their complaint. A Complainant is still eligible for supportive measures even if they choose to withdraw their complaint.
- Option #3 - Formal Grievance Process - Formal complaint is required.  
If a [Formal Grievance Process](#) is preferred, the Title IX Coordinator determines if the alleged conduct falls within the scope of Title IX procedural rules. If it does, the Title IX Coordinator will initiate the formal investigation and grievance process.
  - If it does not, the Title IX Coordinator will send notification that the complaint is being dismissed as Title IX, but will continue the university grievance procedures outlined below.

## **B. Supportive Measures Available to Complainants and Respondents**

Supportive measures are available to both Complainants and Respondents. If requested, the Title IX Coordinator will work with the party to provide supportive measures as appropriate (e.g. housing adjustment, withdrawal from class without penalty, campus no-contact order). Steps taken will be shared only with staff/faculty who have a need to know. In the case of a campus no-contact order, the parties' names must be shared with each other so they can comply. Supportive measures cannot be disciplinary, punitive, or unreasonably burdensome. (See Policy for more information.)

## **C. Complainant Does Not Want to Proceed (No Formal Complaint Required)**

### **1. Supportive/Remedial Only**

If Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

In cases in which Complainant requests confidentiality/no formal action and the circumstances allow the university to honor that request, the university will offer supportive measures and remedies to Complainant and the community but will not otherwise pursue formal action.

A Complainant can change that decision and elect to pursue a formal complaint at a later date. However, delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

#### **D. University-Initiated Complaints**

The Title IX Coordinator has ultimate discretion over whether the university proceeds when Complainant does not wish to do so, and a university-initiated complaint may proceed when the Title IX Coordinator determines there is a compelling risk to health and/or safety that requires the university to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The Title IX Coordinator must also consider the effect that non-participation by Complainant may have on the availability of evidence and the university's ability to pursue a Formal Grievance Process fairly and effectively.

The Title IX Coordinator must sign a formal complaint to initiate a grievance process on behalf of the university. When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the university proceeds, Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when Complainant chooses not to participate, the Advisor may act to ensure and protect the rights of the Complainant, though the Advisor may not testify on behalf of Complainant.

The university's ability to respond to a notice and implement remedies may be limited if Complainant does not want the university to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the university's obligation to protect its community.

#### **E. Emergency Action**

The university may take emergency action to remove a Respondent entirely or partially from its education programs or activities (including participation in athletics or other co-curricular activities) upon the completion of a violence risk assessment, which involves an individualized safety and risk analysis to determine that an immediate threat to the physical health or safety of the university community or other individual justifies removal.

The university will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. These actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning a faculty or staff member, restricting access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in co-curricular or extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

In all cases in which an emergency action is imposed, Respondent and Complainant will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested within **five (5) business days**, objections to the emergency removal will be deemed waived.

Complainant and their Advisor, if applicable, may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so.

Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

The Title IX Coordinator may initiate a review of alternative coursework options to ensure as minimal an academic impact as possible on the parties.

#### **F. Dismissal under Title IX<sup>4</sup>**

The Department of Education has established specific requirements as to what constitutes an actionable issue under Title IX. These requirements are narrower than conduct or behavior prohibited by the university in its policies. Consequently, some complaints that are dismissed under Title IX may still proceed as alleged violations of other university policies.

The university must dismiss a formal complaint or any allegations therein under Title IX if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the formal complaint would not constitute Sexual Harassment under Title IX, even if proved; and/or
2. The conduct did not occur in an education program or activity controlled by the university (including buildings or property controlled by recognized student organizations), and/or the university does not have control of Respondent; and/or
3. The conduct did not occur against a person in the United States; and/or

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<sup>4</sup> The university's definition of sexual harassment is broader than the definition adopted by the Department of Education.

4. At the time of filing a formal complaint, Complainant is not participating in or attempting to participate in the education program or activity of the university.

The university may dismiss a formal complaint or any allegations therein under Title IX if, at any time during the investigation or hearing:

1. Complainant notifies the Title IX Coordinator in writing that Complainant would like to withdraw the formal complaint or any allegations therein; or<sup>5</sup>
2. 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 as to the formal complaint or allegations therein.

Upon any dismissal under Title IX, the university will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties and explain further steps that may be taken under the university's policies and procedures.

A Title IX-specific dismissal decision is appealable by any party under the procedures for appeal below.

#### **G. Counterclaims**

The university permits the filing of counterclaims but will initially assess whether the allegations in the counterclaim are made in good faith. Counterclaims or false reports made with retaliatory intent will not be permitted. When counterclaims or false reports are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below.

Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur. Counterclaims may also be investigated through the same investigation as the underlying initial allegation, at the discretion of the Title IX Coordinator.

### **III. ADVISORS**

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>6</sup> Parties will be required to complete a consent form allowing information to be shared with their Advisor.

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<sup>5</sup> A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

<sup>6</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. "Eligible" means the Advisor cannot have conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions/responsive actions.

Parties are not required to have an Advisor during the initial stages of the resolution process, but must choose one or have one assigned to them prior to a hearing.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least **two (2) business days** before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a consent form for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least **five (5) business days** before the hearing.

The university generally expects an Advisor to adjust their schedule to allow them to attend university meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The university may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

#### **A. Who Can Serve as an Advisor**

An Advisor may be a friend, mentor, family member, attorney, university faculty or staff member or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the university community. If a party chooses their own Advisor, that Advisor is expected to follow university policies and procedures. Should a case move to a formal hearing, the Title IX Coordinator will assign a trained Advisor for any party who does not choose their own.

The university cannot guarantee equal advisory representation. For example, if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the university is not obligated to provide an attorney.

#### **B. Role of an Advisor**

Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

Advisors may request to meet with the Title IX Coordinator in advance of any meeting to clarify and understand their role and the university's policies and procedures.

Should a complaint proceed to a hearing, each party's Advisor is required to ask questions on behalf of their advisee. The parties are not permitted to directly question each other or any witnesses. If the party's Advisor will not conduct questioning, the university will appoint an

Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses may also be conducted by the Hearing Officer(s) during the hearing.

All Advisors are subject to the same university policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address university officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or Hearing Officer(s) except as required during the hearing.

Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

#### **C. Violations of University Policy by Advisor**

Any Advisor who oversteps their role as defined by this policy will be warned. If the Advisor continues to willfully disrupt or otherwise fails to respect the limits of the Advisor role, the meeting may be ended and the university may require the party to use a different Advisor. If the behavior occurs during a hearing, the university will provide that party with a different Advisor to conduct cross-examination on behalf of that party.

Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

#### **D. Sharing Information with the Advisor**

Information in this process is considered confidential. The university expects that the parties may wish to have the university share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

The university also provides a consent form that authorizes the university to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before the university is able to share records with an Advisor.

All communication will be between the appropriate university administrator and the parties. Parties may request their Advisor to be copied on correspondence, however, it will be the party's responsibility to communicate with the above mentioned staff directly.

Advisors are expected to maintain the privacy and confidentiality of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for

purposes not explicitly authorized by the university. The university may seek to restrict the role of any Advisor who does not respect the sensitive and confidential nature of the process or who fails to abide by the university's privacy expectations.

#### **IV. RESOLUTION PROCESSES (REQUIRES A FORMAL COMPLAINT)**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with university policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to Informal Resolution, discussed below.

The university will make a good faith effort to complete the resolution process within sixty to ninety (60-90) days, including appeal, which can be extended as necessary by the Title IX Coordinator. The Title IX Coordinator will provide regular updates on the progress of the resolution process, including notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

##### **A. Informal Resolution<sup>7</sup>**

An Informal Resolution may be possible when:

- A Complainant has filed a Formal Complaint with the Title IX Coordinator;
- and
- The parties voluntarily agree to resolve the matter through an alternate resolution mechanism such as mediation (either together or separately), usually before a formal investigation takes place;
- or
- A Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process (similar to above, but usually occurs post-investigation).

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process. Prior to implementing Informal Resolution, the university will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in Informal Resolution, including information regarding any records that will be maintained or shared by the university. The university will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

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<sup>7</sup> Informal Resolution is not available when Respondent is an employee and Complainant is a student.

All parties must consent to the use of an Informal Resolution mechanism.

The Title IX Coordinator may consider a number of factors in assessing whether Informal Resolution is appropriate and likely to lead to a successful resolution, such as:

1. Likelihood of potential resolution, considering any power inequality between the parties;
2. The parties' motivation to participate;
3. Civility of the parties;
4. Results of any violence risk assessment/ongoing risk analysis, if applicable;
5. Disciplinary history;
6. Complaint complexity;
7. Emotional investment/capability of the parties;
8. Rationality of the parties; and
9. Goals of the parties;

The ultimate determination of whether Informal Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached between the parties, and a party's failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions.

When a resolution is accomplished, the Title IX Coordinator will ensure the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the behavior, prevent its recurrence, and remedy the effects of the alleged conduct, both on Complainant and the community.

Results of complaints resolved by Informal Resolution are not appealable.

## **B. Formal Grievance Process (Formal Resolution)**

The Formal Grievance Process (investigation, hearing, and any appeal) involves an objective evaluation of all relevant evidence obtained, including evidence that supports that Respondent engaged in prohibited conduct and evidence that supports that Respondent did not engage in prohibited conduct. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

### **1. Decision Not to Participate in the Process**

#### **a. Student Respondents**

Should a student Respondent temporarily withdraw or take a leave for only a specified period of time (e.g., one semester or term), the Title IX Coordinator will determine if the resolution process can continue remotely. That student is not permitted to return unless and until the resolution process is complete.

Should a student Respondent permanently withdraw from the university, the resolution process ends, as the university no longer has disciplinary jurisdiction over the withdrawn student. However, the university will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

A student Respondent who withdraws or leaves while the process is pending may not return to the university. The Title IX Coordinator will notify the appropriate offices. Respondent may also be barred from university property and/or events.

#### **b. Employee Respondents**

Should an employee Respondent resign with unresolved allegations pending, the resolution process will continue unless Complainant requests otherwise.<sup>8</sup>

An employee Respondent who resigns with unresolved allegations pending is not eligible for rehire with the university and the records retained by Human Resources will reflect that status.

All university responses to future inquiries regarding employment references for the employee Respondent will include that the former employee resigned during a pending disciplinary matter.

#### **c. Complainants**

Should a Complainant resign, withdraw, or otherwise choose not to participate in the formal grievance process, the process may continue at the Title IX Coordinator's discretion as described in Section II.D, "University-Initiated Complaints."

### **2. Investigation**

The university will make a good faith effort to complete investigations as promptly as circumstances permit, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

### **3. Notice of Investigation**

The Title IX Coordinator will provide written notice of the investigation and allegations (the "NOIA") to Respondent upon commencement of the Formal Grievance Process. This facilitates Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them if they wish. The NOIA is also copied to Complainant, who is to be given advance notice of when the NOIA will be delivered to Respondent.

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<sup>8</sup> RCW 28B.112. The state law does not include students with temporary student employment unless they are a graduate student with supervisory authority over students.

The NOIA will include, at a minimum:

1. A meaningful summary of all of allegations,
2. The identity of the involved parties (if known),
3. The precise misconduct being alleged,
4. The date and location of the alleged incident(s) (if known),
5. Name and link to the specific policies implicated,
6. Name and link to the applicable procedure(s),
7. A statement that the university presumes Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
8. A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
9. A statement that they may have an [Advisor](#) of their choosing, who may be but is not required to be an attorney.
10. A statement informing the parties that the university's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
11. Details on how a party may request disability accommodations during the interview process,
12. The name(s) of the Investigator(s), along with a process to identify to the Title IX Coordinator, in advance of the interview process, any conflict of interest that the Investigator(s) may have.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by email to the parties' university-issued email or alternate method if email is not available. Once emailed, notice will be presumptively delivered.

The Title IX Coordinator will ensure the impartiality of any assigned investigator, including verifying that there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If an actual conflict of interest or material bias is determined to exist, another investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the alleged conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Vice President for Student Affairs and Dean of Students, [dos@pugetsound.edu](mailto:dos@pugetsound.edu), 253.879.3360

#### **4. Delays in the Investigation Process**

The university may temporarily delay its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law

enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The university will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. The university will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the university will implement supportive measures as deemed appropriate.

University action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

### **5. Steps in the Investigation Process**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. The university will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- a. Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- b. Meet with Complainant to finalize their interview/statement, if necessary
- c. Provide each interviewed party and witness an opportunity to review and verify the Investigator's notes of the relevant evidence/testimony from their respective interviews and meetings
- d. Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible

- e. When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- f. Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- g. Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- h. Gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report
- i. Complete the investigation promptly and without unreasonable deviation from the intended timeline
- j. Provide regular status updates to the parties throughout the investigation
- k. Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- l. Write a comprehensive investigation report that summarizes all witness interviews, addresses all relevant evidence, and includes any relevant physical or documentary evidence as appendices
- m. Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the university does not intend to rely in reaching a determination, for a **ten (10) business day** review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days.
- n. The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period.
- o. The final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least **ten (10) business days** prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.

## **6. Recording of Interviews**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of and consent to audio and/or video recording.

## **7. Evidentiary Considerations in the Investigation**

Neither the investigation nor the hearing will consider:

1. incidents not relevant or not directly related to the possible violation(s), unless they

- evidence a pattern; or
2. questions and evidence about the Complainant's sexual predisposition; or
  3. questions and evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the investigation and the hearing can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

## **8. Hearings**

Provided that the complaint is not resolved through Informal Resolution or dismissed by the Title IX Coordinator, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be fewer than **ten (10) business days** from when the final investigation report is transmitted to the parties and the Hearing Officer(s). The only exception is if all parties and the Hearing Officer(s) agree to an expedited timeline.

### **a. Joint Hearings**

In hearings involving more than one Respondent or in which more than one Complainant has accused the same individual of substantially similar conduct, the university may permit the investigation and/or hearings to be conducted jointly or concurrently. In joint hearings, separate determinations of responsibility will be made for each alleged policy violation.

### **b. Selection of a Hearing Officer(s)**

The Title IX Coordinator will select an appropriate Hearing Officer(s). The Hearing Officer(s) will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate sit in throughout the hearing process in the event that a substitute is needed for any reason.

### **c. Notice of Hearing**

No less than **ten (10) business days** prior to the hearing, the Title IX Coordinator or the Hearing Officer(s) will send notice of the hearing to the parties. Once sent to the parties' university-issued email accounts, notice will be presumptively delivered.

The notice will contain:

1. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result;

2. The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities;
3. Any technology that will be used to facilitate the virtual hearing;
4. Information on how the hearing will be recorded and how to access the recording for the parties after the hearing;
5. Notification that if a party refuses to consent to be recorded, that refusal should be provided at least **six (6) business** days prior to the hearing to the Title IX Coordinator, and that the university will retain a stenographer at the party's expense to transcribe the hearing;
6. A list of all those who will attend the hearing, along with an invitation to object to any Hearing Officer(s) or Sanction/Responsive Action Officer on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least **six (6) business days** prior to the hearing;
7. A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Hearing Officer(s). For compelling reasons, the Hearing Officer(s) may reschedule the hearing;
8. Notification that each party must have an Advisor present, who may be one of the party's choosing. The party must notify the Title IX Coordinator if they do not have an Advisor at least **seven (7) business days** before the hearing, and the university will appoint one;
9. A copy of all the materials provided to the Hearing Officer(s) about the matter, unless they have been provided already;<sup>9</sup>
10. An invitation to each party to submit an impact statement pre-hearing that will be reviewed by a Sanction/Responsive Action Officer if there is a finding of responsibility;
11. An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least **six (6) business days** prior to the hearing.

#### **d. Pre-Hearing Preparation**

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), provided a written statement, or answered written questions, unless all parties and the Hearing Officer(s) assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Hearing Officer(s) do not unanimously assent to the admission of evidence newly offered at the hearing, the Hearing Officer(s) may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

During the period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Hearing Officer(s) at the hearing and will be exchanged between each party by the Hearing Officer(s).

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<sup>9</sup> The final investigation report may be shared using electronic means that does not permit downloading, forwarding, or otherwise sharing.

**e. Hearing Procedures**

At the hearing, the Hearing Officer(s) has the authority to hear and make determinations on all allegations, including additional alleged policy violations which may not specifically fall within the Policy Prohibiting Sex-Based Discrimination, Sexual Harassment, and Sexual Misconduct (e.g. damaging property during a sexual assault.)

Participants at the hearing will include the Hearing Officer(s), the Investigator(s) who conducted the investigation, the parties (or organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, the Title IX Coordinator as needed, and anyone providing authorized accommodations or assistive services.

The Hearing Officer(s) will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The witnesses will attend only the relevant portion of the hearing.

**f. Recording Hearings**

Hearings (but not deliberations) are recorded and/or transcribed by the university for purposes of review in the event of a finding of responsibility or an appeal. All parties and participants in the hearing will be notified by the Hearing Officer(s) before recording begins. If a party refuses to consent to be recorded, the university will retain a stenographer at the party's expense to transcribe the hearing which may result in a delay of the hearing. The parties may not record the proceedings and no other unauthorized recordings are permitted.

Access to recordings is limited. The Hearing Officer(s), the Sanction/Responsive Action Officer, the parties, their Advisors, and appropriate university administrators will be permitted to listen to the recording in a controlled environment upon request to the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

**g. The Order of the Hearing**

The Hearing Officer(s) explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Hearing Officer(s) on the basis of bias or conflict of interest. The Title IX Coordinator will review and decide the challenge.

The Investigator(s) will then present a summary of the final investigation report, including issues that are contested and those that are not, and will be subject to questioning by the Hearing Officer(s) and the parties through their Advisors. The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Hearing Officer(s) should ask the Investigator(s) to offer opinions on credibility, recommend findings, or draw conclusions. The Investigator(s), Advisors, and parties will refrain from discussion or questions about these assessments. If such information is introduced, the Hearing Officer(s) will direct that it be disregarded.

#### **h. Testimony and Questioning**

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with Complainant, and then in the order determined by the Hearing Officer(s). The parties/witnesses must be questioned by the Hearing Officer(s) and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Hearing Officer(s). The Advisor will pose the question and pause to allow the Hearing Officer(s) to consider it and the Hearing Officer(s) will determine whether the question will be permitted, disallowed, or rephrased.

The Hearing Officer(s) may invite explanations or persuasive statements regarding relevance with the Advisors, if the Hearing Officer(s) so chooses. The Hearing Officer(s) will then state their decision on the question aloud for the record and advise the party/witness to whom the question was directed, accordingly. The Hearing Officer(s) will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Hearing Officer(s) will limit or disallow questions on the basis that they are irrelevant, unduly repetitious, or abusive. The Hearing Officer(s) has final say on all questions and determinations of relevance. The Hearing Officer(s) may consult with legal counsel on any questions of admissibility. The Hearing Officer(s) may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Hearing Officer(s) has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Hearing Officer(s) from issues at the hearing, the Hearing Officer(s) may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal.

#### **i. Evidentiary Considerations in the Hearing**

Neither the investigation nor the hearing will consider:

1. incidents not relevant or not directly related to the possible violation(s), unless they evidence a pattern; or
2. questions and evidence about the Complainant’s sexual predisposition; or
3. questions and evidence about the Complainant’s prior sexual behavior, unless such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the investigation and the hearing can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

**j. Refusal to Submit to Cross-Examination**

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Hearing Officer(s) can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Hearing Officer(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared. It is otherwise considered confidential and outside the scope of the hearing, and an Advisor who is an institutional employee is temporarily relieved from any responsible employee responsibilities related to their interaction with their advisee during the Resolution Process.

**k. Deliberation, Decision-making, and Standard of Proof**

The Hearing Officer(s) will deliberate in closed session to determine whether Respondent is responsible or not responsible for the policy violation(s) in question using a preponderance of the evidence standard.

The Hearing Officer(s) will then prepare a written report and deliver it to the Title IX Coordinator and Sanction/Responsive Action Administrator, detailing the determination, rationale, the evidence used in support of the determination, the evidence not relied upon in the determination, credibility assessments, and any proposed/recommended sanctions/responsive actions.

This report must be sent within **five (5) business days** of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

**2. The Sanction/Responsive Action Administrator**

Title IX Coordinator will choose an appropriate Sanction/Responsive Action Administrator who has had no other role in the process.

When there is a finding of responsibility on one or more of the allegations, the Sanction/Responsive Action Administrator will review the following materials and information prior to determining appropriate sanction(s)/responsive action(s).

1. The written report from the Hearing Officer(s);
2. Hearing transcripts/recordings;
3. The nature, severity of, and circumstances surrounding the violation(s);
4. Respondent's disciplinary history;
5. Previous allegations or allegations involving similar conduct;

6. The need for sanctions/responsive actions to bring an end to the behavior;
7. The need for sanctions/responsive actions to prevent future recurrence;
8. The need to remedy the effects on Complainant and the community;
9. The impact on the parties including any submitted impact statements; and
10. Any other information deemed relevant by the Sanction/Responsive Action Administrator.

A letter with the determination and rationale must be sent to the Title IX Coordinator within **five (5) business days** after receiving the information from the Hearing Officer(s).

### **3. Notice of Outcome**

The Title IX Coordinator will prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s)/responsive actions simultaneously with the parties and their Advisors within **seven (7) business days** of receiving the Sanction/Responsive Action Officer's determination.

Notification will be made in writing and emailed to the parties' university-issued email or alternate method if email is not available. Once sent, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the university from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation:

1. The findings of fact that support the determination;
2. Conclusions regarding the application of the relevant policy to the facts at issue;
3. A statement of, and rationale for, the result of each allegation to the extent the university is permitted to share such information under state or federal law;
4. Any sanctions issued which the university is permitted to share according to state or federal law; and
5. Any remedies provided to Complainant designed to ensure access to the university's educational or employment program or activity, to the extent the university is permitted to share such information under state or federal law (this detail is not typically shared with Respondent unless the remedy directly relates to Respondent).

The Notice of Outcome will also include information on when the results are considered by the university to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

### **4. Examples of Sanctions/Responsive Actions**

Any sanction(s)/responsive action(s) will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal.

The sanctions/responsive action described in this procedure are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

### **Student Sanctions**

The following are the usual sanctions that may be imposed upon students or organizations, singly or in combination, upon a finding of violation of university policy:

1. Educational Sanctions: includes, but is not limited to, written research and reflective activities.
2. Conduct Reprimand: A formal statement that the conduct was unacceptable and a warning that further violation of any university policy, procedure, or directive will result in more severe sanctions/responsive actions.
3. Probation: A written reprimand for violation of university policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any university policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
4. Suspension: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the university.
5. Expulsion: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend university-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript, [subject to any applicable expungement policies.]
6. Withholding Diploma: The Recipient may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
7. Organizational Sanctions: Conduct reprimand, loss of some or all privileges (including university registration) for a specified period of time, probation (conduct or social), loss of recognition, or removal from campus.
8. Other Actions: In addition to or in place of the above sanctions, the university may assign any other sanctions as deemed appropriate.

### **Faculty/Staff Responsive Actions**

Responsive actions for a faculty or staff member include:

1. Warning – Verbal or Written
2. Performance Improvement Plan/Management Process
3. Enhanced supervision, observation, or review
4. Required Counseling
5. Required Training or Education
6. Probation
7. Denial of Pay Increase/Pay Grade
8. Loss of Oversight or Supervisory Responsibility

9. Demotion
10. Transfer
11. Reassignment
12. Delay of tenure track progress
13. Assignment to new supervisor
14. Restriction of stipends, research, and/or professional development resources
15. Administrative Leave with/without pay
16. Termination
17. Other Actions: In addition to or in place of the above sanctions/responsive actions, the university may assign any other responsive actions as deemed appropriate.

### **Third-party and Alumni Responsive Actions**

The university is limited in its actions, but could impose temporary or permanent trespass from campus and all university-sponsored events.

## **V. APPEALS**

Any party may file a request for appeal (“Request for Appeal”), but it must be submitted in writing to the Title IX Coordinator within **seven business (7) days** of the delivery of the Notice of Outcome or Notice of Dismissal and must clearly identify one or more grounds for appeal.

An Appeal Officer will be designated by the Title IX Coordinator. No Appeal Officer will have been involved in the process previously.

### **A. Grounds for Appeal**

Appeals are limited to the following grounds:

1. Material procedural error: an error that, but for the error, could have resulted in a different decision. Material procedural errors include allegations that the Investigator, Hearing Officer(s), and/or Sanction/Responsive Action Administrator did not follow university procedures and such failure materially affected the credibility, reliability, or fairness of the process. The appealing party has the responsibility to demonstrate the effect of the material procedural error.
2. New evidence. The appealing party may allege on appeal that new evidence is available that would impact or alter a decision or sanction that was not available at the time of the hearing.
3. Contrary to Law or Policy: The appealing party may allege that controlling material law or university policy was disregarded, misinterpreted, or misapplied to the facts, including that the Title IX Coordinator, Investigator(s), or Hearing Officer(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.
4. Clearly Erroneous: The appealing party may allege on appeal that the competent evidence in the record established that decision or sanction was not based on a permissible reason. A clearly erroneous decision is one that a reasonable person

could not have reached, based on the competent evidence in the record taken as a whole and the relevant controlling laws or policies.

The Request for Appeal will be forwarded to the Appeal Officer for initial review and consideration to determine if the request meets the grounds for appeal.

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

If any of the articulated grounds in the Request for Appeal do not meet the standards in this Policy, that request will be denied by the Appeal Officer and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the articulated grounds in the Request for Appeal meet standards in this Policy, the other party(ies), their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Hearing Officer(s) will be emailed a copy of the request with the approved grounds and then be given **seven (7) business days** to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Officer to all parties and their Advisors for review and comment.

Upon receiving notice of the appeal, the non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Officer and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Hearing Officer(s), as necessary, who will submit their responses in **seven (7) business days**, which will be circulated for review and comment by all parties and their Advisors.

Neither party may submit any new requests for appeal after this time period. The Appeal Officer will collect any additional information needed and all documentation regarding the request for appeal and the subsequent responses, and render a decision in no more than **seven (7) business days**, barring exigent circumstances.

**B. Appeal Considerations**

1. Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is a clear material error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
2. Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). Appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
3. Appeal Officer(s) shall not substitute their judgment for that of the original Hearing Officer(s) merely because they disagree with the finding and/or sanction(s)/responsive action(s).

4. The Appeal Officer may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
5. Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Hearing Officer(s) for reconsideration. Other appeals may be remanded at the discretion of the Appeal Officer or, in limited circumstances, decided on appeal.
6. In rare cases where a procedural or substantive error cannot be cured by the original Hearing Officer(s) (as in cases of bias), the Appeal Officer may order a new hearing with a new Hearing Officer(s).
7. The results of a new hearing can be appealed, once, on any of the available grounds for appeal.
8. In cases in which the appeal results in reinstatement to the university or resumption of privileges, all reasonable attempts will be made to restore Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

A Notice of Appeal Outcome will be sent to all parties and Advisors simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the university is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the university is permitted to share under state or federal law.

Notification will be made in writing and emailed to the parties' university-issued email or otherwise approved account. Once emailed, notice will be presumptively delivered.

The appeal decision is final, except as otherwise provided in this section.

#### **C. Sanctions/Responsive Actions Status During the Appeal**

Any sanctions/responsive actions imposed as a result of the hearing are stayed during the appeal process unless [emergency action is taken consistent with the](#) procedures outlined in Section II.E. Supportive measures may remain/be reinstated.

#### **D. Long-Term Remedies/Other Actions**

Following the conclusion of the resolution process, and in addition to any individual sanctions/responsive actions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the prohibited behavior and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

1. Referral to counseling and health services
2. Referral to the Employee Assistance Program

3. Education to the individual and/or the community
4. Permanent alteration of housing assignments
5. Permanent alteration of work arrangements for employees
6. Provision of campus safety escorts
7. Climate surveys
8. Policy modification and/or training
9. Provision of transportation accommodations
10. Implementation of long-term contact limitations between the parties
11. Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the university to Respondent to ensure there is no effective denial of access to educational programs and activities.

The university will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the university's ability to provide these services.

#### **E. Failure to Comply**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Hearing Officer(s) (including the Appeal Hearing Officer(s)).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the university and may be noted on a student's official transcript or a faculty/staff member's personnel file.

#### **VI. TRAINING**

All parties who participate in this process including the Title IX Coordinator, Investigators, Hearing Officers, Sanction/Responsive Action Administrators, Appeal Officers, and any person who assists with Informal Resolution will receive annual training jointly or based on their respective roles. This training includes, but is not limited to:

1. The scope of the university's Policy and Procedures
2. How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
3. Implicit bias
4. Disparate treatment and impact
5. Reporting, confidentiality, and privacy requirements
6. Applicable laws, regulations, and federal regulatory guidance
7. How to implement appropriate and situation-specific remedies
8. How to investigate in a thorough, reliable, and impartial manner

9. How to uphold fairness, equity, and due process
10. How to weigh evidence
11. How to conduct questioning
12. How to assess credibility
13. Impartiality and objectivity
14. How to render findings and generate clear, concise, evidence-based rationales
15. The definitions of all offenses
16. How to apply definitions used by the university with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
17. How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
18. How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
19. Any technology to be used at a live hearing
20. Issues of relevance of questions and evidence
21. Issues of relevance to create an investigation report that fairly summarizes relevant evidence
22. How to determine appropriate sanctions in reference to all forms of harassment and/or retaliation allegations
23. Recordkeeping

The current training materials are publicly posted on [www.pugetsound.edu/title-ix-team-training](http://www.pugetsound.edu/title-ix-team-training). Requests for past training materials should be directed to the Title IX Coordinator.

## **VII. RECORDKEEPING**

The university will maintain for a period of (at least) seven (7) years records of:

1. Each investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript of any hearings;
2. Any sanction/responsive action imposed on a Respondent;
3. Any remedies provided to a Complainant designed to restore or preserve equal access to the university's education programs or activities;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Hearing Officer(s), Sanction/Responsive Action Officers, Appeal Officers and any person who facilitates an Informal Resolution process. The university will make the most current training materials publicly available on the university website.
7. Any actions, including any supportive measures, taken in response to a report or formal complaint, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;

- b. Any measures designed to restore or preserve equal access to the university's education program or activity; and
- c. If no supportive measures were provided to Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The university will also maintain any and all records in accordance with state and federal laws.

### **VIII. FEDERAL REPORTING OBLIGATIONS FOR CERTAIN CAMPUS CRIMES - JEANNE CLERY ACT ("CLERY ACT")**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the university must issue timely warnings (typically via email to the campus community) for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community. The university will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

Additionally, certain campus officials – those deemed Campus Security Authorities also have a duty to report incidents of sexual assault, domestic violence, dating violence, and/or stalking to Security Services for federal statistical reporting purposes. All personally identifiable information is kept private, but statistical information must be shared with Security Services regarding the type of incident and its general location for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: student affairs/student conduct staff, Security Services staff, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

### **IX. DISABILITIES ACCOMMODATIONS**

The university is committed to providing reasonable accommodations and support to qualified students, faculty, staff, or others with disabilities to ensure equal access to the university's resolution process.

Anyone needing such accommodations or support should contact the Title IX Coordinator who will work with the ADA/504 Coordinator and/or Human Resources to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are reasonable, appropriate, and necessary for full participation in the process.

## **X. REVISION OF THIS PROCEDURE**

This Procedure supersedes any previous Procedure addressing Sex-Based Discrimination, Sexual harassment, sexual misconduct and/or retaliation under Title IX and will be periodically reviewed and updated by the Title IX Coordinator. The university reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the university's website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If laws or regulations change – or court decisions alter – the requirements in a way that impacts these procedures, these procedures will be construed to comply with the most recent government regulations or holdings.

These procedures do not create legally enforceable protections beyond the protections of local ordinances, laws of the State of Washington, and federal laws which govern the university's obligations.

These procedures are effective January 24, 2022.

## **XI. REVISION HISTORY**

Adoption: August 14, 2020

Revised: January 24, 2022

## **XII. RELATED RESOURCES**

[Policy](#)

[Glossary](#)

[Website](#)