



POLICY #1.04

SUBJECT: TITLE IX POLICY AND PROCEDURES

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I. PURPOSE

- A. Kansas City University (collectively “the University”) does not discriminate on the basis of sex in its Education Programs or Activities, as required by Title IX and 34 C.F.R. § 106.1. The requirement not to discriminate in Education Programs or Activities extends to admission and employment. Inquiries about the application of Title IX and its regulations to the University may be referred to the Title IX Coordinator, to the U.S. Department of Education Office for Civil Rights, or both.
- B. The University prohibits Sexual Harassment and Retaliation. The University further prohibits sex discrimination, among other forms of discrimination, in its Nondiscrimination and Anti-Harassment Policy.
- C. The University has designated the following Title IX Coordinator to coordinate its compliance with Title IX and to receive inquiries regarding Title IX, including reports of Sexual Harassment:



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1. Title IX Coordinator:

Elliot Young
Director of Institutional Compliance and Equal Opportunity
1750 Independence Ave
Kansas City, MO 64106
816-654-7118
TitleIX@kansascity.edu

2. Deputy Coordinator:

Jamie Hirshey
Vice President, Human Resources
2817 St Johns Blvd
Joplin, MO 64804
417-208-0633
jhirshey@kansascity.edu

II. REFERENCES

- A. Title IX 2020 Final Rule
- B. 34 CFR Section 106
- C. Department of Justice – Civil Rights Division Title IX Legal Manual
- D. KCU Antidiscrimination Site
- E. FBI Definition of Rape and Criminal Sexual Contact

III. DEFINITIONS

- A. **Complainant:** An individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.
- B. **Consent:** a clear, knowing, voluntary, and affirmative agreement to engage in specific sexual activity. Consent must be communicated through mutually understandable words and/or actions that indicate a willingness to participate in the mutually agreed-upon sexual activity. Consent cannot be obtained through force, coercion, manipulation, intimidation, or threats. Consent cannot be assumed based on prior sexual activity, relationship status, or manner of dress. A verbal “no” or non-verbal resistance always indicates a lack of Consent, even if the person does not appear assertive. Silence, in and of itself, may not be interpreted as Consent. Consent may be withdrawn at any time, and once withdrawn, further sexual activity is deemed nonconsensual. Power differentials (e.g., between a supervisor and employee or faculty and student) can compromise the voluntariness of Consent. An individual who is Incapacitated cannot Consent to sexual activity, and being Incapacitated (e.g., by drugs or alcohol) does not diminish one’s responsibility to obtain Consent. Under Missouri law, Consent cannot be given by someone under 17 years of age (for Respondents 21+ years old). Individuals under 14 years of age are considered incapable of Consent under any circumstances.



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- C. **Education Programs or Activities:** All the operations of the University, including, locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the alleged Sexual Harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the University. This generally includes in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, dining services, performances, community engagement, outreach programs, and activity that occurs on campus or on other property owned or controlled by the University. This does not include educational programs and activities of the University occurring outside the United States.
- D. **Formal Complaint:** A document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the University investigate the allegation of Sexual Harassment in accordance with this policy. A “document filed by a Complainant” means a document or electronic submission (such as an email) that contains the Complainant’s physical or electronic signature or otherwise indicates that the Complainant is the person filing the Complaint.
- E. **Incapacitation** is the physical and/or mental inability to make informed, rational decisions, including the inability to understand the nature, fact, or extent of the sexual interaction. Incapacitation may have many causes, including prescription drug use; alcohol or illicit drug use; sleep deprivation; unconsciousness; and physical or mental health conditions. Signs of Incapacitation include slurred speech; disorientation; shaky balance or inability to walk unassisted; vomiting; loss of consciousness, lapses in memory, or blacking out.
- F. **Investigator:** The trained, neutral individual designed by the Title IX Coordinator to conduct a prompt, thorough, and impartial investigation of a Formal Complaint. The Investigator is responsible for gathering evidence, interviewing parties and witnesses, and preparing the written investigation report. The Investigating Officer does not make a determination regarding responsibility or impose sanctions.
- G. **Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.
- H. **Retaliation:** Any adverse action taken against someone for the purpose of interfering with that person’s Title IX rights or because that person participated or intends to participate in the Title IX process described in this policy, such as by making a report, filing a Formal Complaint, or participating in an investigation, resolution, hearing, appeal, or other aspect of the Title IX process. Retaliation includes acts of intimidation, threats, and coercion.
- I. **Sexual Harassment:** Conduct, including verbal, physical, visual, auditory, or other conduct, on the basis of sex (including sex stereotypes) that constitutes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking.



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1. **Hostile Environment Sexual Harassment:** Unwelcome conduct that is so severe, pervasive, and objectively offensive that it denies a person equal access to the University's Education Programs or Activities.
 - a. In evaluating whether a hostile environment exists, the University will consider the totality of circumstances from the perspective of a reasonable person in the Complainant's position. The assessment may include, but is not limited to, the following factors:
 - i. the nature and severity of the conduct at issue;
 - ii. the frequency and duration of the conduct;
 - iii. the actual and reasonably foreseeable impact of the conduct on the Complainant's access to educational programs or activities;
 - iv. the relationship between the parties, including any power differential;
 - v. the respective ages of the parties;
 - vi. the context in which the conduct occurred, including whether it occurred in a University program or activity;
 - vii. whether the conduct was part of a pattern of behavior; and
 - viii. the presence of physical threats, violence, or coercion.
 - b. A Complainant's subjective perception of the behavior, while important, is not solely determinative of whether a hostile environment exists under Title IX. The University will apply an objective, reasonable person standard in making this determination.
 - c. Examples of conduct that may constitute Hostile Environment Sexual Harassment (if unwelcome) include, but are not limited to:
 - i. Pressure for a dating, romantic, or intimate relationship or sexual contact
 - ii. Touching, kissing, hugging, or massaging
 - iii. Repeated sexual innuendos, jokes, or remarks
 - iv. Displaying sexually suggestive material (e.g., images, posters, screensavers)
 - v. Using sexually explicit language or profanity
 - vi. Conversations about personal sexual experiences, fantasies, or preferences
 - vii. Inappropriate digital communications, including sexually explicit messages or posts
 - viii. Sexual staring, leering or gestures
 - ix. Comments on someone's appearance in a sexual manner
 - x. Giving unwelcome suggestive gifts such as intimate clothing



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- xi. Insulting, demeaning, or degrading another person based on sex stereotypes
2. **Quid Pro Quo Sexual Harassment** is an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.
3. **Dating Violence** is violence committed by a person –
 - a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - b. Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - i. The length of the relationship;
 - ii. The type of relationship; and
 - iii. The frequency of interaction between the persons involved in the relationship.
4. **Domestic Violence** is felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Missouri, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Missouri.
 - a. Missouri's definition of Domestic Violence can be found at Mo. Rev. Stat. § 455.010.
 - b. Under Missouri law, Domestic Violence also includes the crime of "domestic assault," which can be found at Mo. Rev. Stat. §§ 565.072-565.074.
5. **Sexual Assault** includes the sex offenses of Rape, Criminal Sexual Contact, Incest, and Statutory Rape.
 - a. **Rape** is the unconsented penetration, regardless of how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another individual, or by a sex-related object. This definition covers cases where the victim cannot provide Consent due to temporary or permanent mental or physical Incapacity (including resulting from drugs or alcohol) or due to age. Physical resistance by the victim is not required to establish lack of Consent.
 - b. **Criminal Sexual Contact** is the intentional touching of the clothed or unclothed body parts, without Consent, of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation; or the forced touching by the victim of the other individual's clothed or unclothed body parts, without Consent of the victim, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This includes



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instances where the victim is incapable of giving Consent because of age or Incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

- c. **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Missouri law, which may be found at Mo. Rev. Stat. § 568.020.
 - d. **Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent as defined by Missouri law, which may be found at Mo. Rev. Stat. §§ 566.032 and 566.034.
6. **Stalking** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for their safety or the safety of others, or (2) suffer substantial emotional distress.
- J. **Supportive Measures:** Non-disciplinary, non-punitive individualized services offered, as appropriate, as reasonably available, and without fee or charge to either party. Supportive Measures may be issued before, after, or without the filing of a Formal Complaint. Such measures are designed to restore or preserve equal access to the University's Education Programs or Activities without unreasonably burdening another party, including measures designed to protect the safety of all parties implicated by a report or the University's education environment, or to deter Sexual Harassment. Supportive Measures may include counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report.
- K. **Support Person:** An individual selected by a party to accompany them during the grievance process, including the live hearing, if applicable.
- L. **Title IX Coordinator:** The designated employee responsible for coordinating compliance with Title IX, overseeing response to complaints, and ensuring proper implementation of grievance procedures.

IV. POLICY AND PROCEDURES

A. Scope and Jurisdiction.

- 1. *In Scope.* This Policy applies all persons participating, or attempting to participate, in the University's Education Programs or Activities, such as students, faculty, and other University employees; applicants for admission or employment; customers; third-party contractors; and third-party visitors on campus (the "University Community"). This Policy prohibits Sexual Harassment when the Complainant and alleged perpetrator are members of the same or opposite sex, and it applies regardless of national origin, immigration status, or citizenship status.



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2. *Out of Scope.* The Title IX procedures of this Policy do not apply to Sexual Harassment in locations, events, or circumstances where the University lacks substantial control over either the Respondent or the context in which the Sexual Harassment occurs, such as Sexual Harassment that occurs off-campus, in a private setting, and outside the scope of the University's Education Programs or Activities. Moreover, the Title IX procedures of this Policy do not apply to Sexual Harassment that occurs outside the geographic boundaries of the United States, even if it occurs in the University's Education Programs or Activities, such as a study abroad program. Such Sexual Harassment, along with other discrimination and misconduct will be addressed by other University policies and standards.

B. Relationship to Other Policies

1. This Policy specifically prohibits Sexual Harassment and Retaliation, as defined by Title IX. The procedures in this policy exclusively govern Sexual Harassment. If deemed expedient by the Title IX Coordinator, allegations of Retaliation may be consolidated with a Formal Complaint of Sexual Harassment and proceed under this policy's procedures. Alternatively, the Title IX Coordinator may refer allegations of Retaliation for resolution under the University's Nondiscrimination and Anti-Harassment Policy procedures.
2. Allegations of Sex Discrimination that do not meet this policy's definition of Sexual Harassment are governed by the University's Nondiscrimination and Anti-Harassment Policy.
3. Allegations of other forms of unlawful discrimination and harassment, such as harassment on the basis of race, color, national origin, or disability status, are governed by the University's Nondiscrimination Policy

C. Training

1. Title IX Coordinators, Investigators, hearing officers, appeals officers, and any person who facilitates an informal resolution process must receive training on the definition of Sexual Harassment, the scope of the University's Education Programs or Activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
2. Hearing officers must receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.
3. Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

D. How to Report



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1. Any person may report Sexual Harassment to the Title IX Coordinator in any of the following ways:
 - a. in person at the Administration Building, CFO Admin Suite, 1750 Independence Avenue, Kansas City, Missouri, 64106;
 - b. by mail to the Kansas City University, attn: Title IX Coordinator, 1750 Independence Avenue, Kansas City, MO 64106;
 - c. by telephone at 816-654-7118
 - d. by electronic mail at TitleIX@kansascity.edu;
 - e. online at https://kcusurvey.qualtrics.com/jfe/form/SV_6L7JxBo6N94KAom; or
 - f. by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.
2. In-person reports must be made during normal business hours, but reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours.
3. All University employees, except those designated as Confidential Employees below, shall report to the Title IX Coordinator when they receive information indicating that a member of the University Community may have been subjected to Sexual Harassment. Failure to report may be grounds for disciplinary action, up to and including termination.
4. The following are designated as Confidential Employees: licensed mental health counselors acting within the scope of their license to provide services to the University Community. Confidential employees generally may not report incidents of sexual harassment, except with written consent from the client or patient, in instances of imminent danger, or when the Complainant is a minor or vulnerable adult.
5. Students are strongly encouraged to report Sexual Harassment to the Title IX Coordinator.

E. Initial Actions Following Report

1. *Initial Review.* Upon the initial receipt of a report of potential Sexual Harassment (or Formal Complaint, if it precedes a report), the Title IX Coordinator will determine if, under the reported facts, a violation of this Policy is alleged. Within the discretion of the Title IX Coordinator, the Title IX Coordinator may also discuss the report with reporter and/or Complainant, and review any documents or records provided as part of the report or readily accessible to the Title IX Coordinator and consider this information in making the determination.



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- a. As part of the preliminary assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Complainant, if it is not apparent from the report.
 - b. During the preliminary review, the Title IX Coordinator may determine the extent to which the Complainant is willing to submit a Formal Complaint and participate in an investigation. A Formal Complaint is not required for the University to act on reports of prohibited conduct. However, the University prefers to have a Formal Complaint from a Complainant to initiate an investigation.
 - c. The Title IX Coordinator does not contact the Respondent during the preliminary review.
 - d. If the Title IX Coordinator determines that the reported conduct would be dismissed upon the filing of a Formal Complaint consistent with section IV.G below, the Title IX Coordinator may refer a report to another policy process or University office, and may notify the Complainant that no further action will be taken under this policy.
 - e. If the Title IX Coordinator determines that the reported conduct reasonably could fall within the scope of Title IX, and reasonably could constitute Sexual Harassment, if investigated, the Title IX Coordinator will initiate contact with the Complainant.
2. *Initial Contact.* After initial scoping, The Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures, consider the Complainant's wishes with respect to Supportive Measures, inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, and (unless a Formal Complaint has already been properly filed) explain to the Complainant the process for filing a Formal Complaint.
3. *Supportive Measures.* During the preliminary review, or at any point, the Title IX Coordinator may discuss the range of Supportive Measures available to Complainants and Respondents. The Title IX Coordinator may implement, modify, or discontinue Supportive Measures at any time, before or after or without a Formal Complaint.
4. *Safety Removal.*
 - a. Following receipt of a report of Sexual Harassment, the Title IX Coordinator may remove a student Respondent from one or more of the University's Education Programs or Activities on an



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emergency basis if an individualized safety and risk analysis concludes that an immediate threat to the physical health or safety of any individual justifies such action.

- b. The student Respondent will be provided with notice and an opportunity to challenge the removal decision immediately following the removal, typically within 24 hours.
- c. For non-student employee Respondents (administrator, faculty, or staff), the University may place the Respondent on administrative leave at any time after receiving a report of Sexual Harassment, including during the pendency of the investigation and adjudication process.
- d. The University reserves the right to restrict access to its premises for contractors, visitors, or other third parties at any time, and for any reason, if it determines such action is necessary to protect the safety or integrity of the University Community.

F. Formal Complaints

1. Any time after a report of Sexual Harassment, or even without a prior report, a Complainant may file a Formal Complaint.
2. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the University's Education Programs or Activities.
3. Formal Complaints may be submitted in person, by mail, or via email to the Title IX Coordinator using the contact information in the "How to Report" section.
4. In certain circumstances, the Title IX Coordinator may file a Formal Complaint on behalf of the University. This typically occurs in cases involving serious or repeated misconduct or where there is a potential ongoing threat to the University Community. Relevant considerations include:
 - a. Whether a weapon was used;
 - b. Whether multiple Respondents were involved;
 - c. Whether the Respondent has a known history of similar conduct;
 - d. Whether there is a risk of repeated misconduct.
5. If a Formal Complaint is filed by either the Complainant or the Title IX Coordinator, the University will initiate its investigation and proceed in accordance with the procedures described in this Policy. The Complainant will be treated as a party regardless of their level of participation. The Title IX Coordinator does not act as the Complainant or act as a party in the investigation or adjudication processes.



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6. Consolidation of Formal Complaints.

- a. University may consolidate Formal Complaints where allegations arise out of the same facts or circumstances, such as when:
 - i. The allegations involve more than one Complainant and/or Respondent;
 - ii. A party files a Formal Complaint against another party (i.e., cross-complaints);
 - iii. A Retaliation complaint is related to a complaint of Sexual Harassment.
- b. When consolidation occurs, references in this Policy to the singular “party,” “Complainant,” or “Respondent” shall include the plural where appropriate.

G. Dismissing a Formal Complaint

1. The Title IX Coordinator *must* dismiss a Formal Complaint, or specific allegations therein, if the Title IX Coordinator determines at any time that:
 - a. The alleged conduct would not constitute Sexual Harassment, even if proven; or
 - b. The alleged conduct falls outside the policy’s scope (e.g., did not occur in University programs/activities or outside the U.S.).
2. The Title IX Coordinator *may* dismiss a Formal Complaint, or specific allegations therein, if at any time:
 - a. The Complainant submits a written request to withdraw the Formal Complaint or specific allegations;
 - b. The Respondent is no longer enrolled or employed by the University;
 - c. Circumstances prevent the University from gathering sufficient evidence to determine responsibility.
3. If a Formal Complaint is dismissed, the Title IX Coordinator will provide written notice of dismissal and notice of the parties’ right to appeal.
4. Dismissal does not preclude action under another policy or another University office.

H. Notice of Formal Complaint

1. Within five (5) business days of receiving a Formal Complaint, the Title IX Coordinator will provide written notice to the Complainant



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and Respondent that includes:

- a. A physical copy or link to this Policy;
 - b. The allegations potentially constituting Sexual Harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview, including (1) the identities of the parties involved in the incident (if known), (2) the alleged conduct, and (3) the date and location of the alleged incident (if known);
 - c. A statement that the Respondent is presumed not responsible for the alleged Sexual Harassment and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal;
 - d. Notice of the parties' right to be accompanied to any related meeting or proceeding by a Support Person of their choice who may be, but is not required to be, an attorney;
 - e. Notice of the parties' right, along with their Support Persons, to inspect and review all evidence that is directly related to the allegations raised in the Formal Complaint prior to completion of the investigation report, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility;
 - f. Notice that the University prohibits Retaliation and knowingly making false statements or submitting false information during the grievance process;
 - g. A list of campus and community support resources.
2. If the University later adds new allegations not included in the initial notice, it will issue a supplemental written notice describing the additional allegations.

I. Support Person

1. Both the Complainant and Respondent may have a Support Person of their choice, who may be, but is not required to be, an attorney, present in any meeting or proceeding at all stages of the investigation, hearing, and appeal process.
2. Support Persons are limited to a passive role and may not speak on behalf of the party, interrupt, object, or otherwise actively participate, except during witness questioning at the hearing. Support Persons, moreover, must abide by any rules of decorum established by the University during meetings or proceedings under this policy.
3. If a Support Person violates these rules, the University may remove them, and the party can choose another Support Person.



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4. If a party does not have a Support Person for the hearing, and requests one, the University will appoint a Support Person of the University's choosing for purposes of the hearing at no charge to the party. The University may, but is not required to, appoint a Support Person for meetings or proceedings other than the hearing.

J. Protected Information

1. Privileged Records

- a. Investigators, hearing officers, and appeal officers may not access, consider, disclose, or allow questioning about:
 - i. a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party;
 - ii. information or records protected by legally-recognized privileges (e.g., attorney-client privilege);
- b. The University investigator, hearing officer, and appeal officer may consider such information if (1) it first obtains the party's obtains the party's voluntary, written consent, or (2) if the party holding the privilege voluntarily discloses such records or information to support their allegation or defense (i.e., waives the privilege).

2. Sexual History

- a. During the investigation and hearing, questioning regarding a Complainant's sexual predisposition or prior sexual behavior are not relevant and therefore not allowed, unless (1) 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, or (2) 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. Notwithstanding the foregoing, a Complainant who affirmatively uses such information for the purpose of supporting the Complainant's allegations, may be deemed to have waived the protections of this section.

K. Presumption of Non-Responsibility

1. From the time a report or Formal Complaint is made, a Respondent is presumed not responsible for the alleged misconduct until a determination regarding responsibility is made final.



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L. Neutrality

1. The Title IX Coordinator, Investigator, hearing officer, appeal officer, or any person designated to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
2. Any party who believes one or more of these University officials has a material conflict of interest or material bias must raise the concern promptly so that the University may evaluate the concern and find a substitute, if appropriate. The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal specified in "Appeal Process," or otherwise.

M. Deadline Extensions

1. The Investigator, hearing officer, and appeals officer may allow limited extensions of timeframes and deadlines under this policy for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's Support Person, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities;

N. Confidentiality

1. The University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. However,
 - a. Retaliation is prohibited. Attempts to intimidate, alter, or prevent a witness's or party's testimony are forms of prohibited Retaliation.
 - b. Parties may be directed to cease communications with one another (i.e., a "no-contact directive").
 - c. Parties' communications remain subject to state laws protecting against defamation and tortious invasions of privacy, such as intrusion upon seclusion, public disclosure of private facts, and false light claims.

O. Special Procedures for Complaints Concerning President and Executive Vice-Presidents

1. If a complaint involves alleged conduct on the part of the University President, the University Board of Trustees will designate the Investigator, hearing officer, and appeal officer. If a complaint involves alleged conduct on the part of a University Executive Vice President, the University President will designate the Investigator, hearing officer, and appeal officer.

P. Informal Resolution



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1. At any time after the parties receive written notice of a Formal Complaint and before the completion of any appeal, the University may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.
2. The specific method of informal resolution process is usually determined collaboratively by the parties and the Title IX Coordinator.
3. Before starting the informal resolution process, the Title IX Coordinator will provide written notice to the parties that:
 - a. Describes the parameters and requirements of the informal resolution process;
 - b. Identifies the individual responsible for facilitating the process (which may be the Title IX Coordinator, another University official, or a third party);
 - c. Explains the effect of participating in or reaching a final resolution on a party's ability to resume investigation and adjudication of the allegations;
 - d. Explains any other consequences of participation, including a description of records that will be generated, maintained, and/or shared.
4. Each party must voluntarily provide written consent before informal resolution may begin.
5. While informal resolution is pending, investigation and adjudication processes are paused and related deadlines are suspended.
6. If a resolution is reached and the Title IX Coordinator agrees it is not clearly unreasonable under the circumstances, the terms will be put in writing and presented to the parties for their signature. Once signed by all parties and the Title IX Coordinator, the resolution is final and the allegations are considered resolved, with no further investigation, adjudication, remediation, or sanction—except as otherwise provided in the resolution or in cases of fraud, misrepresentation, misconduct, or manifest injustice.
7. Any party may withdraw consent to participate in informal resolution at any time before a resolution is finalized.
8. Unless extended by the Title IX Coordinator, informal resolution must be completed within 21 days; if not, the process is terminated and the Formal Complaint proceeds through the usual investigation and adjudication procedures.
9. Informal resolution is not permitted if the Formal Complaint alleges that a non-student employee Respondent has Sexually Harassed a student Complainant.

Q. Investigation

1. Commencement and Timing.
 - a. Upon issuing the notice of Formal Complaint, the University will assign an Investigator to gather evidence relevant to the



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alleged misconduct, including inculpatory and exculpatory evidence.

- b. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the University and not on the parties.
- c. The investigation will culminate in a written investigation report, specified in the “Investigation Report” section, that will be submitted to the adjudicator during the selected adjudication process.
- d. Investigations are typically completed in a reasonably prompt manner, though timeframes may vary based on complexity, availability of witnesses and other evidence, and academic calendars.

2. Content of Investigations

- a. During the investigation, the Investigator will provide parties an equal opportunity to:
 - i. Participate in interviews;
 - ii. Present fact and expert witnesses;
 - iii. Submit relevant evidence.
- b. The Investigator should exclude evidence that is:
 - i. Irrelevant;
 - ii. Unduly repetitive or cumulative;
 - iii. Character-based with no relevance to the allegations;
 - iv. Privileged or concerning the Complainant’s sexual history, except as allowed under limited exceptions defined in the “Protected Information” section.
- c. A party who is aware of, and has a reasonable opportunity to present, specific evidence and/or identify relevant witnesses during the investigation, but elects not to do so, may be precluded from introducing such evidence following completion of the investigation report, unless the party can demonstrate that the omission was the result of a good faith mistake, surprise, or excusable neglect.

3. Access to the Evidence

- a. At the conclusion of the evidence-gathering phase of the investigation, but prior to the completion of the investigation report, the Investigator will provide each party and their Support Person, in either electronic or hard copy format, access to all evidence obtained that is directly related to the allegations in the Formal Complaint. This includes evidence the University may not rely upon at any hearing, as well as inculpatory or exculpatory evidence regardless of the source.
- b. Each party will have ten (10) business days to review the evidence and submit a written response. The Investigator will consider any timely submitted responses before finalizing the investigation report.



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- c. The parties and their Support Person may review the evidence solely for the purposes of the Title IX grievance process. The evidence may not be copied, distributed, or disclosed publicly.

4. Investigation Report

- a. Upon the expiration of the ten (10) business day evidence-review period, the Investigator will complete a written investigation report that:
 - i. Fairly summarizes the investigative steps taken;
 - ii. Describes and summarizes the relevant evidence collected,
 - iii. Identifies lists of material facts on which the parties agree;
 - iv. Identifies material facts that remain in dispute; and
 - v. Credibility assessments, if applicable.
- b. Once finalized, the investigation report will be transmitted to the Title IX Coordinator and provided to both parties and their respective Support Persons, if any, in either electronic or hard copy form.

R. Hearing

1. Initiating the Hearing Process

- a. After the investigation report is sent to the parties, the Title IX Coordinator will notify each party of the hearing process, and options for informal resolution, if any, as alternatives to the hearing.
- b. The Title IX Coordinator will promptly appoint a hearing officer who will oversee the hearing process, screen evidence for relevance, and render a determination of responsibility for the allegations in the Formal Complaint at the conclusion of the hearing process. The Title IX Coordinator will provide the hearing officer with access to the investigation report and all evidence transmitted to the parties by the investigator as specified in the "Access to Evidence" section.
- c. Once appointed, the hearing officer will promptly notify the parties of deadlines for submitting any written response to the investigation report, the date of the pre-hearing conference, and the date and time of the hearing.
- d. The hearing shall be scheduled no fewer than ten (10) business days after the Investigator's delivery of the final investigation report to the parties.
- e. The notice will also provide a copy of the University's Hearing Procedures.

2. Written Response to Investigation Report:

- a. If a party chooses to submit a written response to the investigation report to the hearing officer, it should include:



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- i. To the extent the party disagrees with the investigation report, any argument or commentary regarding such disagreement;
 - ii. Any argument that evidence should be categorically excluded from consideration at the hearing based on privilege, relevance, the prohibition on the use of sexual history specified in “Content of Investigations,” or for any other reason;
 - iii. A list of any witnesses that the party contends should be requested to attend the hearing pursuant to an attendance notice issued by the hearing officer, and the expected evidentiary purpose of their testimony;
 - iv. A list of any witnesses that the party intends to bring to the hearing without an attendance notice issued by the hearing officer, and the expected evidentiary purpose of their testimony;
 - v. A list of document, photos, communications, or other evidence that the party intends to present at the hearing.
 - vi. Any request that the parties be separated physically during the pre-hearing conference and/or hearing;
 - vii. Any other accommodations that the party seeks with respect to the pre-hearing conference and/or hearing;
 - viii. The name and contact information of the Support Person who will accompany the party at the pre-hearing conference and hearing;
 - ix. If the party does not have a Support Person who will accompany the party at the hearing, a request that the University provide a Support Person for purposes of conducting questioning as specified in “Hearing.”
 - b. A party’s written response may include:
 - i. Argument regarding whether any of the allegations in the Formal Complaint are supported by a preponderance of the evidence; and
 - ii. Argument regarding whether any of the allegations in the Formal Complaint constitute Sexual Harassment.
3. Pre-Hearing Conference:
 - a. Before the hearing, the hearing officer may hold a live pre-hearing conference with the parties and their respective Support Persons, either in person or virtually, with all participants able to join simultaneously.
 - b. Upon request, parties can be placed in separate rooms with video and audio technology to allow simultaneous participation.
 - c. During the conference, the hearing officer will review hearing procedures, address issues from the parties’ written responses, discuss possible stipulations to streamline the hearing, review witness lists, and resolve any other relevant pre-hearing matters.
4. Witness Attendance Notices



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- a. After the pre-hearing conference, the hearing officer will send attendance notices to witnesses who are University employees or students. Notices will include the hearing date and time, and instructions to report any unavoidable conflicts.
 - b. Witnesses who receive an attendance notice should inform their supervisor or instructor if the hearing conflicts with work, classes, or other obligations; supervisors are required to excuse or accommodate them so they can attend.
 - c. The University will not send attendance notices to witnesses who are not University employees or students, but the parties are free to request their participation.
 - d. The hearing officer will decline to invite witnesses or permit witness testimony when, in the hearing officer's judgment, those witnesses' proposed testimony is irrelevant or otherwise legally impermissible.
 - e. The University cannot compel invited witnesses to participate in the Title IX hearing.
5. Hearing
 - a. After the pre-hearing conference, the hearing officer will conduct a live hearing.
 - b. Live hearings may be conducted with all parties physically present in the same location or, at the hearing officer's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
 - c. The hearing must be audio or audiovisually recorded. The recording will be made available to the parties for review and appeal preparation.
 - d. Each hearing will include at a minimum:
 - i. Opportunity for each party to address the hearing officer directly and to respond to questions posed by the hearing officer;
 - ii. Opportunity for each party's Support Person to ask directly, orally, and in real time, relevant questions, and follow up questions, of the other party and any witnesses, including questions that support or challenge credibility;
 - iii. Opportunity for each party to raise contemporaneous objections to testimonial or non-testimonial evidence and to have such objections ruled on by the hearing officer and a reason for the ruling provided;
 - iv. Opportunity for each party to submit evidence that the party did not present during the investigation due to mistake, inadvertence, surprise, or excusable neglect;
 - v. Opportunity for each party to make a brief closing argument.
 - e. The hearing is closed to all except the parties, their respective Support Persons, the investigator, the hearing officer, the Title IX Coordinator, and necessary University personnel; witnesses



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will be invited to attend one at a time to give their testimony and answer questions.

- f. The hearing officer has discretion over hearing procedures, admissibility of evidence, and may limit or bar participation for disruptive parties or Support Persons. While not a formal court proceeding, basic order and decorum will be expected of all participants.
- g. The hearing officer will not assume responsibility or guilt based solely on a party or witness's absence or refusal to answer questions.

6. Deliberation and Determination

- a. After the hearing, the hearing officer will objectively evaluate all relevant evidence from the investigation and the hearing, considering both evidence that supports and refutes the allegations, and apply a "preponderance of the evidence" (more likely than not) standard to decide if a policy violation occurred.
- b. Credibility determinations will not be based on anyone's role as Complainant, Respondent, or witness.
- c. The hearing officer will not consider any evidence ruled inadmissible consistent with the "Protected Information" section of this policy, or base credibility determinations based on anyone's role as Complainant, Respondent, or witness.
- d. If the hearing officer determines that the Respondent is responsible for a policy violation, they will consult with a University official who has disciplinary authority to determine appropriate sanctions. The sanction determination will follow the "Sanctions and Remedies" section below.
 - i. For student Respondents, the University official will be the Senior Vice Provost of Student Success or their designee
 - ii. For employee Respondents, the University official will be the supervising executive (relevant Vice President or Provost) or their designee.
 - iii. For Respondents who are contractors, vendors, visitors, volunteers, etc., the University official will be the Chief Operating Officer or their designee.
- e. The hearing officer will also consult with the Title IX Coordinator to decide on ongoing Supportive Measures or other remedies, consistent with the "Sanctions and Remedies" section below, for the Complainant before issuing a written decision.
- f. The hearing officer will prepare a written determination that will include:
 - i. Identification of the allegations potentially constituting Sexual Harassment made in a Formal Complaint
 - ii. A description of the procedural steps taken by the University upon receipt of the Formal Complaint, through issuance of the written determination, including notification to the parties, interviews with the parties and witnesses, site visits,



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- methods used to gather non-testimonial evidence, and the date, location, and people who presented testimony at the hearing.
- iii. Articulate findings of fact, made under a preponderance of the evidence standard, that support the determination;
- iv. A statement of, and rationale for, each allegation that constitutes a separate potential incident of Sexual Harassment, including a determination regarding responsibility for each separate potential incident;
- v. The sanction determined by the appropriate University official as referenced in the “Sanctions and Remedies” section;
- vi. Any ongoing Supportive Measures or other remedies as determined by the Title IX Coordinator; and
- vii. A description of the University’s process and grounds for appeal, as specified in “Appeals Process.”
- g. The hearing officer will issue the written determination to the parties in a reasonably prompt manner—generally within fourteen (14) days of the conclusion of the hearing.

S. Sanctions and Remedies

1. In determining the appropriate sanction(s), the University official shall be guided by the following considerations:
 - a. The severity, persistence, or pervasiveness of the policy violations;
 - b. The nature of violence in the Sexual Harassment and/or use of weapons, drugs, or alcohol (if applicable);
 - c. The impact of the policy violations on the Complainant;
 - d. The impact or implications of the policy violations on the university community;
 - e. Established prior misconduct by the Respondent, including the Respondent’s relevant prior disciplinary history;
 - f. Whether the Respondent has accepted responsibility for the policy violations;
 - g. Past sanctions for similarly situated Respondents;
 - h. The maintenance of a safe, nondiscriminatory, and respectful working and learning environment; and
 - i. Any other mitigating, aggravating, or compelling factors.
2. Possible sanctions for being found responsible for conduct adjudicated under this policy include the following:
 - a. Employees—Possible sanctions against employees for violations of this policy include verbal counseling, mandatory training, written warning, probation, reassignment, transfer, demotion, reduction in pay, suspension without pay, and termination of employment.
 - b. Students—Possible sanctions against students for violations of this policy include fines, restitution, suspension, warning, mandatory training, probation, dismissal, withholding diploma, revocation of certificate or degree, and notation on the



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student's transcript consistent with the Family Educational Rights and Privacy Act.

- c. Vendors/Contractors/Visitors/Volunteers—Possible sanctions against vendors or visitors to campus who are neither students nor employees of the University for violations of this policy include banning the individuals from all or part(s) of the University and ending business relationships with the vendors and contractors.
3. In addition to the above sanctions, the University may issue remedies for the Complainant to restore or preserve equal access to the University's Education Programs or Activities. These remedies may include adjustments to academic or work arrangements or assignments, access to counseling services, academic support, campus restrictions, climate assessments, educational training, or other appropriate measures.

T. Appeals Process

1. Either party may appeal the hearing officer's written determination or a dismissal of a Formal Complaint only on the following grounds:
 - a. Procedural irregularity that affected the outcome;
 - b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome;
 - c. Conflict of interest or bias by the Title IX Coordinator, Investigator, or hearing officer that affected the outcome;
 - d. The sanction imposed is substantially disproportionate to the offense.
2. Appeals must be filed in writing to the appeal officer within seven days (7) of notice of the decision, or within three (3) days of the other party appealing, whichever is later.
3. The appeal officer shall be the Senior Vice Provost for Student Success when the Respondent is a student, and the University executive who oversees the employee Respondent, or their designee.
4. The appeal must specify the decision being appealed, the grounds for appeal, a detailed explanation, and the relief sought.
5. The appeal officer will first confirm the appeal is timely and based on permitted grounds; if not, the appeal is dismissed with written notice to the parties.
6. If the appeal proceeds, the other party is notified and may submit a written opposition within seven (7) days.
7. The appeal officer will review necessary records, decide the appeal, and provide a written decision and rationale to both parties.
 - a. In cases where a hearing officer's determination is appealed, the appeal officer's final written determination may (1) uphold the hearing officer's written determination(s) of responsibility and/or sanction; (2) modify the hearing officer's written determination(s) of responsibility and/or sanction; or (3)



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reverse the hearing officer's written determination(s) of responsibility.

- b. In cases where a Title IX Coordinator's dismissal of a Formal Complaint is appealed, the appeal officer's final written determination may (1) uphold the Title IX Coordinator's dismissal, or (2) reverse the Title IX Coordinator's dismissal. If the dismissal is reversed, the Title IX Coordinator shall proceed with the process described in this policy, beginning with the filing of a Formal Complaint.
8. The decision on appeal is final, and no further review is allowed.
9. The University aims to issue the appeal officer's written decision within 21 days of filing the appeal.