

**COPPIN STATE UNIVERSITY  
PROCEDURES FOR ALLEGATIONS OF SEX DISCRIMINATION AND OTHER  
PROHIBITED CONDUCT**

These Procedures accompany VI-1.60(A) COPPIN STATE UNIVERSITY Policy and Procedures on Sex Discrimination and Other Sexual Misconduct (Policy) and are the exclusive procedures that govern complaints of Prohibited Conduct under the Policy.

**I. Definitions and Prohibited Conduct**

These Procedures adopt and incorporate all terms defined in VI-1.60(A) Policy on Sex Discrimination and Other Sexual Misconduct in Sections II “Definitions” and V “Prohibited Conduct” of the Policy).

**II. Right to Support Person and Advisor**

A Party may, at their own election, be accompanied at any meeting or proceeding under these Procedures by one (1) Support Person and one (1) Advisor. When a Party wishes to be accompanied by a Support Person and Advisor to a meeting, the Party must notify the Title IX Coordinator or Title IX Team designee in advance. Parties may select a Support Person and Advisor at any point before the conclusion of the resolution process. Throughout the process, the Title IX Coordinator will communicate and correspond directly with the Parties, not indirectly through a Support Person and Advisor.

**III. Report Intake and Complaint**

**A. Reporting**

Any person may report Prohibited Conduct (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute Prohibited Conduct) to the Title IX Coordinator in person, by mail, by telephone, or by email, or by any other reasonable means by using the contact information listed in Section VI.A of the Policy at any time.

If the report is received from a third party, meaning someone who is not the Complainant or the Respondent, the Office of Title IX Compliance (TIXO) will provide written acknowledgement of receipt of the report and take appropriate action as the information provided allows. As explained more fully below, the Complainant may: (1) ask the TIXO to take no further action beyond offering Supportive Measures; or (2) file a Complaint.

**B. TIXO Response and Notices**

Upon receipt of information about conduct which may reasonably constitute Prohibited Conduct from a Complainant, the TIXO will provide written acknowledgement of receipt

of the report to the Complainant, if known, and include (1) a copy of the Policy and Procedures, (2) options under the resolution process, including how to initiate a Complaint, and (3) Notice of Rights and Options. The Parties will be informed of available community and campus resources and services; Supportive Measures as specified in Section III.F of these Procedures; their right to a Support Person; their right to an Advisor; their right to file a report with law enforcement; and the University's prohibition against Retaliation.

### **C. Initiation of Complaint**

Upon notification by a Complainant or an employee of information about conduct that reasonably may constitute Prohibited Conduct the Title IX Coordinator will:

1. Initiate grievance procedures in response to a Complaint; or
2. In the absence of a Complaint or the withdrawal of any of the allegations in a Complaint, determine whether to initiate a Complaint of Prohibited Conduct in consideration of, at a minimum, the following factors:
  - a. Whether the Complainant has requested not to proceed with the Complaint;
  - b. The Complainant's reasonable safety concerns regarding initiating a Complaint;
  - c. The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
  - d. The severity of the alleged Prohibited Conduct, including whether the discrimination, if established, would require the removal of the Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent recurrence;
  - e. The age and relationship of the parties, including whether the Respondent is an employee;
  - f. The scope of the alleged Prohibited Conduct, including information suggesting a pattern, on-going Prohibited Conduct, or if Prohibited Conduct is alleged to have impacted multiple individuals;
  - g. The availability of evidence to assist a Hearing Officer in determining whether Prohibited Conduct occurred; and
  - h. Whether the University could end the alleged Prohibited Conduct and prevent its recurrence without initiating grievance procedures.
3. If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct, as alleged, prevents the University from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint. If the Title IX Coordinator initiates a Complaint, the Title IX Coordinator will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures.

The Title IX Coordinator need not initiate a Complaint or consider the factors outlined above if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute Prohibited Conduct.

#### **D. Dismissal of Complaints**

1. The University may dismiss a Complaint for any of the following reasons:
  - a. The University is unable to identify the Respondent after taking reasonable steps to do so;
  - b. The Respondent is not participating in the Education Program or Activity or is not employed by the University;
  - c. The Complainant voluntarily withdraws, in writing, any or all of the allegations in the Complaint; the Title IX Coordinator declines to initiate a Complaint on behalf of the University; and the University determines that without the Complainant's withdrawn allegations any conduct that remains would not constitute Prohibited Conduct, if proven.
  - d. The University determines that the conduct alleged, if proven, would not constitute Prohibited Conduct, after taking reasonable steps to clarify the allegations with the Complainant.
2. Upon dismissal, the University will promptly notify the Complainant of the basis of the dismissal and the opportunity to appeal.
3. Upon dismissal, if the dismissal occurs after the Respondent has been notified of the allegations, the University will promptly notify the Respondent of the basis of the dismissal and the opportunity to appeal.
4. If a dismissal is appealed, the University will:
  - a. Notify the Parties, including providing notice of the allegations to the Respondent if not previously notified.
  - b. Implement appeal procedures equally for the Parties (see Section IV.E in the Procedures);
  - c. Ensure that the Appellate Hearing Officer has received training and did not participate in the investigation or dismissal;
  - d. Provide the Parties a reasonable and equal opportunity to make a statement in support of or challenging the outcome; and
  - e. Notify the Parties of the result of the appeal and the basis for the result.
5. Upon dismissal, the Title IX Coordinator will offer Supportive Measures to Complainant or Respondent, as appropriate.
6. Upon dismissal, the Title IX Coordinator will take appropriate and prompt steps to ensure that Prohibited Conduct does not continue or recur.

## **E. Consolidation of Complaints**

At the discretion of the Title IX Coordinator, Complaints of Prohibited Conduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, may be consolidated where the allegations of Prohibited Conduct arise out of the same facts or circumstances.

## **F. Supportive Measures**

The Title IX Coordinator will offer and coordinate Supportive Measures in consultation with other appropriate University officials, as needed, which are available to the Parties upon receiving a report or Complaint alleging Prohibited Conduct. The Title IX Coordinator will consider the Parties' wishes with respect to planning and implementing the Supportive Measures. Supportive Measures will remain in effect as necessary.

The range of Supportive Measures available to Complainants and Respondents include, but are not limited to:

- Academic arrangements such as extensions on assignments and test, rescheduling exams, dropping or retaking courses, or changing course schedules
- Housing arrangements such as changes in location on campus or assistance securing off-campus housing
- Employment arrangements such as alternative schedules, deadlines, or working locations
- Safety arrangements such as escorts, transportation, and other safety planning
- No contact orders
- Denial of access to campus grounds or facilities

The University provides the Parties with a timely opportunity to seek modification or reversal of the decision to provide, deny, modify, or terminate Supportive Measures that were issued by the Title IX Coordinator. The request may only be granted if the initial decision to provide, deny, modify, or terminate the Supportive Measures was inconsistent with the definition of Supportive Measures. The request to modify Supportive Measures will be decided by an impartial decision-maker who is not the employee who made the challenged decision and must have authority to modify or reverse the decision.

The University will also provide a Party with the opportunity to seek additional modification or termination of a Supportive Measure applicable to them if circumstances change materially. The University will not disclose information about any Supportive Measures to persons other than the person to whom they apply, including informing one Party of Supportive Measures provided to another Party, unless necessary to provide the Supportive Measure, restore or preserve the Party's access to the Education Program or Activity, or when an exception applies.

## IV. Complaint Procedures

### A. General Principles.

The following will apply throughout all stages of these Procedures.

1. **Equitable Treatment.** Complainants and Respondents will be treated equitably by:
  - a. Providing remedies to a Complainant where a determination of responsibility for Prohibited Conduct has been made against the Respondent, and by using procedures that comply with Title IX when investigating and adjudicating allegations of Prohibited Conduct before the imposition of any Sanctions or other actions that are not Supportive Measures against a Respondent (remedies must be designed to restore or preserve equal access to the University's Education Program or Activity);
  - b. Providing an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
  - c. Applying any provisions, rules, or practices used to investigate and adjudicate Complaints under Title IX equally to both Parties.
2. **Objective Evaluation of Evidence.** The University will objectively evaluate all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.
3. **No Conflict or Bias.** The Title IX Coordinator, Investigator, or Hearing Officer(s) for a Hearing or appeal; or any person designated to facilitate an Informal Resolution process, will not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
4. **Presumption of Non-Responsibility.** Respondents are presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the process.
5. **Privacy.** The University's procedures will take reasonable steps to protect the privacy of the Parties and witnesses during the process, provided that steps do not restrict the ability of the Parties to obtain and present evidence, consult with others, or otherwise prepare for or participate in the process.

### B. Informal Resolution Process

At any time prior to reaching a determination regarding responsibility, the Parties may elect to participate in the Informal Resolution process. The Parties can elect to participate in the Informal Resolution process by notifying the Title IX Coordinator, in writing, of their preference to proceed with Informal Resolution. Upon notification in writing, the Title IX Coordinator will reach out to the other Party to obtain their consent to proceed with Informal Resolution. The University may not require either Party to participate in the Informal Resolution process nor may it require, as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Complaints of Prohibited Conduct. The Informal Resolution process is not available for Complaints involving allegations of Sexual Assault or Sexual Coercion.

1. **Notice.** Upon written consent of both Parties to proceed with the Informal Resolution process, the Title IX Coordinator will provide the Parties with written notice of:
  - a. the allegations;
  - b. the requirements of the Informal Resolution process including that at any time prior to the Parties' agreement to a resolution, any Party may withdraw from the Informal Resolution process and initiate grievance procedures;
  - c. that the Parties' agreement to a resolution at the conclusion of the Informal Resolution process precludes the Parties from initiating or resuming grievance procedures arising from the same allegations;
  - d. the potential terms that may be requested or offered in an Informal Resolution agreement, including a notice that the agreement is binding only on the Parties; and
  - e. what information will be maintained by the Title IX Office and how the office could disclose such information for use in grievance procedures, if initiated or resumed.
2. **Informal Resolution Facilitator.** Informal Resolution, including mediation, must be conducted by a trained facilitator who guides the Parties in a confidential dialogue to reach an effective resolution, if possible. The University will not use the same facilitator for Informal Resolution to investigate or decide a matter under the grievance procedures. Any designated facilitator must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
3. **Sanctions and Remedies.** Informal Resolution process will not result in any Sanctions set forth under this Policy and Procedures, unless the Parties agree to accept Sanctions and/or appropriate Remedies. If agreed to by the Parties and determined appropriate by the Title IX Coordinator and facilitator, Sanctions and Remedies may include, but are not limited to:
  - a. Increased monitoring, supervision, and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur;

- b. Targeted or broad-based educational programming or training for relevant individuals or groups;
  - c. Academic, workplace, and/or housing modifications for either Party;
  - d. Compliance with a No Contact Order or Denial of Access;
  - e. Separation from the University.
4. **Completion of Information Resolution Process.** When an Informal Resolution agreement is reached and the terms of the agreement are implemented, the matter is resolved and closed. Appeals by either Party are not permitted. The Title IX Coordinator is responsible for ensuring compliance with the agreement. In cases where an agreement is not reached and the Title IX Coordinator determines that further action is necessary, or if either Party fails to comply with the terms of the Informal Resolution, the matter may be referred for an investigation and adjudication under these Procedures, as appropriate.
5. **Records.** The Parties will be provided with a written copy of the terms of the Informal Resolution agreement. The Title IX Coordinator will maintain all records regarding Informal Resolution.

### C. Complaint Investigation Process

When investigating a Complaint, the procedures below will be utilized. However, at any time prior to reaching a determination regarding responsibility, an Informal Resolution may occur, if appropriate conditions are satisfied (see Section IV.B of these Procedures).

1. **Standard of Evidence.** The standard of evidence for a determination of responsibility is “by preponderance of the evidence” for all Complaints under this Policy.
2. **Notice of Investigation.** Upon initiation of a Complaint, the University will provide written notice to known Parties of the following:
  - a. The investigation and adjudication process, including any Informal Resolution process available;
  - b. The allegations, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. “Sufficient details” include the identities of the Parties involved in the incident, if known, the conduct allegedly constituting Prohibited Conduct and the dates and locations of the alleged incidents, if known;
  - c. A statement that Retaliation is prohibited;
  - d. A statement that the Parties are entitled to equal opportunity to access relevant and not otherwise Impermissible Evidence or an accurate summary of that evidence.
  - e. A statement that the Parties will have an opportunity to present relevant and not otherwise Impermissible Evidence to a trained, impartial Hearing Officer;

- f. A statement that an Advisor and a Support Person are permitted, and that the Advisor is not required, but may be, an attorney;
- g. A statement that the Respondent is presumed not responsible until a determination is made; and
- h. A statement that prohibits knowingly making false statements or submitting false information during grievance procedures is prohibited and may be subject to the Sanctions in this Policy.

In the event the University decides to investigate additional allegations of Sex-Based Harassment by the Respondent against the Complainant, the University must provide additional written notice to all Parties who are known.

To the extent the University has reasonable concerns for the safety of any person as a result of the University providing such notice, the University may reasonably delay providing written notice in order to address safety concerns appropriately. Reasonable concerns must be based on an individualized safety and risk analysis and not mere speculation or stereotypes.

3. **Impermissible Evidence.** The University may not elicit, consider, require, rely upon, allow, disclose, or otherwise use any of the following as evidence (Impermissible Evidence), regardless of whether they are relevant:
  - a. Information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege;
  - b. Records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the treatment of a Party or witness, unless the University obtains that Party's or witness's voluntary, written consent to do so.
  - c. A Student's history of mental health counseling, treatment, or diagnosis, unless the Student consents.
  - d. Evidence relating to a Complainant's sexual interests or prior sexual conduct, except the following is permitted:
    - i. Evidence about the Complainant's prior sexual conduct that is offered to prove that someone other than the Respondent committed the alleged conduct; or
    - ii. Evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged Sex-Based Harassment. The fact of prior consensual sexual conduct between Complainant and Respondent does not by itself demonstrate or imply that the Complainant's consent occurred in the events alleged.
4. **Role of the Investigator.** The Title IX Coordinator will designate an Investigator(s) to conduct a prompt, thorough, fair, and impartial investigation.



5. **Overview of the Investigation.** When investigating a Complaint and throughout the investigation and adjudication process, the University and Investigator will undertake the following steps:
- a. The Parties may submit evidence (both inculpatory and exculpatory) and the names of witnesses Relevant to the allegations of Prohibited Conduct to the Investigator. The Parties shall submit the evidence via email, or in any other practical form in consideration of the type of evidence.
  - b. The Investigator will affirmatively investigate the allegations of Prohibited Conduct and seek additional evidence and witnesses not provided by the Parties.
  - c. The Investigator will ensure equal access to all relevant and not Impermissible Evidence by:
    - i. Sending to the Parties and their Advisors, if applicable, all evidence obtained that is directly related to the Complaint, including evidence upon which the University does not rely in reaching a determination regarding responsibility, including inculpatory and exculpatory evidence; and
    - ii. Providing a Draft Investigation Report which will contain summaries of all relevant information, including summaries of statements obtained from the Parties and witnesses, collected throughout the course of the investigation and analysis of fact.
  - d. The Parties will have five (5) business days to review the Draft Investigation Report and submit a written response, including comments, information, and/or questions to the Title IX Coordinator. If there is any new or additional information to be provided by either Party, it will be presented to the Investigator. If further investigation is warranted based on the Parties' written responses, the Investigator will continue the investigation as needed. The Investigator will consider the Parties' written responses prior to completing the Final Investigation Report.
    - i. Upon timely receipt of the Parties' written responses, after any further inquiry deemed necessary by the Investigator following receipt of the Parties' written responses, or after the five (5) day review period has lapsed with no written responses, the investigation ends.
    - ii. The Investigator will complete the Final Investigation Report. The Final Investigation Report will be sent to the Parties, their Advisors, Support Persons, and Hearing Officers by the Title IX Coordinator.

#### **D. Adjudication Process**

1. **Live Hearing and Hearing Officers.** When the Parties have not elected to use the Informal Resolution Process, all Complaints will be adjudicated through a live hearing. Up to three Hearing Officers will conduct the Hearing. If there are multiple Hearing Officers, one of the Hearing Officers will serve as the Hearing Chair.

The Hearing Officers must not have a bias for or against Complainants or Respondents generally or the individual Complainant or Respondent in particular. The Parties may raise challenges that a Hearing Officer is biased or has a conflict of interest. The Parties must raise challenges with the Title IX Coordinator within two (2) business days of receiving the hearing notice. The Title IX Coordinator will only remove and replace a Hearing Officer in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.

2. **Hearing Format.** The live hearing may occur in person or via video technology. All hearing formats must allow Parties to simultaneously see and hear a Party or witness while that person is speaking. Alternative arrangements may also be made at the Title IX Coordinator's discretion. The Parties may make a request to the Title IX Coordinator that the hearing occur in person or via video technology, but they must do so at least three (3) business days prior to the hearing. The Title IX Coordinator retains discretion to determine whether the hearing will occur in person or via video technology.
3. **Hearing Recordings.** All hearings will be recorded. Parties may request a copy of the recording from the Title IX Coordinator following the live hearing.<sup>1</sup> No unauthorized recording or disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted. The University records hearings (but not deliberations) for purposes of review in the event of an appeal. The Hearing Officers, the Parties, Advisors, Appellate Hearing Officers, and other appropriate University officials will be permitted to review the recording upon request to the Title IX Coordinator.
4. **Hearing Participants.** Persons who may be present for a hearing include the Hearing Officers, Investigator(s), the Parties and their Advisors and Support Persons, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Hearing Officers. Witnesses may be present only during their testimony. If any Party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX Coordinator may reschedule the

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<sup>1</sup> Hearings are generally recorded by audio and may include video. If the hearing occurs virtually, an auto-generated transcript may be provided upon request of any Party. There will be no "official" transcript of the proceedings by a licensed court reporter. If any Party has a disability-related need for a certain method of recording, that Party should contact the Center for Counseling and Accessibility Services for students and Human Resources for employees prior to the hearing in order to request these services in advance, pursuant to Section IV.D.7 of these Procedures.

hearing. Parties and Advisors may choose to bring phones, laptops, or tablets to the hearing, and all devices must be used consistent with this Policy and accompanying Procedures.

5. **Advisors and Support Persons.** The Parties may have the assistance of one (1) Advisor and one (1) Support Person of their choosing at the hearing. A party may choose an attorney as their Advisor. No Advisors, including attorney-Advisors, will be paid for, prearranged or otherwise provided by the University. An Advisor or a Support Person 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 or Support Person. During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor and Support Person . No other persons (e.g., additional Support Persons, Advisors, friends, family) may accompany, attend, or listen in on the hearing unless explicitly authorized by the Title IX Coordinator, with each party being provided the same opportunity.
6. **Impact Statements.** Each party may submit an impact and/or mitigation statement to the Title IX Coordinator on the day of the hearing that the Hearing Officers will review during any Sanction determination.
7. **Disability Accommodations and Other Assistance.** Parties should contact the Title IX Coordinator at least three (3) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing.
8. **Evidence.** The Hearing Officers will be provided electronic copies of the Final Investigation Report and all relevant but not Impermissible Evidence, including the names of all Parties, witnesses, and Advisors and Support Persons, in advance of the hearing. The Parties will be provided with electronic copies of all the materials provided to the Hearing Officers as part of the hearing notice, unless those materials have already been provided.
9. **Hearing Notice.** The Title IX Coordinator will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing, generally at least five (5) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice will include:
  - a. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential Sanctions that could result.
  - b. The time, date, and location of the hearing.
  - c. A description of any technology that will be used to facilitate the hearing.
  - d. Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the identity of the Hearing Officers, details related to questioning, the role of Advisors and Support Persons,

impact/mitigation statements, and how to request disability accommodations or other assistance.

10. **Joint Hearings.** In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complaint with respect to each alleged Policy violation.

11. **Witness Participation.** Witnesses are encouraged to participate in and make themselves reasonably available for the hearing. Witnesses are not permitted to be accompanied by an Advisor or Support Person. At the discretion of the Hearing Chair, a witness may join by phone if no other reasonable alternative is available. Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to ensure a prompt resolution. All employees, including Parties and witnesses, whether they have a 12-month contract or not, are required to participate in or otherwise assist with an investigation or hearing under this Policy and accompanying Procedures even if the investigation or hearing occurs during months between contracts.

Any witness scheduled to participate in the hearing must be first interviewed by the Investigator(s), unless:

- a. All Parties and the Hearing Officers assent to the new witness's participation in the hearing without remanding the Complaint back to the Investigator; and
- b. The Hearing Officers deem the evidence presented by the new witness to be relevant, not impermissible, and not information already established in the record; and
- c. The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

The Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony. The hearing may proceed in the absence of any witness if the witness fails to attend the hearing or if the witness's testimony is determined by the Investigator to constitute Impermissible Evidence.

The Title IX Coordinator will work with the Hearing Officers and Parties to finalize a witness list for the hearing, and the Title IX Coordinator will notify any witnesses of the hearing's logistics.

12. **Pre-Hearing Meetings.** The Title IX Coordinator will offer to convene a pre-hearing meeting(s) with the Parties and their Advisors and Support Persons and invite them to submit the questions or topics they wish to ask or discuss at the hearing. Hearing Officers will consider the relevance of these questions prior to the hearing and eliminate any questions which constitute Impermissible Evidence under this Policy.

This advance review opportunity does not preclude the Parties from submitting a question at the hearing for the first time or asking for a reconsideration on a Hearing Officer's pre-hearing decision based on any new information or testimony offered at the hearing.

13. **Hearing Procedures.** Hearings will be generally conducted in the following order unless the Hearing Officer(s) determine good cause exists to alter the order of the proceedings.

- a. **Collateral Misconduct.** The Hearing Chair has the authority to hear and make determinations on all allegations of discrimination, harassment, retaliation, and Other Sexual Misconduct under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that occurred in concert with the discrimination, harassment, retaliation, or Other Sexual Misconduct, even though those collateral allegations may not specifically fall within the Policy.
- b. **Introductions and Procedure.** The Hearing Chair will explain the hearing procedures and introduce the participants. The Hearing Chair will answer any procedural questions prior to and as they arise throughout the hearing.
- c. **Investigator Presentation of Final Investigation Report.** The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Hearing Officers and then the Parties may submit questions via the Hearing Chair. The Investigator may attend the duration of the hearing or be excused after their testimony at the Hearing Chair's discretion.
- d. **Opening Statements.** The Complainant may give the first opening statement, if any, followed by the Respondent's.
- e. **Testimony and Questioning.** All questions during the hearing will be asked by the Hearing Officers in the order determined by the Hearing

Chair. Parties and Advisors may suggest questions to be posed by the Hearing Chair during the pre-hearing meetings or by submission of written questions during the hearing.

All questions are subject to a relevance determination before they are asked. The Hearing Chair will determine the method by which the Parties will submit their questions to the Hearing Chair for their review and, if approved, to be posed. Questions that the Parties wish to have posed can be questions for that Party themselves, another Party, or witnesses.

No questions which constitute Impermissible Evidence under these Procedures will be posed. The Hearing Chair will limit or disallow questions they deem inappropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to Impermissible Evidence, or are abusive. The Hearing Chair has final say on all questions and determinations of relevance and appropriateness. The Hearing Chair may consult with the Title IX Coordinator on any questions of admissibility. The Hearing Chair will explain any decision to exclude a question and Parties and Advisors will be allowed the opportunity to rephrase any excluded question.

The Hearing Chair then poses the questions deemed relevant, not impermissible, and appropriate to the Party and/or witness.

The Hearing Chair will allow witnesses who have relevant and not impermissible information to appear at a portion of the hearing to respond to specific questions from the Hearing Officers and the Parties, and the witnesses will then be excused.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Hearing Officers at the hearing, the Hearing Chair may elect to address those issues, consult with the Title IX Coordinator, refer them to the Title IX Coordinator, and/or preserve them for appeal.

- f. **Refusal to Submit to Questioning and Inferences.** Any Party or student 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. Employee witnesses are required to participate in the hearing, except in exceptional circumstances where they cannot be reasonably made available. The Hearing Officers can only rely on the available relevant and not Impermissible Evidence in making the ultimate determination of responsibility. The Hearing Officers may not draw any inference solely from a Party's or witness's absence from the hearing or refusal to answer any or all questions.

- g. **Closing Statements.** Both parties are permitted to give closing statements at the conclusion of all questioning, beginning with the Complainant and ending with the Respondent.
- h. **Deliberation.** The Hearing Officers will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the Preponderance of the Evidence standard of proof. If a panel is used, a simple majority vote is required to determine the finding. Deliberations are not recorded.

When there is a finding of responsibility for one or more of the allegations, the Hearing Officers may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate sanction(s). The Title IX Coordinator will ensure that any submitted statements are shared with all Parties if they are considered by the Hearing Officers. Impact/mitigation statements do not influence the finding, they only potentially influence the Sanctions.

The Hearing Officer(s) shall confer with the Title IX Coordinator, and other University administrators as appropriate, prior to issuing the written determination. The Title IX Coordinator and other University administrators will provide input with respect to any recommended Sanction and Remedies to the Hearing Officer(s). Although the Hearing Officer(s) may confer with University officials, the Hearing Officer(s) is the decision-maker(s) responsible for issuing the Written Notice of Determination.

- i. **Determination.** The Hearing Chair will then prepare and provide the Title IX Coordinator with a Written Notice of Determination that will include:
  - i. A description of the allegations;
  - ii. Information about the policies and procedures that the University used to evaluate the allegations;
  - iii. The Hearing Officers' evaluation of relevant and not otherwise Impermissible Evidence and determination whether Prohibited Conduct occurred;
  - iv. If the Hearing Officers find that Prohibited Conduct occurred, any disciplinary Sanctions that will be imposed and any remedies that will be provided; and
  - v. The procedures for appeal.

The University will not publicly disclose personally identifiable information about the Parties or the written determination (including any Sanctions) except as required by law. The Title IX Coordinator will notify the Parties simultaneously of the Written Notice of Determination as to whether Prohibited Conduct occurred.

- j. **Disciplinary Sanctions, Supportive Measures, and Other Responsive Actions.** The University may take responsive action based on a determination of responsibility for a violation of the Policy. Responsive action is intended to eliminate Prohibited Conduct, prevent its recurrence and promote accountability while supporting the University's educational mission and legal obligations. Responsive action may include Sanctions, Supportive Measures, or other responsive action including rehabilitation, educational, restorative, or monitoring components.

The range of Sanctions and other responsive actions that may be imposed are listed as follows:

**Students.** Students found in violation of this Policy are subject to Sanctions such as dismissal from the University (suspension or expulsion), suspension or removal from University housing, disciplinary probation, disciplinary warning, loss of privileges, administrative housing room relocation, housing probation, denial of re-contracting with University housing, denial of access to campus grounds and/or buildings, fines, restitution, no contact order, and educational sanctions such as community service and mandatory and continuing participation in training on Prohibited Conduct, and education programming, depending on the circumstances and nature of the violation.

**Employees.** Employees found in violation of this Policy are subject to Sanctions including counseling, verbal reprimand, written reprimand, suspension without pay, denial of a pay increase, demotion to a lower pay grade/classification, no contact order, education and training, denial of access to campus grounds and/or buildings, reassignment, and separation from employment, depending on the circumstances and nature of the violation.

## **E. Appeals Process**

1. **Notice of Appeal.** Either Party may initiate this appeal process. Appeals must be submitted in writing to the Title IX Coordinator within five (5) business days of receipt of the Written Notice of Determination or any dismissal. Appeals will be in writing only. There will be no hearing. Parties will have five (5) business days from receipt of any dismissal or Written Notice of Determination to submit a written appeal statement challenging the decision. Parties will be notified if the other Party files a written appeal statement and given notice in writing of the general grounds for the appeal. The other Party will be given five (5) business days from receipt of the other Party's written appeal statement to submit a written appeal statement in support of the dismissal or written determination.
2. **Bases for Appeal.** Appeals are limited to the following bases:



- a. Procedural Irregularity which was material to the outcome of the dismissal or the written determination. Procedural irregularities may include but are not limited to: a failure to follow the University's procedures; a failure to objectively evaluate all relevant evidence, including inculpatory or exculpatory evidence; or a determination regarding what evidence was excluded as irrelevant.
  - b. New Evidence that was not reasonably available at the time the dismissal or written determination was made, that could affect the outcome. Evidence presented prior to the time the dismissal or written determination is issued does not qualify as new evidence that was not reasonably available.
  - c. Conflict of Interest or bias of Title IX Coordinator, Investigator, or Hearing Officer(s) for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the dismissal or written determination and that would change the outcome.
  - d. The Sanction set forth in the Written Notice of Determination is substantially disproportionate to the facts of the particular Policy violation.
3. **Review of Appeals and Appellate Hearing Officers.** Appeals will be reviewed by the designated Appellate Hearing Officer for all appeals of dismissal or written determinations under these Procedures. The appeal deliberation is closed to the Parties. The Appellate Hearing Officer will be determined in accordance with the Respondent's status, as explained below. The Appellate Hearing Officer shall be free from conflict of interest or bias and shall not be the same person who reached the determination regarding the dismissal or the written determination, the Investigator, or the Title IX Coordinator. All Appellate Hearing Officers will have had no previous involvement with the case that the Appellate Hearing Officer is assigned to review. Appellate Hearing Officers will be designated under the following standards:
- a. Appeals involving a Student Respondent shall be reviewed by one member of trained Appellate Hearing Officers designated by the Office of Student Conduct.
  - b. Appeals involving a staff Respondent shall be reviewed by the Vice President for Administration and Finance (VPAF) or designee. The VPAF or designee will appoint staff members available to serve as trained Appellate Hearing Officers. Appeals by staff Respondents will be assigned to one such Appellate Hearing Officer on a rotating case basis.
  - c. Appeals involving a faculty Respondent shall be reviewed by the Provost and Vice President of Academic Affairs (Provost/VPAA) or designee. The VPAA/Provost or designee will appoint faculty members available to serve as trained Appellate Hearing Officers. Appeals by

faculty Respondents will be assigned to one such Appellate Hearing Officer on a rotating case basis.

4. **Written Decision.** The Appellate Hearing Officer will issue a written decision including its rationale for the decision and shall be shared within five (5) business days of the deliberations. The written decision by the Appellate Hearing Officer is final and is not subject to further appeal. In the written decision, the Appellate Hearing Officer may: (1) affirm the dismissal or written determination; (2) overturn the dismissal or written determination; or (3) remand the case to the original hearing body to remedy procedural errors or to consider new evidence.
5. **Final Decision.** After the adjudication process is concluded or when the time for filing an appeal has expired and neither Party has submitted an appeal, the Title IX Coordinator shall notify the Parties simultaneously of the final outcome of the adjudication process. The determination regarding responsibility for a violation of the Policy becomes final either on the date that the University provides the Parties with the written decision of the result of the appeal if an appeal is filed, or if an appeal is not filed, on the date after which an appeal would no longer be considered timely, subject to any remanded proceedings.

## **V. Academic Transcripts and Effect of Withdrawal on Student Respondents**

Sanctions of expulsion and suspension are permanently noted on a Student Respondent's academic transcript. In the event a Respondent chooses to withdraw from the University prior to the resolution of a Complaint, or where the Respondent declines to participate in the University proceedings under the Policy and Procedures, the University will continue the resolution process in accordance with the Procedures. When a Respondent withdraws before the conclusion of the resolution process, the Respondent is ineligible to return to the University and will not be able to obtain an official University transcript until the resolution process has concluded.

## **VI. Post-Resolution Follow-Up**

After any Sanction and/or Remedies are issued, if the Complainant agrees, the Title IX Coordinator may periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine whether additional Remedies are necessary. The Complainant may decline future contact at any time. The Title IX Coordinator may periodically contact the Respondent to assure compliance with the intent and purpose of any Sanction and/or Remedies that have been imposed. Any violation by a Respondent of the intent and purpose of any Sanction and/or Remedies imposed under the Policy, or a failure complete a specified Sanctions or Remedies should be reported to the TIXO for a failure to comply with the Sanctions.

The Complainant and Respondent are encouraged to provide the Title IX Coordinator with feedback about their experience with the process and recommendations regarding ways to improve the effectiveness of the University's implementation of the Policy and Procedures.