

1.03 - TITLE IX SEXUAL HARASSMENT, DISCRIMINATION, AND RETALIATION FOR EMPLOYEES, STUDENTS, AND VISITORS

Effective: October 15, 2025

Purpose: Emporia State University is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities which are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, the University has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of sex, including conduct that falls under Title IX. The University upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process.

Scope: This policy prohibits all forms of discrimination on the basis of sex. Sometimes, discrimination involves the exclusion from activities, such as admission, athletics, or employment. Other times, discrimination takes the form of harassment or can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence, or domestic violence. When an alleged violation of this policy is reported, the allegations are subject to the procedures and grievance processes contained in this policy. For policies concerning all other types of harassment, retaliation, or discrimination, see 1.01 – Discrimination and Harassment Prevention.

When the Respondent is a member of the University community, the grievance processes may be available regardless of the status of the Complainant, who may or may not be a member of the University community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

This policy applies to the education program and activities of the University, and to conduct that takes place on the campus or on property owned or controlled by the University, at University sponsored events, or in buildings owned or controlled by University recognized student organizations. The Respondent must be a member of the University's community or engaging in prohibited conduct on University property or at a University event for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that limits or denies someone's ability to participate in or benefit from the University's educational program or activity. The University may also extend jurisdiction to off-campus and/or to

online conduct when the Title IX Coordinator determines that the conduct affects a substantial University interest.

Regardless of where the conduct occurred, the University will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial University interest includes:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- Any situation or conduct that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; AND/OR
- Any situation that is detrimental to the educational interests or mission of the University.

If the Respondent is unknown or is not a member of the University community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and supportive measures and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

In addition, the University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University property and/or events.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the University may be able to advocate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

Responsible Office: Human Resources; Academic Affairs; Enrollment Management and Student Success; Intercollegiate Athletics; Office of General Counsel

Policy Statement:

Role and Responsibility of the Title IX Coordinator

The Title IX Coordinator has the primary responsibility for coordinating the University's efforts related to the intake of reports, investigation and resolution of complaints, implementation of supportive measures, and remedies designed to stop, remediate, and

prevent discrimination, harassment, and retaliation prohibited under this policy. The Title IX Coordinator oversees all processes under this policy and these procedures.

Obligations in this policy assigned to a particular title, such as the Title IX Coordinator, may be designated as appropriate by the University, including to external professionals.

Independence and Conflict of Interest

Any individual carrying out any part of this policy shall be free from any actual conflict of interest or demonstrated bias that would impact the handling of a matter. Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator is to immediately notify the General Counsel who will either take, or reassign, the role of Title IX Coordinator for purposes of carrying out the handling and finalization of the matter at issue. Should any investigator, Hearing Officer, or Appeals Officer have a conflict of interest, the investigator, Hearing Officer, or Appeals Officer is to notify the Title IX Coordinator upon discovery of the conflict so that the Title IX Coordinator may reassign the role as appropriate. This policy will note where parties have the opportunity to challenge the participation of any individual implementing this policy based on actual conflict of interest or demonstrated bias.

How to Report

Complaints, reports, or notice of alleged policy violations or inquiries about or concerns regarding this policy and procedures may be made internally to:

- Title IX Office, 1 Kellogg Circle, Plumb Hall, 202, Emporia, KS 66801; (620) 341-5518
- Online reporting form: <http://www.emporia.edu/titleix>
- Email: report@emporia.edu

Anonymous reports are accepted but the University's ability to effectively respond may be limited.

Employee Reporting Obligations

All University employees are Responsible Employees, which means they are required to report any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation. The University has employees who are Confidential Resources, which means they are **exempt** from the duty to report information to the Title IX Coordinator if they learned the information in the scope of their employment in these roles:

- Licensed counselors and staff in the Counseling Center
- Legal Counsel
- Licensed medical staff in the Student Health Center

The University also encourages employees who themselves experience sexual harassment to bring their concerns to the Title IX Coordinator, though they are not required to do so.

If the Title IX Coordinator or any employee with the authority to institute corrective measures on behalf of the University has knowledge about Title IX Prohibited Conduct, then the University is considered to have actual knowledge of the report and will respond in accordance with this policy.

When providing this information to the Title IX Coordinator, the employee must include their own name and contact information, and all known details about an incident, which may include, if known, the dates, times, locations, names of involved individuals and the nature of the incident. Aside from this reporting obligation, employees will, to the fullest extent possible, maintain the privacy of an individual's information, consistent with FERPA.

Failure of a Responsible Employee to report an incident of harassment or discrimination of which they become aware to the Title IX Coordinator is a violation of University policy and can be subject to disciplinary action for failure to comply in accordance with the University's HR policies.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as University marches, rallies, or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the University.

Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed as determined by the Title IX Coordinator, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the sole discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the University will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint, if permitted by law.

False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately

misleading an official conducting an investigation can be subject to discipline under University policy.

Amnesty for Student Complainants and Witnesses

The University community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to University officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident.

It is in the best interests of the University community that Complainants choose to report misconduct to University officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, students who make a report or assist another in making a report to the University or who participate in the resolution of a report under this policy will not be subject to the University's policy concerning alcohol or drug use for actions that may have occurred at or near the time of the Prohibited Conduct defined within this policy, unless the alcohol or drug-related misconduct threatens the health or safety of another.

Reporting to Law Enforcement

Some Prohibited Conduct may constitute a violation of both the law and University policy. The University encourages students to report alleged crimes promptly to local law enforcement agencies. All persons have the right to file with law enforcement, as well as the right to decline to file with law enforcement. The decision not to file shall not be considered as evidence that there was not a violation of University policy.

Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. The standards for finding a violation of criminal law are different from the standards for finding a violation of this policy. Conduct may constitute Prohibited Conduct under this policy even if law enforcement agencies lack sufficient evidence of a crime and decline to prosecute.

Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. However, when a report is made to the University as well as to law enforcement, the University may delay its process if a law enforcement agency requests that the University delay its process for a reasonable amount of time to allow law enforcement to gather evidence of criminal misconduct. Criminal or legal proceedings are separate from the processes in this policy and do not determine whether this policy has been violated.

All investigations and hearings under this policy will be thorough, reliable and impartial, and will seek to collect evidence and names of witnesses to gather information that is directly

or substantially relevant to whether the alleged policy violation occurred, and will not be based on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

In the case of an emergency, where the physical well-being of a member of the University community or the safety at the University is threatened, any individual with such knowledge should promptly inform the Chief of Police and Safety. The University may take any immediate steps as may be necessary and appropriate under the circumstances to ensure the well-being of the University community.

Promptness

All allegations are acted upon promptly by the University once it has received notice or a formal complaint. The University strives to complete the investigation process within ninety (90) days from the date of the Notice of Investigation. The timeline for any part of the resolution process may be extended for good cause by the Title IX Coordinator. All parties shall be notified, in writing, of any extension to the timeline that is granted, the reason for the extension, and the new anticipated date of conclusion of the investigation and/or hearing. Good cause reasons for extension may include ensuring availability of witnesses and other participants and ensuring participants have sufficient time to review materials.

The University shall not unreasonably deny a student party's request for an extension of a deadline related to a formal complaint during periods of examinations or school closures.

The Investigator and/or Title IX Coordinator shall provide the Parties with periodic status updates, in writing.

Privacy and Confidentiality

The University values the privacy of its students, employees, and other community members. Community members should be able to seek the assistance they need and access this policy without fear that the information they provide will be shared more broadly.

References made to privacy mean the University offices and employees who cannot guarantee confidentiality, but will maintain privacy to the greatest extent possible, relaying information as necessary to investigate or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. The University will limit the disclosure as much as practicable.

All activities under these procedures shall be conducted with the privacy interests of those involved. While the University will take all reasonable steps to protect the privacy of individuals involved in a report, it may be necessary to disclose some information to individuals or offices on campus in order to address a report or provide for the physical safety of an individual or the campus. Thus, the University cannot, and does not, guarantee that all information related to reports will be kept confidential.

In order to maintain the privacy of evidence gathered as part of any resolution process, access to materials under the procedures in this policy will be provided only by a secure method and parties and advisors are not permitted to make copies of any documents shared or make use of the documents outside of the processes described in this policy. Parties may request to review a hard copy of materials, and the University will make that available in a supervised or monitored setting. Inappropriately sharing materials provided during this process may constitute retaliation under this policy.

Individuals may speak confidentially with a Confidential Resource. Confidential Resources (e.g., licensed mental health providers, medical providers, clergy) may not report to Title IX Coordinator any identifying information about conduct that may violate the University's policies against sex discrimination without the written consent of the individual who supplied the information, unless required by law. Such disclosures will not be reported to the Title IX Coordinator or initiate any process under this policy.

Prohibited Conduct

This policy prohibits Sex Discrimination, Sexual Harassment (including sexual harassment and sexual and interpersonal violence), and Retaliation as defined below. These acts shall also be referred to as Prohibited Conduct under this policy.

Title IX Prohibited Conduct

Conduct on the basis of sex that satisfies one or more of the following and meets the jurisdictional requirements described below:

- Title IX Quid Pro Quo Sexual Harassment. An employee or graduate student conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct;
- Title IX Hostile Environment Sexual Harassment. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity.
- Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation, as defined below and meeting the Title IX jurisdictional requirements described here.

Jurisdictional requirements for Title IX Prohibited Conduct: Conduct meeting these definitions must occur within the University's education program or activity and inside the United States to constitute Title IX Prohibited Conduct. The University's program or activity includes (1) any on-campus premises of the University; (2) any off-campus premises over which the University has substantial control; (3) off-campus activities that are part of an University program, including field trips and sanctioned events; and (4) activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the University's programs and activities over which the University has substantial control.

Sexual Assault

An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Specifically, this includes:

- **Rape:** the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- **Sexual Contact:** the intentional, nonconsensual touching of the clothed or unclothed body parts of another person for the purpose of sexual degradation, sexual gratification, or sexual humiliation. Sexual Contact also includes the forced, nonconsensual touching by the victim of the actor's clothed or unclothed body parts for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This offense includes 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.
- **Incest:** sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** sexual intercourse with a person who is under the statutory age of consent (16 years of age in Kansas).

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter.

Consent can also be withdrawn once given if the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not enough to constitute consent.

Proof of consent or non-consent and the burden of collecting evidence sufficient to reach a determination regarding responsibility, rests on the University, not the parties.

The burden remains on the University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must be considered in context. When parties consent to BDSM (Bondage, discipline/dominance, submission/sadism, and masochism) or other forms of

kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so the University’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

- It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.
- Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.
- This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

Dating Violence

Physical violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.

Domestic Violence

Felony or misdemeanor crimes of physical violence committed by a person who:

- Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the University, or a person similarly situated to a spouse of the victim;
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- Shares a child in common with the victim; or
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction

Stalking

Engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others; or suffer substantial emotional distress.

For purposes of this definition course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action,

method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

Substantial emotional distress means significant mental suffering or anguish that may be the cause for, but does not necessarily require, medical or other professional treatment or counseling.

Sex Discrimination

Providing differential, less favorable treatment on the basis of sex in University programs or activities, including but not limited to financial aid, athletics, admissions, enrollment, access to benefits or services, or employment. Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Discrimination against pregnant or parenting students may also be considered a sex-based offense.

Sexual Exploitation

When a person engages in non-consensual or abusive conduct that takes sexual advantage of another individual for the person's own advantage or benefit, or to benefit or advantage anyone other than the individual being exploited and does not constitute any other offense addressed in this Policy.

Taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed) or invasion of sexual privacy;
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography;
- Prostituting another person;
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually- transmitted disease (STD) or infection (STI), without informing the other person of the infection;

- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity ;
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections;
- Forcing a person to take an action against that person's will by threatening to show, post, or share, information, video, audio, or an image that depicts the person's nudity or sexual activity;
- Knowingly soliciting a minor for sexual activity;
- Engaging in sex trafficking;
- Creation, possession, or dissemination of child pornography; or
- Stealthing (The practice of removing or damaging a condom during sexual intercourse without the knowledge and consent of one's partner).

Retaliation

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the state of Kansas regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

Retaliation is any materially adverse action taken against an individual because they were involved in the disclosure, reporting, investigation, or resolution of a report of Prohibited Conduct. Retaliation includes threats, intimidation, harassment, coercion, discrimination, violence, or any other conduct against any person by the University, a student, or an employee or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity, for the purpose of interfering with any right or privilege secured by this policy or by law, including Title IX or its regulations. Adverse action does not include perceived or petty slights, or trivial annoyances.

The prohibition against retaliation applies to any individuals who participate (or refuse to participate) in any manner in an investigation, or hearing, and to any student who refuses to participate in an investigation, proceeding, or hearing.

Retaliation may occur even where there is a finding of "not responsible" under this policy. Good faith actions lawfully pursued in response to a report of Prohibited Conduct are not Retaliation.

University Response to Reports

All notices under this policy are written and sent to the student or employee's assigned University email address or delivered via Certified Mail to the local or permanent address(es) of the parties as indicated in official University records, or personally delivered to the intended recipient.

Initial Contact

The following process will be used following the receipt of a report of Prohibited Conduct under this Policy.

- Following receipt of a report alleging a potential violation of this policy, the Title IX Coordinator will contact the Complainant to meet with the Title IX Coordinator for an initial intake and assessment meeting, and will provide the following:
- An invitation to meet to offer assistance and explain their rights, resources, and options under this policy;
- Access to this policy;
- Information regarding available campus and community resources for counseling, health care, mental health, or victim advocacy. Upon request, information regarding legal assistance, visa and immigration assistance, student financial aid and other available services may be provided;
- The availability of Supportive Measures regardless of whether a formal complaint is filed and/or any resolution is initiated;
- The options for resolution (no action, prevention, agreement, investigation) and how to initiate such resolution processes;
- The right to notify law enforcement as well as the right not to notify law enforcement;
- The importance of preserving evidence and, in the case of potential criminal misconduct, how to get assistance from Campus Safety or local law enforcement in preserving evidence;
- The right to an advisor of choice, if applicable, during the University proceedings under this policy including the initial meeting with the Title IX Coordinator;
- A statement that retaliation for filing a formal complaint, or for participating in any way in the procedures found in this policy, is prohibited; and
- Information on how to initiate the Investigation or Resolution-Based Agreement process.

Initial Intake & Assessment

The Initial Assessment process seeks to gather information about the nature and circumstances of the report to determine whether this policy applies to the report and, if so, which resolution process may be appropriate, as well as which section of the resolution procedures apply based on the conduct and the status of the parties. The Title IX Coordinator may also determine that the provision of supportive measures only is the appropriate response under the policy. The initial assessment is not a finding of fact or responsibility. If the individual bringing forward the report is not the actual Complainant, the Title IX Coordinator will limit communication to general information on policies and processes.

Should the complainant wish to file a formal complaint, the Title IX Coordinator will determine whether this policy applies and, if so, the appropriate process under this policy. The Title IX Coordinator will communicate to the complainant this determination.

If the information provided does not suggest a potential violation of this policy, the Title IX Coordinator will provide the Complainant written notice that the matter is being referred for handling under a different policy, and/or to another appropriate office for handling.

Supportive Measures

The University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the University's education program or activity, including measures designed to protect the safety of all parties or the University's educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator shall make every effort to promptly offer supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the University will inform the Complainant, in writing, that they may file a formal complaint with the University either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide the supportive measures. The University will act to ensure as minimal an academic impact on the parties as possible. The University will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referring to counseling, medical, and/or other healthcare services
- Referring to the Employee Assistance Program
- Assisting with visa and immigration
- Counseling for student financial aid
- Referring to community-based service providers
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Preparing a safety plan
- Providing campus safety escorts
- Supporting no contact directives between the parties
- Providing academic support, extensions of deadlines, or other course/program-related adjustments
- Issuing a University No Trespass notice
- Issuing timely warnings
- Modification of class schedule, withdrawals, or leaves of absence

- Increasing security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Requests for Confidentiality or No Further Action

When a Complainant requests that the University not use their name as part of any resolution process, or that the University not take any further action, the University will generally try to honor those requests. However, there are certain instances in which the University has a broader obligation to the community and may need to act against the wishes of the complainant. In such circumstances, the Title IX Coordinator will notify the complainant in writing of the need to take action. The factors the Title IX Coordinator will consider when determining whether to act against the wishes of a complainant include:

- The Complainant's request not to proceed with filing a formal complaint;
- The Complainant's reasonable safety concerns regarding filing a formal complaint;
- The risk that additional acts of Prohibited Conduct would occur if a formal complaint is not filed;
- The severity of the alleged Prohibited Conduct, including whether the prohibited conduct, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the parties, including whether the Respondent is an employee of the University;
- The scope of the alleged prohibited conduct, including information suggesting a pattern, ongoing prohibited conduct, or prohibited conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist a Hearing Officer in determining whether the prohibited conduct occurred;
- Whether the University could end the alleged sex discrimination and prevent its recurrence without filing a formal complaint; AND
- Whether the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other persons, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its education program or activity.

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

The Title IX Coordinator has ultimate discretion over whether the University proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the University to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The University may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the University proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Complainant may request that their Advisor receive information in addition to the Complainant throughout the process. The Advisor is not able to act in place of the Complainant.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the University to honor that request, the University will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action. Note that the University's ability to remedy and respond to notice may be limited if the Complainant does not want the University to proceed with an investigation and/or grievance process.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date.

Emergency Removal

For sex discrimination and sex-based harassment, University retains the authority to remove a Respondent from University's program or activity on an emergency basis, where University (1) undertakes an individualized safety and risk analysis, (2) determines that an immediate and serious threat to the health or safety of a Complainant or any student, employee, or other individual arising from the allegations of sex discrimination justifies a removal, and (3) the University provides the Respondent with notice of and an opportunity to challenge the decision immediately following the removal.

The Respondent may challenge the decision immediately following the removal, by notifying the Title IX Coordinator in writing. University will designate an impartial individual, not otherwise involved in the case, to consider the challenge to the removal and determine if the emergency removal was reasonable.

For all other Prohibited Conduct, University may defer to its suspension policies for students and administrative leave for employees.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator, in conjunction with University threat assessment processes has discretion to implement or stay an emergency removal under this policy and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily reassigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, and in consultation with other units when necessary, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Administrative Leave

The University retains the authority to place an employee Respondent on administrative leave during a pending complaint process under this policy, with or without pay as appropriate. Administrative leave may be a supportive measure, emergency removal, or consistent with applicable law. Administrative leave implemented as a supportive measure or as emergency removal is subject to the procedural provisions above, including the right to challenge the decision to implement that measure.

Formal Complaint

A formal complaint is required in order to proceed with a resolution process under this Policy except Support-Based Resolution. A formal complaint must be written, in paper form (hand delivered or by mail or shipping service) or electronically submitted and either signed or with another indication that it is being filed by the Complainant, the Complainant's parent or

guardian if applicable, or by the Title IX Coordinator, and that alleges a violation of the Policy as defined above, by a covered person, within the University's program or activity, and requesting that the University investigate the allegations.

Where the Complainant is unable or unwilling to file a formal complaint, and there have been allegations of violations of this Policy involving covered persons in the University's programs and activities, the Title IX Coordinator may file and sign a formal complaint. In that case, the Title IX Coordinator does not have the status of complainant or party. A Complainant retains their rights even if they decline to participate, including but not limited to receiving notices, the opportunity to review evidence and the right to receive the final investigation report. The Title IX Coordinator will use discretion in these matters.

A formal complaint cannot be filed anonymously because the Respondent must be notified who is making the accusation against them. A person does not, however, need to file a formal complaint to obtain supportive measures. For supportive measures, the Complainant's identity may remain confidential to the extent practicable to implement the supportive measure.

In certain cases, the identity of the Respondent may not be known by the person filing the formal complaint. They may still file the formal complaint and the University may be able to better identify the Respondent.

Dismissal Of Complaint(s)

Before dismissing a formal complaint, the University will make reasonable efforts to clarify the allegations with the complainant.

The University must dismiss a formal complaint of Title IX Prohibited Conduct when:

- The conduct alleged in the formal complaint would not constitute Title IX Prohibited Conduct, as defined in this policy, even if proven; OR
- The conduct did not occur in the University's educational program or activity, or in the United States;

The University may dismiss a formal complaint or any allegation therein if, at any time during the investigation or hearing:

- The University is unable to identify the Respondent after taking reasonable steps to do so;
- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
- The Respondent is no longer enrolled in or employed by the University;
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein; OR

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

Upon a required or optional dismissal, the University will promptly and simultaneously send written notice to the parties of the basis of the dismissal. If a dismissal of one or more allegations changes the appropriate decision-making process under these procedures, the Title IX Coordinator will include that information in the notification.

The University will notify the parties that a dismissal may be appealed on the basis outlined in the Appeals section.

When a formal complaint is dismissed, the University will, at a minimum:

- Offer supportive measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and,
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that prohibited conduct does not continue or recur within the University's education program or activity.

A Complainant who decides to withdraw a formal complaint or any portion of it may later request to reinstate it or refile it.

Consolidation Of Complaints

The University may consolidate reports under this policy as appropriate: for example, if there are multiple reports where the allegations of Prohibited Conduct arise out of the same facts or circumstances, or there are multiple reports with overlapping parties.

The University also reserves the right to use this policy to adjudicate other allegations and conduct charges as defined by policies outside of the scope of this policy in instances when the conduct is associated with an alleged issue of Prohibited Conduct under this policy. The Title IX Coordinator will address these consolidated reports in collaboration and coordination with other appropriate offices, such as Student Success and Human Resources. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this policy.

Referrals for Other Misconduct

The University has the discretion to refer reports of misconduct not covered by this policy for handling under any other applicable University policy or code. As part of any such referral for further handling, the University may use evidence already gathered through any process covered by this policy.

Right to an Advisor

The parties may each have one (1) Advisor of their choice present with them for all meetings and interviews within the complaint process if they so choose. The parties may select whoever they wish to serve as their Advisor.

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the University community.

While permissible, parties should be cautious that choosing Advisors who are also witnesses to the conduct that is the focus of the allegations creates the potential for conflicts of interest and bias. These potential conflicts and bias may be considered by the decision-maker(s).

The University may permit parties to have a support person upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX coordinator and will be granted equitably to all parties. The support person will not be permitted to serve as an advisor and will not have any opportunity to speak during the investigation or adjudication process.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses if the party does not have an Advisor at the time of hearing. If the parties choose an Advisor from the pool available from the University, the Advisor will be trained by the University and be familiar with the University's resolution process.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing. However, if the complaint process progresses to a formal hearing, an Advisor is required to cross-examine the other party. If a party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the limited purpose of conducting any cross-examination.

Advisor's Role

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews.

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

The University will not guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the University is not obligated to provide an attorney.

Pre-interview Meetings

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and University's policies and procedures.

Advisor Violations of University Policy

All Advisors are subject to the same University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address University officials in a meeting or interview unless invited to (asking procedural questions).

The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other decision-maker(s) except during a hearing proceeding, during cross examination.

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

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will end, or other appropriate measures will be implemented. The Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

Sharing information with the Advisor

The University is required to send investigative reports to both parties and their Advisors. The University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their Advisors, including attorney Advisors, other than investigative reports. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

If a party chooses an attorney Advisor, the Title IX Coordinator, or designee, and decision-makers within this grievance process are not bound to attorney-attorney communications. All communications and documentation from the Title IX Coordinator, or designee, or decision-makers will be sent to the parties via their University assigned email.

Advisors are expected to maintain the privacy of the records shared with them by the party they are advising. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

Expectations of an Advisor

The University generally expects an Advisor to adjust their schedule to allow them to attend University meetings when planned but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay. The University may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing. For parties who are entitled to union representation, the University will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are not permitted to have union representation or Advisors in grievance process interviews or meetings.

Assistance in Securing an Advisor

Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>)

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>)
- The National Center for Victims of Crime <http://www.victims of crime.org>)
- Time's Up Legal Defense Fund (<http://nwic.org/times-up-legal-defense-fund/>)

Resolution Options

There are multiple ways to resolve a report of sexual harassment. Whenever possible, the University will utilize the resolution method chosen by the Complainant. During the resolution of a report, the Title IX Coordinator will determine whether to implement reasonable supportive measures designed to assist all parties (Complainants and Respondents) and community members in maintaining access to and participation in University programs, services and activities during the resolution of the report.

This policy includes support-based resolution, informal resolution, and two formal processes involving investigations: in the first, the Investigator makes the determination of whether a policy violation occurred, and in the second, the Investigator gather facts and the University holds a live hearing where a hearing officer makes the determination.

Support-Based Resolution

A formal complaint is not required for a support-based resolution. A support-based resolution is an option for a complainant who does not wish the University to take any further steps to address their concern, and when the Title IX Coordinator determines that another form of resolution, or further action, is not required. Some types of support that may be appropriate include: adjustments or changes to class schedules; moving from one residence hall room to another; adjusted deadlines for projects or assignments; adjustments to work schedule or arrangements; escorts to and around campus; or counseling.

A support-based resolution does not preclude later use of another form of resolution, for example if new information becomes available to the University and the Title IX Coordinator determines there is need for additional steps to be taken, or the complainant later decides to pursue a formal complaint.

Informal Resolution

A formal complaint is required for Informal Resolution. Informal Resolution is not available to resolve a student Complainant's allegation that an employee has engaged in Prohibited Conduct.

Informal Resolution is an alternative to the investigation and hearing procedures where the Parties each voluntarily agree to resolve the formal complaint in a way that does not include any finding of responsibility. Informal Resolution is a voluntary, structured interaction between or among affected parties that balances support and accountability. If the University offers Informal Resolution to the parties, and they voluntarily consent to engage in that process, the Title IX Coordinator must still take other prompt and effective steps as needed to ensure that sexual harassment does not continue or recur within the education program or activity. Parties and the Title IX Coordinator may agree to pause or exit the investigation and hearing resolution procedures to explore Informal Resolution.

Any party may design the proposed agreement between the parties. The Title IX Coordinator must approve of the use of the Informal Resolution process, and approve the final agreement between the parties. Informal Resolution may be initiated at any time prior to the release of the final determination. Informal Resolution does not result in a determination about whether the alleged Prohibited Conduct occurred. The Title IX Coordinator has the discretion to determine that Informal Resolution is not an appropriate way to address the reported conduct, and that the matter must instead be resolved through the hearing procedures .

Initiating the Informal Resolution Process

Prior to the initiation of Informal Resolution, the Title IX Coordinator will provide the Parties written notice that includes:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The requirements of the Informal Resolution process;
- Any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared, and whether the University could disclose such information for use in a future University resolution process, including an investigation and resolution process arising from the same or different allegations, as may be appropriate.
- Notice that an agreement resulting from the Informal Resolution process is binding only on the parties and is not subject to appeal.
- Notice that once the Agreement is finalized and signed by the Parties, they cannot initiate or continue an investigation procedure arising from the same allegations.
- A statement indicating that the decision to participate in the Informal Resolution process does not presume that the conduct at issue has occurred.
- A statement that the Respondent is presumed not responsible for violating this policy, unless respondent admits to violations of this policy;
- An explanation that all parties may be accompanied by an Advisor of their choice, who may be a parent, colleague, friend, or attorney;
- A statement that any party has the right to withdraw from the Informal Resolution process and initiate or resume resolution procedures at any time before agreeing to a resolution;
- The date and time of the initial meeting with staff or the Title IX Coordinator, with a minimum of three (3) days' notice;
- Information regarding Supportive Measures, which are available equally to the parties; AND
- The potential terms that may be requested or offered in an Informal Resolution agreement.

Facilitating an Agreement

If all Parties are willing to explore Informal Resolution, the Title IX Coordinator will then meet separately with each party to discuss the Informal Resolution process and facilitate an agreement. If an agreement cannot be reached, either because the Parties do not agree, determine they no longer wish to participate in the Informal Resolution process, or the Title IX Coordinator does not believe that the terms of the agreement or continuing the Informal Resolution process is appropriate, the Title IX Coordinator may decide that the reported conduct will instead be addressed through the investigation and hearing process. The Title IX Coordinator will inform the parties of such decision, in writing.

Informal Resolution processes are managed by facilitators who do not have a conflict of interest or bias in favor of or against Complainants or Respondents generally or regarding the specific parties in the matter. The Title IX Coordinator may serve as the facilitator, subject to

these restrictions. The investigator or Hearing Officer for the matter may not facilitate an Informal Resolution in that same matter.

Any party may craft or create the terms of their agreement and will be asked for their suggestions or ideas. Examples of agreements may include but are not limited to:

- an agreement that the Respondent will change classes or housing assignments;
- an agreement that the parties will not communicate or otherwise engage with one another;
- an agreement that the parties will not contact one another;
- completion of a training or educational project by the Respondent;
- completion of a community service project by the Respondent;
- an agreement to engage in a restorative justice process or facilitated dialogue;
AND/OR
- discipline agreed upon by all parties.

In order to facilitate Informal Resolution, information shared by any party will not be used in any related resolution process of the same formal complaint under this policy. No evidence concerning the allegations obtained within the Informal Resolution process may be disseminated to any outside person, provided that any party to the Informal Resolution process may generally discuss the allegations under investigation with a parent, Advisor, or other source of emotional support, or with an advocacy organization. An admission of responsibility made during an Informal Resolution process, however, may not be incorporated into the investigation and adjudication proceeding.

Finalizing the Resolution Agreement

Once the final terms of the Resolution Agreement have been agreed upon by all parties, in writing, and approved by the Title IX Coordinator, the matter will be considered closed, and no further action will be taken. Once signed, no appeal is permitted. The Informal Resolution process is generally expected to be completed within thirty (30) business days and may be extended by the Title IX Coordinator as appropriate. All parties will be notified, in writing, of any extension and the reason for the extension.

Records of an Informal Resolution process can be shared with other offices as appropriate.

Any violations of the terms of the Resolution Agreement may result in disciplinary action.

Investigation Procedures

The following information applies to investigations under the University's formal processes, whether there is a live hearing or not.

Notice of Investigation and Allegations

After a formal complaint has been signed, the University will provide a written Notice of Investigation and Allegations ("NOIA") to both parties which will include:

- A meaningful summary of the allegations;
- The identity of the involved parties (if known);
- The misconduct being alleged;
- The date and location of the alleged incident(s) (if known);
- The specific policies implicated;
- A description of the applicable procedures;
- A statement of the potential sanctions/responsive actions that could result;
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination;
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period;
- A statement about the University's policy on retaliation;
- Information about the privacy of the process;
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor;
- A statement informing the parties that the University's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process;
- Detail on how the party may request disability accommodations during the interview process;
- A link to the University's Title IX website;
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have; AND
- An instruction to preserve any evidence that is directly related to the allegations.

If during the course of an investigation, the University decides to investigate allegations about the Complainant or Respondent that are not included in the initial written notice, the University must provide an updated written NOIA to the parties detailing the new allegations. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Acceptance of Responsibility

If a Respondent accepts responsibility for all or part of the Prohibited Conduct alleged, the designated sanctioning officer will issue an appropriate sanction or responsive action as to those violation(s) and continue processing any remaining allegations of Prohibited Conduct, if any.

Assignment of the Investigator and/or Decisionmaker

The University will assign a trained Investigator and/or Decisionmaker to conduct an adequate, reliable, and impartial investigation and hearing, if applicable, in a reasonably prompt timeframe. The University reserves the right to utilize internal or external investigators, Decisionmakers, or Hearing Officers.

All parties have the option to participate in the investigation and/or hearing, and each have the same rights during the resolution process including the right to an Advisor, to submit relevant witness names and evidence, and to review the evidence gathered by the investigator prior to the investigator providing the final report to the Decisionmaker. In cases where there is a hearing, all parties have the same rights at the hearing, including the right to review any evidence that will be considered by the Decisionmaker prior to the hearing.

The investigator will establish deadlines for submission of names of relevant witnesses and submission of evidence and communicate those deadlines to the parties in writing.

Conflict of Interest or Bias

After a Notice of Investigation and Allegations is issued to all parties, any party may object to the participation of the Title IX Coordinator or designated Investigator on the grounds of a demonstrated bias or actual conflict of interest. All parties will have three (3) days from the date of the Notice of Investigation and Allegations to object to the selection of the Investigator or the Title IX Coordinator. Objections to the Title IX Coordinator are to be made, in writing, to the General Counsel. Objections to the appointment of the Investigator are to be made in writing, to the Title IX Coordinator. All objections will be considered, and changes made as appropriate. If the objection is substantiated as to either the Title IX Coordinator or the Investigator, that individual shall be replaced. Any change will be communicated in writing.

Timeline

In those cases that do not include a hearing, the University strives to complete the investigation process within ninety (90) days from the date of the Notice of Investigation and Allegations. In those cases that include a hearing, the University strives to complete the investigation process within sixty (60) days from the date of the Notice of Investigation and Allegations, and complete the hearing within sixty (60) days of the Notice of Hearing.

The timeline for any part of the resolution process may be extended for good cause by the Title IX Coordinator. All parties shall be notified, in writing, of any extension to the timeline that is granted, the reason for the extension, and the new anticipated date of conclusion of the investigation and/or hearing. Good cause reasons for extension may include ensuring availability of witnesses and other participants and ensuring participants have sufficient time to review materials.

The University shall not unreasonably deny a student party's request for an extension of a deadline related to a formal complaint during periods of examinations or school closures.

The Investigator and/or Title IX Coordinator shall provide the Parties with periodic status updates, in writing.

Burden and Standard of Review

The University has the burden of conducting an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred. This burden does not rest with any party, and any party may decide to limit their participation in part or all of the process, or to decline to participate. This does not shift the burden of proof away from the University and does not indicate responsibility. The standard of proof used in any investigation and decisionmaking process is the preponderance of the evidence standard, which means more likely than not.

Written Notice of Meetings

The University will provide to a party or witness whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time to prepare to participate.

Evidence Gathering

Interviews

The Investigator will hold individual interviews with parties and witnesses and gather relevant and directly related documentary evidence provided by the parties and any identified witnesses. Interviews may be conducted in person, or via video conference. When a party meets with an Investigator, the Investigator will ask questions related to the allegations in the formal complaint and a party is given the opportunity speak to the allegations and related events. Parties may identify fact witnesses and provide evidence that is relevant or directly related to the allegations. This will include inculpatory evidence (that tends to show it more likely that someone committed a violation) and exculpatory evidence (that tends to show it less likely that someone committed a violation). The Investigator ultimately determines whom to interview to determine the facts relevant to the formal complaint.

Only the Investigator and the party or witness may attend each individual interview. A party's Advisor may attend these meetings, subject to the rules described in this policy. Additional attendees may be permitted at the discretion of the Title IX Coordinator in connection with an approved disability-related accommodation. All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of those proceedings.

Irrelevant Evidence

The following are not relevant, as per applicable federal law. This means this information will not be accessed or considered, except by The University to determine whether one of the exceptions listed below applies:

- Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence and questions about the Complainant's sexual predisposition or prior sexual behavior unless:
 - It is offered to prove that someone other than the Respondent committed the Prohibited Conduct alleged in the formal complaint, OR
 - They concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Investigation - Decisionmaking Process

In this process the Investigator is the Decisionmaker for Sex Discrimination, Sexual Exploitation, and Retaliation. There is no live hearing for this procedure.

Report and Evidence Review

At the conclusion of all fact-gathering, the investigator will provide each party and their Advisor, if any, the opportunity to review the preliminary investigation report (PIR) and all relevant and directly-related evidence gathered. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation, to submit any additional relevant evidence, and the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence, or names of witnesses. Given the sensitive nature of the information provided, the University will facilitate this review in a secure manner. None of the parties nor their Advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any Advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

The parties will have a minimum of five (5) days to inspect and review the evidence and submit a written response in writing to the Investigator. The University will provide access to copies of the parties' written responses to the Investigator to all parties and their Advisors, if any. The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence. At the conclusion of the evidence review, when deemed appropriate by the Investigator, the Investigator shall then conduct any additional fact-gathering as may be necessary. If new, relevant evidence is gathered during this second fact-gathering period, the new evidence will be made available for review by the parties and their Advisors. The parties shall have five (5) business days to provide a response to the newly-gathered evidence. No new evidence will be accepted as part of any response, except that the Investigator shall have the discretion to accept relevant evidence that was

not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

The Investigator will consider the parties' written responses before finalizing the investigation report.

The parties may each submit a written impact statement prior to the conclusion of the resolution process. The impact statement is not evidence, and will be reviewed only after a determination of responsibility is reached.

Completed Investigation Report

The Investigator shall evaluate the relevant evidence and make a factual determinations regarding each allegation, and also determine whether a violation of the policy occurred. The Investigator may choose to place less or no weight upon statements by a party or witness who refused to respond to questions deemed relevant and not impermissible or declined to participate. The Investigator will not draw an inference about whether Prohibited Conduct occurred based solely on a party's or witness's refusal to respond to questions.

The investigator shall prepare a completed investigation report (CIR) which shall include:

- A description of the allegations of Prohibited Conduct;
- Information about the policies and procedures used to evaluate the allegations;
- A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
- An evaluation of the relevant and not otherwise impermissible evidence and the rationale for that evaluation;
- Findings of fact for each allegation, with rationale; AND
- Conclusions regarding which section of this policy or other University policy, if any, the Respondent has or has not violated, with rationale.

The CIR shall be provided to the Title IX Coordinator. If there is a finding of violation, the CIR will be provided to the appropriate Decision-maker for decision regarding disciplinary sanctions as follows:

- If the Respondent is a student, it will be referred to the Dean of Students for disciplinary sanctions decision, in accordance with University's student disciplinary procedures. Prior to issuing a disciplinary sanction, the Dean of Students will consult with the Investigator regarding the finding of violation. If the violation has a nexus to Respondent's appointment as student-employee, the disciplinary sanctions decision will be made in consultation with the Chief Human Resources Officer and/or the Vice President of Academic Affairs and Provost. Any disciplinary sanction imposed will be included in the CIR. If the disciplinary sanction is suspension or expulsion, the Respondent can request to resolve this matter via a hearing procedure.

The hearing will be held in accordance with the hearing procedures outlined in this policy.

- If the Respondent is faculty, it will be referred to the Vice President of Academic Affairs and Provost for disciplinary sanctions decision, in accordance with the University's policies for discipline and termination of faculty; or
- If the Respondent is staff, it will be referred to the Chief Human Resources Officer for disciplinary sanctions decision, in accordance with the University's policies for discipline and termination of staff.

The Title IX Coordinator shall then provide the parties and their advisors, if any, with a written Notice of Outcome and the CIR. The Notice of Outcome shall include:

- A statement of, and rationale for, any disciplinary sanctions the University imposed on the Respondent;
- A statement as to whether remedies will be provided to the Complainant
- For the Complainant, a description of any remedies that apply to the complainant;
- The University's procedures and the permitted reasons for the parties to appeal, including identifying the Appeals Officer; AND
- How to challenge participation by the Appeals Officer for bias or conflict of interest, which the Title IX Coordinator will resolve in their sole discretion.

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

Investigation and Live Hearing Process

This investigation and live hearing process applies to the following Prohibited Conduct: Sexual Assault, Dating Violence, Domestic Violence, Stalking, and/or Sexual Harassment.

In this process the investigator creates a fact-gathering investigation report and findings of fact and determinations are made by the Hearing Officer after a live hearing.

Report and Evidence Review

At the conclusion of all fact-gathering, the Investigator will provide each party and their Advisor, if any, the opportunity to review the relevant and directly-related evidence gathered.

Prior to the conclusion of the investigation, provide the parties a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the University does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that

each party may meaningfully respond to the evidence. The parties may elect to waive the full ten (10) business days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).

The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses.

The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period.

The Investigator(s) will incorporate any relevant feedback, and the final report is then shared with all parties and their advisors through secure electronic transmission at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.

Conclusion of Investigation, Notice of Hearing

Once the investigation report is final, the report together with all attachments shall be provided to each party and to their advisor, if any, in a secure manner (e.g., by providing digital copies of the materials through a protected, "read-only" web portal). Each party shall have ten (10) days to provide a response. The response, if any, shall be provided to the Hearing Officer.

Following conclusion of the investigation, each party shall be provided with a Notice of Hearing, which shall include information regarding the date of the hearing, the identity of the Hearing Officer, the process to be used at the hearing, deadlines for submission of evidence, names of witnesses, or questions to be reviewed by the Hearing Officer to ensure they are relevant to the allegations. The hearing shall be scheduled no less than ten (10) business days from the date of the Notice of Hearing.

Within three (3) business days of receipt of the Notice of Hearing, either party may object to the Hearing Officer on the basis of a demonstrated bias or actual conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the Hearing Officer and appoint another.

Hearing Procedures

The purpose of a hearing is for a Hearing Officer to determine whether the conduct occurred as alleged, and if so, whether that conduct violates this policy. The University expects that all individuals who participate in the hearing process do so truthfully and that all who have a responsibility for carrying out one or more aspects of the hearing process do so fairly and

without prejudice or bias. Hearings may be conducted in person or via videoconferencing. The Title IX Coordinator may determine that the hearing will continue in the absence of any party or any witness.

The University will appoint a Hearing Officer (also known as the Decisionmaker) , who will determine whether a violation of the University policy has occurred. The Hearing Officer shall have the authority to determine the relevance of evidence submitted, and of questions asked, to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing. The Hearing Officer shall not draw an inference about the determination regarding responsibility based solely on a party's absence from the hearing or refusal to answer questions posed.

Each hearing shall be recorded by the University and this recording will be considered the only official recording of the hearing. No other individual is permitted to record while the hearing is taking place. The recording is the property of the University but shall be available for listening until the conclusion of the appeals process to Complainant, Respondent, their respective Advisors, Hearing Officer, and Appeal Officer by contacting the Title IX Coordinator.

Prior to the Hearing

The parties and the Hearing Officer all have the right to call witnesses. Witnesses participating in the hearing must have information relevant to the allegations. Parties who wish to call witnesses must submit the name of the witness at least five (5) business days in advance of the hearing.

Only witnesses who participated in the investigation will be permitted to participate in the hearing, unless the witness was otherwise unknown or not known to have relevant information during the course of the investigation. If the witness did not participate in the investigation, the party must also provide the reason the witness was not interviewed by the investigator, and what information the witness has that is relevant to the allegations. The Hearing Officer will then determine whether the witness has relevant information and if there is sufficient justification for permitting the witness to participate. The Hearing Officer may instead send the case back to the investigator to interview the newly proffered witness prior to the hearing taking place.

A list of witnesses approved by the Hearing Officer will be provided to the parties at least three (3) business days prior to the hearing.

Three (3) business days prior to the hearing, each party shall submit to the Hearing Officer a preliminary list of questions they wish to pose to the other party, or to a witness. If the Hearing Officer determines that any questions are not relevant , the Hearing Officer shall exclude the question and explain the reason for the exclusion of the question at the hearing. Questions that are unclear or harassing of the party or witness being questioned will not be permitted.

Advisor

Each party is entitled to be accompanied by one (1) Advisor at the hearing. The role of the Advisor is to assist the party with understanding and navigating the proceedings, and at the direction of the Hearing Officer, pose questions developed by their advisee to the other party or witnesses. The Advisor may not advocate for, respond for, or otherwise speak on behalf of, a party during the hearing.

An Advisor of the University's choosing shall be provided for any party who does not have an advisor for the hearing.

Hearing Participation Guidelines

The Hearing Officer shall have the authority to maintain order and decorum at the hearing, including responding to disruptive or harassing conduct, and when necessary to adjourn the hearing or exclude the disruptive person. In the event the Hearing Officer removes an Advisor, the Hearing Officer will have the discretion to appoint another advisor for the remainder of the hearing. The Hearing Officer also has the authority to determine whether any questions are not relevant, abusive, intimidating, or disrespectful, and will not permit such questions. The Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing.

Statements, Questioning and Presentation of Evidence

During the hearing, each party will be permitted to provide an introductory statement. Following introductory statements, the Hearing Officer will call parties and witnesses for questioning. The order of questioning shall be determined by the Hearing Officer. The Hearing Officer will pose questions to the parties and witnesses and provide each party an opportunity to pose questions to the other party or witnesses through their advisor. If the Hearing Officer determines that any questions are not relevant to the allegations, or seek otherwise impermissible evidence, the Hearing Officer shall not permit a response to the question and explain the reason for the exclusion of the question at the hearing. Questions that are unclear or harassing of the party or witness being questioned will not be permitted.

Following the questioning of parties and witnesses, each party will be permitted to provide a closing statement. An Advisor is not permitted to provide a closing statement on behalf of their party.

Hearing Officer's Report

Following the hearing, the Hearing Officer shall prepare a determination report. All findings shall be made by a preponderance of the evidence, meaning more likely than not. To the extent credibility determinations need to be made, such determinations shall not be based on a person's status as Complainant, Respondent, or witness.

The determination report will include:

- A description of the Prohibited Conduct alleged;

- A reference to the policies and procedures used to evaluate the allegations;
- Description of all procedural steps taken to date;
- The Hearing Officer's evaluation of the relevant evidence along with the finding of facts;
- Determinations for each allegation, with the rationale;
- Sanction determination (if applicable)
- Whether remedies will be provided; AND
- The procedures for an appeal, including how to challenge participation by the Appeal Officer for bias or conflict of interest, which the Title IX Coordinator will resolve in their sole discretion.

The Hearing Officer's report shall be provided to the Title IX Coordinator. If the Hearing Officer determines that there is no finding of responsibility, the Title IX Coordinator shall communicate the findings to each party, and their Advisor should the party wish their Advisor to receive it, a written Notice of Outcome along with a copy of the Hearing Officer's report, to the parties, together with procedures for an appeal.

If there is a finding of responsibility, the Title IX Coordinator shall contact the appropriate sanctioning officer who will determine the sanction and then notify the Title IX Coordinator of the sanctioning determination. The Title IX Coordinator will then provide each party, and their Advisor should the party wish their Advisor to receive it, a written Notice of Outcome regarding the Hearing Officer's decision, including the Hearing Officer's report. The Title IX Coordinator will also provide written communication to the Complainant regarding any appropriate remedies.

Past findings of responsibility relating to this policy or any other University policy are admissible in the sanctioning stage only.

Appeals

Dismissals of formal complaints and determinations made in investigation and hearing procedures may be appealed in writing by either party consistent with this Policy. Appeals will be sent to the Title IX Coordinator, who will then send the appeal to the Appeals Officer assigned to conduct a written review of the appeal(s) and to make a final determination. Appeals must be in writing and filed within ten (10) days following the issuance of the outcome letter.

When an appeal is filed, the other party shall be notified and provided with a copy of the filed appeal promptly, and have five (5) business days to respond to the appeal in writing. Any party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal.

Within three (3) business days of an Appeal Officer being assigned, either party may provide written objection to the Appeal Officer on the basis of an actual bias or conflict of interest.

Any objection is to be sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator will appoint another Appeal Officer.

Appeals may be filed only on the following three grounds:

1. Procedural Error: A procedural error occurred would change the outcome. A description of the error and its impact on the outcome of the case must be included in the written appeal;
2. New Evidence: New evidence or information has arisen that was not available or known to the party during the investigation or hearing, that would change the outcome. Information that was known to the party during the resolution process but which they chose not to present is not considered new information. The new evidence, an explanation as to why the evidence was not previously available or known, and an explanation of its potential impact on the investigation findings must be included in the written appeal; OR
3. Actual Conflict of Interest or Demonstrated Bias: The Title IX Coordinator, investigator, or others with a role in the process with an actual conflict of interest or demonstrated bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that would change the outcome. Any evidence supporting the alleged conflict of interest or demonstrated bias must be included in the written appeal.

No other grounds for appeal are permitted.

The appeal must be submitted in writing, within ten (10) business days of the notice of determination or dismissal being sent by the University, and must specifically identify the determination and/or dismissal appealed from, articulate which one or more of the three grounds for appeal are being asserted, explain in detail why the appealing party believes the appeal should be granted, and articulate what specific relief the appealing party seeks. Promptly upon receipt of an appeal, the Appeal Officer will conduct an initial evaluation to confirm that the appeal is timely filed and that it invokes at least one of the permitted grounds for appeal. If the Appeal Officer determines that the appeal is not timely, or that it fails to invoke a permitted grounds for appeal, the Appeal Officer will dismiss the appeal and provide written notice of the same to the parties.

If the Appeal Officer confirms that the appeal is timely and invokes at least one permitted grounds for appeal, the Appeal Officer, or a University Official acting on their behalf, will provide written notice to the other party that an appeal has been filed and that the other party may submit a written opposition to the appeal within ten (10) business days. The Appeal

Officer shall also promptly obtain from the Title IX Coordinator any records from the investigation and adjudication necessary to resolve the grounds raised in the appeal.

Upon receipt of any opposition, or after the time period for submission of an opposition has passed without one being filed, the Appeal Officer will promptly decide the appeal and transmit a written decision to the parties that explains the outcome of the appeal and the rationale.

The determination of a Formal Complaint, including any discipline, becomes final when the time for appeal has passed with no party filing an appeal or, if any appeal is filed, at the point when the Appeal Officer has resolved all appeals, either by dismissal or by transmittal of a written decision.

No further review beyond the appeal is permitted.

Although the length of each appeal will vary depending on the totality of the circumstances, the University strives to issue the Appeal Officer's written decision within fifteen (15) business days of an appeal being filed or the opposition statement being received, whichever is later.

The Appeal Officer will make a determination regarding the appeal and communicate that decision, along with a rationale for the decision to the Title IX Coordinator who will communicate the Appeal Officer's decision to the Parties. The decision of the Appeals Officer is final.

Sanctions

Student Respondents

Sanctions against a student will be imposed by the decision-maker(s) within ten (10) business days upon receipt of the hearing's determination. If the violation has a nexus to Respondent's appointment as a student-employee, the discipline decision will be made in consultation with the senior Human Resources officer and/or Vice President of Academic Affairs and Provost. Student disciplinary actions may include one or more of the sanctions listed below:

- Written warning;
- Disciplinary probation;
- Withholding of official transcript and/or degree;
- Bar against readmission, bar against enrollment, withdrawal from the University or from a period of enrollment, and/or drop from one or more classes;
- Restitution or reimbursement for damage to or misappropriation of University, Kansas Board of Regents, or State of Kansas property;
- Suspension of rights and privileges, including, but not limited to, participation in athletic or extracurricular activities and residing in or entering University housing;
- Deferred suspension;

- Suspension from the University for a specified period of time;
- Expulsion (permanent separation from the University); OR
- Other sanction or sanctions as deemed appropriate under the circumstances.

Employee Respondents

Sanctions against University employees will be handled under the University's employment policies governing discipline and dismissal of faculty and staff, respectively. Sanctions against University affiliates will be handled by the human resources staff in consultation with the affected college, school, or unit. The Vice President of Academic Affairs and Provost will determine sanctions for faculty within ten (10) business days upon receipt of the hearing's determination. In consultation with the University's legal counsel, the senior Human Resources officer will determine sanctions for staff within ten (10) business days upon receipt of the hearing's determination. Sanctions may include, but are not limited to:

- Mandated training;
- Written reprimands or corrective action;
- Imposition of conditions on teaching, supervising, or other official duties;
- Financial penalty;
- Unpaid time off;
- Suspension with or without pay;
- Demotion;
- Reassignment of duties;
- Other professional sanctions; OR
- Termination.

The University will consider termination for faculty or staff, the presumptively appropriate discipline for a finding of responsibility, for the following Prohibited Conduct: (1) Sexual Assault, (2) Interpersonal Violence (3) Stalking, and (4) Sexual Harassment. This presumption may be rebutted or confirmed, in the disciplinary authority's discretion, by one or more mitigating or aggravating factors in order to reach a just and appropriate resolution in each case.

Mitigating factors include, but are not limited to:

- The expressed requests of the affected individual; AND
- The absence of previous disciplinary history of the Respondent.

Aggravating factors include, but are not limited to:

- The nature and severity of the conduct, including the use of force or a weapon;
- The level of ongoing threat to the physical safety and security of the Complainant or other members of the University community;
- The need to remedy and address the impact or effects of the conduct on the Complainant;
- The impact or implications of the conduct on the community or the University, including other members of an affected academic or departmental unit;

- Whether the Respondent engaged in any acts of retaliation for the report of the incident;
- Prior misconduct by the Respondent, including the Respondent's relevant prior discipline or criminal history (if available); AND
- Refusal to acknowledge culpability or accept responsibility for clear violation of the Policy.

Sanctions will be communicated to the parties, as appropriate, in writing by the Vice President of Academic Affairs and Provost and/or the individual in charge of Human Resources, or their designee. In all cases involving violations of this Policy, the file will be archived by the Title IX Office.

Long Term Remedies and Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, and after consultation with appropriate University executive officers, the Title IX Coordinator may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its reoccurrence.

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

- Referral to counseling and health services
- Referral to the Employee Assistance Program (EAP)
- Education to the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator after consultation with appropriate University executive officers, long-term remedies may also be provided to the Complainant even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedial requirements owed by the University to the Respondent.

Failure To Comply With Interim And Long-Term Remedies/Responsive Actions

All Respondents are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified by the Title IX Coordinator.

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

A suspension will only be lifted when compliance is achieved to the satisfaction of the Dean of Students for students or the senior officer of Human Resources for staff and faculty.

Disabilities Accommodation In The Resolution Process

The University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the resolution process at the University. Anyone needing such accommodations or support should contact the Director of Disability Services, who will review the request and, in consultation with the person requesting the accommodation, and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

Federal Statistical Reporting Obligations

The Clery Act is a federal crime and incident disclosure law. It requires, among other things, that the University report the number of incidents of certain crimes, including some of the Prohibited Conduct in this policy, that occur in particular campus-related locations. The Clery Act also requires the University to issue a warning to the community in certain circumstances.

In the statistical disclosures and warnings to the community, the University will ensure that a Complainant's name and other identifying information is not disclosed. The Title IX Coordinator will refer information to the compliance officer when appropriate for a determination about Clery-related actions, such as disclosing crime statistics or sending campus notifications.

Recordkeeping

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept for at least seven (7) years, or as required by state or federal law or institutional policy by the Title IX Coordinator in the Title IX case database.

The University will also maintain for at least seven (7) years all materials used to train Title IX Coordinators, investigators, adjudicators, and any person who facilitates an informal resolution process and make these training materials publicly available on their websites.

This policy does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

Policy Revisions

These policies will be reviewed and updated annually by the Title IX Coordinator with the approval of the President. The University reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect.

The Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party.

The Title IX Coordinator may also vary procedures materially with notice (on the University website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure as long as said procedural changes have first been properly approved by the University's Office of General Counsel.

Definitions: All words and phrases shall be interpreted utilizing their plain meanings unless otherwise defined in another University or Board of Regents policy or by statute or regulation.

Advisor - a person chosen by a party (or appointed by the institution if the party does not have one) to accompany the party to meetings related to the grievance process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

Coercion - unreasonable pressure for sexual activity. Coercion can be accomplished by isolation, frequency, intensity, or duration.

Complainant - an individual who has reported being or is alleged to be impacted by Prohibited Conduct as defined in this policy.

Consent – In the context of sexual activity is:

- Informed, Knowing, and Voluntary (freely given)
- Active (not passive)
- Creates mutually understandable permission regarding the conditions of sexual activity
- No means no, but nothing also means no; silence and passivity do not equal consent
- To be valid, consent must be given immediately prior to or contemporaneously with the sexual or intimate activity
- Consent can be withdrawn at any time, so long as it is clearly communicated verbally or non-verbally
- Consent to one form of sexual activity does not necessarily imply consent to other forms of sexual activity

Days - any reference to days refers to business days when the University is in normal operation.

Disclosure or Report - A disclosure or report may be made by anyone, whether they learned about conduct potentially constituting prohibited conduct under this policy, or whether they personally experienced such conduct. A person making a disclosure or report may or may not be seeking to initiate an investigation.

Education Program or Activity - locations, events, or circumstances where the University exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.

Force - the use of physical violence and/or physical imposition to gain sexual access and includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Formal Complaint - a written document (hard copy or electronic) that alleges that a Respondent committed Prohibited Conduct and requests initiation of the procedures consistent with the Policy to investigate the allegation of the conduct. A “formal complaint” can only be filed by a complainant with a signature or other indication that the complainant is the person filing the Formal Complaint or signed by the Title IX Coordinator.

Formal Grievance Process - the method of formal resolution designated by the University to address conduct that falls within the policies included below, ESU Title IX Procedure, and which complies with the requirements of 34 CFR Part 106.45.

Hearing Decision-maker - those who have decision-making and sanctioning authority within the University’s Formal Grievance process.

Incapacitation - occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

Investigator - the person or persons charged by the University with gathering facts about an alleged violation of this Policy, assessing relevance, synthesizing the evidence, and compiling this information into an investigation report and file of relevant and directly related evidence.

Parties - the Complainant(s) and Respondent(s), collectively.

Remedies - Remedies means measures provided, as appropriate, to a complainant or any other person the University identifies as having had their equal access to the University's education program or activity limited or denied by sex discrimination or other prohibited conduct covered by this policy. These measures are provided to restore or preserve that person's access to the education program or activity after the University determines that sex discrimination occurred. Only the complainant will be informed of any remedies pertaining to them. Some examples are academic support and/or opportunity to retake a class or resubmit work or time extensions on course or degree completion, or non-academic support such as counseling, or changes to work assignments or locations. The Title IX Coordinator is responsible for implementation of remedies.

Responsible Employee - an employee of the University who is obligated by policy to share knowledge, notice, and/or reports of prohibited conduct with the Title IX Coordinator and/or their supervisor.

Respondent - an individual who has been reported to have engaged in conduct that could constitute Prohibited Conduct as defined within this policy.

Resolution - the result of an Informal Resolution Process, or Formal Grievance Process.

Sanction - a consequence imposed by the University on a Respondent who is found to have violated this policy.

Student - Any person who has (or will have) attained student status by way of:

1. Admission, housing or other service that requires student status.
2. Registration for one or more credit hours.
3. Enrollment in any non-credit, certificate or other program offered by the University.

Supportive Measures - individualized supports for students impacted by sexual harassment or other sexual misconduct to help address barriers to campus life they are facing in connection with their experience.

University - Emporia State University, a postsecondary education program that is a recipient of federal funding.

Procedures: All procedures linked and related to the policies above shall have the full force and effect of policy if said procedures have first been properly approved by the University's administrator in charge of Human Resources procedures, Academic Affairs procedures, Athletics procedures, and Enrollment Management and Student Success procedures.

[Hyperlink to Human Resources procedures]

[Hyperlink to Academic Affairs procedures]

[Hyperlink to Athletics procedures]

[Hyperlink to Enrollment Management and Student Success procedures]

Related Policy Information:

3.45 – Consensual Relationship Policy; 1.01 – Discrimination and Harassment Policy; 6.07 – Clery Act

History: Adopted: 08/14/2020 [Approved by President and included in UPM as Policy 3D.0108]

Revised: 05/07/2024 [Revised to Comply with Title IX requirements outlined by OCR]

Revised: 08/15/2024 [Policy format revised as part of UPM Revision]

Revised: 11/XX/2025 [Policy revised for clarity]

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APPENDIX A: STATEMENT OF RIGHTS OF THE PARTIES

Complainants and Respondents shall be afforded the following rights:

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to University officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by University officials.
- The right to have University policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by University officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
- The right to be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by University authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by University law enforcement and/or other University officials.

- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a University implemented no- contact order, or no trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct that presents a danger to the welfare of the party or others.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
 - Relocating an on-campus student's housing to a different on-campus location
 - Assistance from University staff in completing the relocation
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Transportation accommodations
 - Visa/immigration assistance
 - Arranging to dissolve a housing contract and a pro-rated refund
 - Exam, paper, and/or assignment rescheduling or adjustment
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Campus safety escorts
 - Alternative course completion options.
- The right to have the University maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the University's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Hearing Officer, may be asked of any party or witness.

- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to a fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to review the investigation report and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing, if applicable.
- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have been properly trained.
- The right to preservation of privacy, to the extent possible and permitted by law and policy.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any University representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.

- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefor (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the University is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.
- The right to a fundamentally fair resolution as defined in these procedures.