

## Title IX Policy

Stopping discrimination • Preventing recurrence • Remedying the effects of discrimination

### Title IX Statute

The U.S. Department of Education's Office for Civil Rights ("OCR") enforces Title IX of the Education Amendments Act of 1972 and its implementing regulations ("Title IX"). Title IX protects people from discrimination on the basis of sex in education programs or activities that receive federal financial assistance. Title IX states:

*No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.*

### Title IX Non-Discrimination Statement

Reach University does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

### Reports of Sex Discrimination

To report information about conduct that may constitute sex discrimination or sexual harassment or make a formal complaint of sexual harassment under Title IX, please contact Reach University's Title IX Coordinator.

Sarah Barnes, Manager of Candidate Wellness and Accessibility  
1221 Preservation Park Way #100,  
Oakland, CA 94612  
TitleIX@reach.edu  
(510)-501-5075, Option 6

If an individual reports sexual harassment to a Reach employee who is a mandatory reporter (as defined in the Glossary), the mandatory reporter must make a report of alleged sexual harassment to the Title IX Coordinator. All full-time Reach University employees are mandatory reporters. Contractors, including contracted instructors are not mandatory reporters. As a result, an individual may confidentially disclose sexual harassment to a contracted employee who is not a mandatory reporter, but any report to a mandatory reporter must be disclosed to the Title IX Coordinator.

Individuals may also contact the U.S. Department of Education's Office for Civil Rights with Title IX questions. (Please note that inquiries to OCR alone are not sufficient to allow appropriate responsive action by Reach University. To ensure your concern is appropriately addressed under this Policy, please file a report with the University's Title IX Coordinator).

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (800) 877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

## Scope of Policy

This Policy applies to all sexual harassment, as defined in the Glossary, occurring under the University's education program or activity in the United States. All other forms of sex discrimination prohibited by Title IX are covered by the University's grievance procedure set forth in the Undergraduate Candidate Handbook or the Reach Graduate Institute Candidate Handbook (collectively, the "Candidate Handbooks"). This Policy also addresses Title IX protections provided to candidates who are pregnant or experiencing pregnancy related conditions.

Sexual harassment is a specific form of sex discrimination prohibited by Title IX. Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex or sexual orientation of those involved. Sexual harassment includes quid pro quo sexual harassment, unwelcome conduct sexual harassment, sexual assault, domestic violence, dating violence, and stalking. The definitions of these terms are included in the Glossary.

For purposes of this Policy, the University's education program or activity includes locations, events, or circumstances, within the United States, over which the University exercises substantial control over both the respondent and the context in which the alleged sexual harassment occurs and also includes any building owned or controlled by a candidate organization that is officially recognized by the University. It also includes online, and cyber manifestations of conduct prohibited by this Policy, when those behaviors occur in or have an effect on the University's education program and activities or use University networks, digital platforms, technology, or equipment.

## Consent & Incapacitation

**Consent:** Silence does not necessarily constitute consent. Valid consent requires clear words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. Clear communication from the outset is strongly encouraged. 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.

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.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, the sexual activity should cease. Consent to some sexual contact (such as kissing or fondling) cannot imply consent for other sexual activity (such as intercourse). A current or previous intimate relationship does not sufficiently constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, 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.

**Incapacitation:** A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs.

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.

The respondent is in violation of this Policy if they knew, or 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. The respondent's use of alcohol or other drugs will never function as a defense for any behavior that violates this Policy.

## University's Response to Sexual Harassment

When the University has actual knowledge of sexual harassment in an education program or activity against a person in the United States, the University must respond promptly in a manner that is not deliberately indifferent. Actual knowledge means notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any University official who has authority to institute corrective measures on behalf of the University (an official with authority). The University's response would be deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

## Privacy & Confidentiality

Reach University will take reasonable steps to protect the privacy of the parties and witnesses during its Grievance Procedure. Parties and advisors are also expected to maintain the confidentiality of reports and complaints the University shares with them, and to maintain the confidentiality of grievance proceedings, including any evidence shared during the process. However, the parties are not restricted in their ability to obtain and present evidence (including speaking to witnesses); consult with their family members, confidential resources, or advisors; or to otherwise prepare for or participate in the Formal Grievance Process or Informal Resolution Process.

## Retaliation

Reach University prohibits retaliation, including peer retaliation, in its education programs or activities. The University will address reports of retaliation under the Grievance Procedure included in this Policy or in the University's grievance procedure set forth in the Candidate Handbooks. See the Glossary for definitions of retaliation and peer retaliation.

## Counterclaims

Upon receipt of a counterclaim, the Title IX Coordinator will assess whether the allegations in the counterclaim are made in good faith or for retaliatory purposes. Counterclaims determined to have been reported in good faith will be processed using the Grievance Procedure included in this Policy but may occur after resolution of the underlying initial allegation. Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this Policy.

## Promptness

Reach University will make a good faith effort to complete the resolution process within a sixty (60) to ninety (90) business daytime period, including appeal, which may be extended as necessary for good cause at the sole discretion of the Title IX Coordinator. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. The Title IX Coordinator will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

## Ensuring Impartiality

Any individual materially involved in the administration of the resolution process may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific complainant or respondent. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, the affected role will be reassigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with Ko Kim, Senior Vice President of Candidate Affairs.

Reach University operates with the presumption that the respondent is not responsible for the reported misconduct unless and until the respondent is determined to be responsible for a policy violation by the applicable standard of proof (preponderance of the evidence).

## Time Limits on Reporting

There is no time limitation on reporting sexual harassment or filing a formal complaint of sexual harassment to the Title IX Coordinator. However, if the respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be limited or impossible. Acting on notice/complaints significantly impacted by the passage of time is at the 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.

## Reports of Sexual Harassment and/or Retaliation

Reports of sexual harassment and/or retaliation may be made by filing a written report with, or giving verbal notice to, the Title IX Coordinator. A report may be made at any time (including during non-business hours) via telephone, email, or mail. Reports may also be made to any mandatory reporter, which will ultimately be referred to the Title IX Coordinator for further processing.

Upon receipt of a report of sexual harassment, the Title IX Coordinator initiates a prompt initial assessment, resulting in at least one of the following responses:

1. Offering supportive measures because the complainant does not want to proceed formally; and/or
2. Offering the complainant the opportunity to file a formal complaint and providing information about the Grievance Procedure, including the availability of an informal resolution (if applicable).

A formal complaint refers to a document filed/signed by the complainant or signed by the Title IX Coordinator alleging sexual harassment by a respondent and requesting that the University investigate the allegation(s).

The investigation and grievance process will determine whether the Policy has been violated. If so, the University will promptly implement effective remedies and/or disciplinary sanctions designed to ensure that it is not deliberately indifferent to harassment and prevent the recurrence of the harassment.

## When a Complainant Does Not Wish to Proceed

If a complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the University 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. The University may be compelled to act on alleged employee misconduct irrespective of a complainant's wishes.

The Title IX Coordinator may sign a formal complaint to initiate the Grievance Procedure upon completion of an appropriate violence risk assessment that demonstrates a compelling risk to health and/or safety that requires the University to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence.

The Title IX Coordinator must also consider the effect that non-participation by the complainant may have on the availability of evidence and the University's ability to pursue the Grievance Procedure fairly and effectively. When the University proceeds, the complainant 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 and the Title IX Coordinator is not considered to be the complainant.

In cases in which the complainant requests confidentiality/no formal action and the circumstances allow the University to honor that request, the Title IX Coordinator will offer supportive measures, and remedies to the complainant and the community, but will not otherwise pursue formal action. If the complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint later.

The Title IX Coordinator may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

## Initial Assessment of Report of Sexual Harassment

Following a report of alleged sexual harassment, the Title IX Coordinator engages in an initial assessment, which is typically completed in one to five (1-5) business days. The steps in an initial assessment can include, but are not limited to:

- The Title IX Coordinator reaches out to the complainant to offer supportive measures with or without the filing of a formal complaint.
- The Title IX Coordinator explains the process for filing a formal complaint and the Title IX Grievance Procedure, including the Informal Resolution Process (if available).
- The Title IX Coordinator informs the complainant that they have the right to have an advisor during the Grievance Procedure.
- If the complainant files a Formal Complaint, the Title IX Coordinator determines whether the alleged misconduct falls within the scope of Title IX sexual harassment.
- If the harassment is outside of the scope of Title IX, the Title IX Coordinator will dismiss the complaint and inform the complainant of any other options for addressing the harassment including the University's grievance procedure set forth in the Candidate Handbooks.
- If the harassment is not outside the scope, the Title IX Coordinator will notify the parties of the complaint and determine whether the complaint will be resolved through the Informal Resolution Process or the Formal Resolution Process. (The Informal Resolution Process is not available for formal complaints involving a candidate complainant and employee respondent or if the Title IX Coordinator determines an informal resolution would not be appropriate.)
- If the complaint will proceed through the Formal Resolution Process, an investigator will be appointed to begin the investigation, after which the University will conduct a hearing to reach a determination of responsibility regarding the complaint.

## Dismissal of a Formal Complaint (Mandatory & Discretionary)

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

- The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Policy, even if proved;
- The conduct did not occur in an educational program or activity controlled by the University and/or the University does not have control of the respondent;
- The conduct did not occur against a person in the United States; and/or
- At the time of filing a formal complaint, the complainant is not participating in or attempting to participate in the education program or activity of the University.

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

- The 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; and/or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination of responsibility as to the formal complaint or allegations therein.

Upon any dismissal, the University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal below. A complainant who decides to withdraw a complaint may later request to reinstate it. If a complaint is dismissed, the University may address any alleged misconduct under the University's Code of Conduct for Reach Candidates (the Code of Conduct is listed in the Candidate Handbooks) or the University's grievance procedure in the Candidate Handbooks.

## Supportive Measures

Reach University will offer and coordinate supportive measures without fee or charge as appropriate for the complainant and/or respondent to restore or preserve that person's access to the University's education program or activity or provide support during the University's Title IX Formal Grievance Process or during the Informal Resolution Process. Supportive measures must not unreasonably burden either party and must not be imposed for punitive or disciplinary reasons. The University determines whether a requested supportive measure is appropriate and reasonably available to the party(ies). The University must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

For candidate parties to formal complaints of sexual harassment, these supportive measures may include, but are not limited to:

- Extensions of deadlines or other course-related adjustments;
- Modifications of class schedules;
- Mutual restrictions on contact between the parties;
- Leaves of absence; and
- Counseling referrals.

For employee parties to formal complaints of sexual harassment, these supportive measures may include, but are not limited to:

- Changes in work location;
- Leaves of absence;
- Increased security and monitoring of certain areas;
- Counseling referrals; and
- Mutual restrictions on contact between the parties.



## Emergency Removal

Reach University reserves the right to remove a candidate respondent accused of sexual harassment from its education program or activities on an emergency basis. To initiate an emergency removal, the University must undertake an individualized safety and risk analysis and determine that an immediate threat to the physical health or safety of a complainant or any candidates, employees, or other persons arising from the allegations of sexual harassment justifies the removal. If an emergency removal is imposed, the respondent will be given notice of the removal and the option to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the removal should not be implemented. If the emergency removal is implemented, the respondent will also be provided with an opportunity to challenge the decision. However, the emergency removal will remain in effect during any challenge to such decision. The appropriate Dean (in coordination with People Operations) will make a determination regarding any challenges to emergency removals within three (3) business days.

## Administrative Leave of Employee Respondent

Respondents that are University employees may be placed on administrative leave during the pendency of the Title IX Grievance Procedure as determined by the University and the Title IX Coordinator, in conjunction with the Vice President of People Operations.

## Title IX Grievance Procedure

The University resolves formal complaints of Title IX sexual harassment (as defined in the Glossary) through the Title IX Grievance Procedure, which includes a Formal Grievance Process and an Informal Resolution Process. The Informal Resolution Process is only available to the parties if the Title IX Coordinator determines an informal resolution is appropriate and the parties agree to proceed with an informal resolution. The University may not offer an informal resolution for formal complaints with a candidate complainant and employee respondent.

**During the Title IX Grievance Procedure, the University will:**

- Treat complainants and respondents equitably;
- Provide remedies to complainants where a determination of responsibility for sexual harassment has been made against the respondent;
- Refrain from imposing any disciplinary sanctions against the respondent until after a determination of responsibility has been made;
- Require an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence;
- Not base credibility determinations on a person's status as a complainant, respondent, or witness.
- Ensure Title IX personnel do not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Procedure.

## Title IX Personnel

The Title IX Grievance Procedure relies on the Title IX Personnel to carry out the process. Title IX Personnel members receive annual training and the training materials are publicly posted on the [Staff Knowledge Base](#).

**Title IX Personnel includes the following roles:**

- Title IX Coordinator
- Investigator(s)
- Chair of the Hearing Board (decision-maker)
- Members of the Hearing Board (decision-makers)
- Members of the Appeal Panel

- Facilitators of informal resolutions

The Title IX Coordinator appoints Title IX Personnel, who act with independence and impartiality. Title IX Personnel are trained annually on their roles, as is described in this Policy.

## Notice of Investigation & Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the parties upon receipt of a formal complaint and the commencement of the Title IX Grievance Procedure.

### **The NOIA will include:**

- A copy of the University’s Grievance Procedure, including the possibility for informal resolution;
- A meaningful summary of all of allegations potentially constituting sexual harassment, including sufficient details known at the time;
- The identity of the involved parties (if known);
- The precise misconduct being alleged;
- The date and location of the alleged incident(s) (if known);
- The University specific policies implicated;
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- A statement that the parties will have an equal opportunity to inspect and review evidence;
- Information on the ability for each party to have an advisor of their choosing;
- Details on how the party may request disability accommodations during the investigation;
- 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
- A statement that the University prohibits knowingly making false statements or knowingly submitting false information during the Grievance Procedure.

The NOIA must be provided to the parties with sufficient time to prepare for any initial interview. 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. All parties will be notified of any changes or additional allegations in writing

## Right to an Advisor

The parties may each have an advisor of their choice present with them for all meetings and interviews within the resolution process, if they so choose. 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 select whomever they wish to serve as their advisor, from inside or outside of the University community, as long as the advisor is eligible and available.

Choosing an advisor who is also a witness in the process creates potential for bias and conflict-of interest. A party who chooses an advisor who is also a witness can anticipate that issues of potential bias will be explored by the Hearing Board.

### **Advisor’s Role**

The parties may be accompanied by their advisor in all meetings and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Advisors may consult with their advisee, either privately as needed, or by conferring 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.



## **Sharing Information with the Advisor**

The University expects that the parties will wish to share documentation and evidence related to the allegations with their advisors. The University provides a consent form that authorizes such sharing. The parties must complete this form before the University is able to share records with an advisor. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University will 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. The University will not comply with requests that all communication be made through a party's advisor.

## **Expectations of an Advisor**

The University generally expects an advisor to adjust their schedule to allow them to attend investigation 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.

## **Expectations of the Parties with Respect to Advisors**

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 any meeting or hearing (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.

## **Advisors in Title IX Hearings/University-Appointed Advisor**

Title IX regulations require cross-examination during a hearing to be conducted by the parties' advisors. The parties are not permitted to directly cross-examine each other or any witnesses. 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. The University cannot 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.

A party may reject this appointment and choose their own advisor, but they may not proceed without an advisor during the hearing of the Formal Grievance Process. If the party's advisor will not conduct cross-examination, the University will appoint an advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses may also be conducted by the Hearing Board during the hearing.

An advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an advisor unless the party being advised consents to that information being shared. It is otherwise considered off-limits, and an advisor who is an institutional employee is temporarily alleviated from any mandatory reporter responsibilities related to their interaction with their advisee during the resolution process.

## **Advisor Violations of University Policy**

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 be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the advisor's non-compliance and future role.

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. 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 members of the Hearing Board except during cross-examination in a Title IX hearing proceeding.

## Delays in the Investigation Process & Interactions with Law Enforcement

The University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions. Parties will be notified in writing regarding the reasoning for any delays and the anticipated duration. The investigation and resolution process will resume as soon as feasible. University action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

## Withdrawal or Resignation While Charges are Pending

Should a respondent (candidate or employee) withdraw/resign during the Grievance Procedure, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged harassment and any ongoing effects of the alleged harassment. The following stipulations will also apply:

**Candidates:** Should a candidate decide to not participate in the resolution process, the process proceeds to a reasonable resolution absent their participation. Should a candidate respondent permanently withdraw from the University, the resolution process ends and the formal complaint is dismissed as there is no disciplinary jurisdiction over the withdrawn candidate.

If a candidate respondent permanently withdraws while the process is pending, the candidate is ineligible to return to the University, and the Offices of Academic Records and Academic Compliance will be notified that they cannot be readmitted. The candidate may also be barred from University events. If the candidate respondent takes a leave of absence for a specified period of time, the resolution process may continue remotely, and that candidate is not permitted to return to active enrollment unless the investigation is concluded and any sanctions have been satisfied.

**Employees:** Should an employee respondent resign with unresolved allegations pending, the resolution process ends and the formal complaint is dismissed, as the University no longer has disciplinary jurisdiction over the resigned employee. The employee who resigns with unresolved allegations pending is not eligible for rehire with the University.

## Informal Resolution Process

If either party wishes to initiate the Informal Resolution Process, they must notify the Title IX Coordinator but all parties must agree in writing to proceed with the informal resolution. Informal resolution is not available for formal complaints with a candidate complainant and employee respondent.

Before the initiation of the Informal Resolution process, the University will explain in writing to the parties:

- The allegations;
- The requirements of the Informal Resolution Process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;

- That at any time, and prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution Process and to initiate or resume the Formal Grievance Process;
- That if the parties agree to a resolution at the end of the Informal Resolution Process, they cannot initiate or resume the Formal Grievance Process arising from the same allegations; and
- Any consequences resulting from participating in the Informal Resolution Process, including the records that will be maintained or could be shared.

The Informal Resolution Process can include three different approaches:

- When the parties agree to resolve the matter informally, in a manner agreeable to all parties;
- When the respondent accepts responsibility for violating this Policy, and desires to accept a sanction and end the Grievance Procedure; or
- When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

It is not necessary to pursue the Informal Resolution Process first in order to pursue a Formal Grievance Process, and any party participating in the Informal Resolution Process can stop the process at any time and begin or resume the Formal Grievance Process. The University will obtain voluntary, written confirmation that all parties wish to resolve the matter through informal resolution before proceeding and will not pressure the parties to participate in the Informal Resolution Process.

The Title IX Coordinator may look to the following factors to assess whether informal resolution is appropriate:

- The parties' amenability to informal resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Cleared violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Complaint complexity; and/or
- Rationality of the parties.

The ultimate determination of whether informal resolution is available or successful is to be made by the Title IX Coordinator.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in an appropriate response, including disciplinary actions. Results of complaints resolved by informal resolution are not appealable.

## Formal Grievance Process: Investigation

The Formal Grievance Process begins with an investigation conducted by an investigator, followed by a live hearing, and includes the option to appeal the determination of responsibility made at the hearing.

All investigations are thorough, reliable, impartial, prompt, and fair. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the University, not the parties.

Investigations involve conducting interviews of all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. All parties have an equal opportunity to present witnesses, including fact and expert witnesses, other inculpatory and exculpatory evidence and questions, to provide evidence, and to fully review and respond to all evidence on the record.

During an investigation, the Investigator(s) typically engage in the following steps (this list is not exhaustive, and the steps may not be taken in this order):

- In coordination with University partners, initiate or assist with any necessary supportive measures;
- Conduct interviews of all relevant parties and witnesses;
- Collect all relevant evidence;
- Provide parties or witnesses whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
- Allow parties to review and verify summaries from their interview(s);
- Provide parties the opportunity to present witnesses and evidence for review;
- Allow parties the opportunity to submit questions they would like asked of the other party, as well as any witnesses;
- Provide parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation;
- Write a comprehensive investigation report, fully summarizing the investigation, all witness interviews, and fairly summarizing all relevant evidence;
- Provide status updates to the parties throughout the investigation;
- Provide a copy of the draft investigation report to parties and advisors, 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, at least ten (10) days before the hearing;
- Allow the parties a 10-day period of review and comment so that each party may meaningfully respond to the evidence (the parties may elect to waive the full ten days); and
- Incorporate relevant elements of the parties' responses into the final investigation report, including any additional relevant evidence, any necessary revisions, and finalize the report.

## Acceptance of Responsibility

The respondent may accept responsibility for all or part of the alleged sexual harassment at any point during the investigation or grievance process. If the respondent indicates an intent to accept responsibility for all the alleged misconduct, the Formal Grievance Process will be paused, and the Title IX Coordinator will determine whether the Informal Resolution Process can be used according to the criteria outlined in this Policy. If informal resolution is appropriate, the Title IX Coordinator will determine whether all parties and the University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the respondent is in violation of University policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the process will resume at the same point where it was paused.

## Relevant Evidence

The investigation includes collection of all relevant evidence directly related to the allegations, which is not otherwise privileged. Evidence is relevant if it is related to the allegations of sexual harassment under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sexual harassment occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged sexual harassment occurred.

The following types of impermissible evidence will be excluded from the Formal Grievance Process, regardless of whether they are relevant:

- Evidence that is protected under a privilege as recognized by Federal or State law, unless the person to whom the privilege is owed expressly waives this privilege in writing and consents to the release of this information during the Formal Grievance Process;
- A party's or witness's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional capacity, which are made or maintained 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 the Formal Grievance Process; and
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

## **Role and Participation of Witnesses in the Investigation**

All witnesses, including employees, are expected to cooperate with and participate in the investigation and resolution process. Failure to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

Interviews for parties and all potential witnesses will be conducted remotely. The University will take appropriate steps to reasonably ensure the security/privacy of remote interviews. Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

## **Recording of Interviews**

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

## **Investigative Report**

At the conclusion of the investigation, the Investigator(s) provides a copy of the draft investigative report to the parties and their advisors for review and comment. The parties have ten (10) days to review and comment on the investigative report. The Investigator(s) will incorporate relevant elements of the parties' responses into the final investigation report, including any additional relevant evidence, and finalize the report.

# **Formal Grievance Process: Hearing**

## **Referral for Hearing**

Once the investigation report is final, the Title IX Coordinator will refer the matter for a hearing and transmit a copy of the final investigation report to the parties, their advisors, and the members of the Hearing Board.

## **Hearing Board Composition**

The Title IX Coordinator designates a three-member panel (the Hearing Board). One of the members of the panel will be the Chair of the Hearing Board, who serves to facilitate the hearing and decision-making process. No member of the Hearing Board will have any previous involvement with the investigation.

## **Notice of the Hearing**

Notice of the hearing will be provided to the parties (at least ten (10) business days in advance). The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential disciplinary sanctions and/or remedies that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other University-related engagements.
- Any technology that will be used to facilitate the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any member of the Hearing Board based on demonstrated bias. This must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the hearing may be rescheduled.
- Notification that the parties may have the assistance of an advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an advisor, and the University will appoint one. Each party must have an advisor present. There are no exceptions.
- A copy of all the materials provided to the Hearing Board about the matter, unless they have been provided already.
- An invitation to each party to submit to the Chair of the Hearing Board an impact statement pre-hearing that the Hearing Board will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

## Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the scheduled hearing, the party should request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing.

The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. At the request of either party, the University will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Hearing Board and parties to simultaneously see and hear the party or the witness answering questions.

## Pre-Hearing Preparation

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

The parties will be given a list of the names of the members of the Hearing Board at least ten (10) business days in advance of the hearing. All objections to any Hearing Board members must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than five (5) days prior to the hearing. Members of the Hearing Board will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Hearing Board will receive the investigative materials at least ten (10) business days in advance of the hearing. Any Hearing Board member who cannot make an objective determination must recuse themselves from the proceedings. If a Hearing Board member is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.



## Hearing Procedures

Participants at the hearing will include the Chair, the Hearing Board members, the Investigator(s) who conducted the investigation, the parties, advisors to the parties, any called witnesses, the Title IX Coordinator and anyone providing authorized accommodations or assistive services.

The Chair will answer all questions about procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf. The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Hearing Board and the parties (through their advisors) and will then be excused.

## Joint Hearings

In hearings involving more than one respondent or in which two (2) or more complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly. However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each respondent with respect to each alleged policy violation.

## The Order of the Hearing – Introductions & Explanation of Procedure

The Chair explains the procedures and introduces the participants. The Chair then conducts the hearing according to the hearing script. At the hearing, the recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by the Title IX Coordinator.

## Investigator Presents the Final Investigation Report

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

Neither the parties nor the Hearing Board should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

## Testimony & Questioning

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Hearing Board and then by the parties through their advisors (“cross-examination”).

All questions are subject to a relevance determination by the Chair. Advisors must submit a list of initial questions to the Chair at least five (5) business days in advance of the hearing and the Chair will provide written determinations if any questions are considered to be not relevant or otherwise excluded. For any new questions that arise during the proceeding, the proceeding will pause to allow the Chair to consider the question. If the Chair considers the question to be relevant the questioning will proceed. If the Chair determines the question is not relevant, the Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance, subject to any appeal. The Chair may ask advisors to explain why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Chair has ruled on a question.

## **Cross-Examination & Inferences**

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Hearing Board can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Hearing Board may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The Hearing Board will not draw an inference about whether sexual harassment occurred based solely on a party's or witness's refusal to respond to such questions.

If a party's advisor of choice refuses to comply with the University's established rules of decorum for the hearing, the University may require the party to use a different advisor. If a University-provided advisor refuses to comply with the rules of decorum, the University may provide that party with a different advisor to conduct cross-examination on behalf of that party.

## **Recording Hearings**

Hearings (but not deliberations) are recorded by the University for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. The Hearing Board, the parties, their advisors, and appropriate administrators of the University will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

## **Deliberation, Decision-making, & Standard of Proof**

The Hearing Board will deliberate in closed session to determine whether the respondent is responsible or not responsible for the policy violation(s) in question. A majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used (whether it is more likely than not that the respondent violated the Policy as alleged).

The parties may each submit a written impact statement prior to the hearing for the consideration of the Hearing Board at the sanction stage of the process when a determination of responsibility is reached. When there is a finding of responsibility on one or more of the allegations, the Hearing Board may then consider the submitted party impact statements and any pertinent conduct history in determining appropriate sanction(s).

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions or remedies. This report must be submitted to the Title IX Coordinator within five (5) business days of the end of deliberations.

## **Sanctions & Remedies**

Upon a determination of responsibility in the Title IX Hearing, the following factors may be considered when determining which sanctions and/or remedies to impose:

- The nature, severity of, and circumstances surrounding the violation(s);

- The respondent's disciplinary history;
- Previous allegations or allegations involving similar conduct;
- The need for sanctions to bring an end to the sexual harassment and/or retaliation;
- The need for sanctions to prevent the future recurrence of sexual harassment and/or retaliation;
- The need to remedy the effects of the sexual harassment and/or retaliation on the complainant and the community;
- The impact on the parties; and/or
- Any other information deemed relevant by the Hearing Board.

The sanctions and/or remedies will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested. The sanctions and remedies described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities.

## **Candidate Sanctions**

The following are the usual sanctions that may be imposed upon candidates or organizations singly or in combination:

- Disciplinary probation;
- No contact order;
- Suspension;
- Permanent expulsion;
- Administrative hold on the release of records, a notation on the candidate's official transcript;
- Withholding a degree or recommendation for a credential; and/or
- Recommending the revocation of a credential.
- Other Actions: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

## **Employee Sanctions**

Range of Sanctions - Part-Time Faculty and Contractors

The following sanctions may be imposed upon part-time faculty singly or in combination:

- Warning: A formal statement that the conduct was unacceptable and a warning that further violation of any University policy, procedure or directive will result in more severe sanctions, including the rescission of active faculty status.
- Implementation of a remediation plan as appropriate
- Removal from assigned course(s)
- Restrictions on future teaching assignments
- Loss of teaching privileges altogether
- Other Actions: In addition to or in place of the above sanctions, the decision-maker may assign any other sanctions as deemed appropriate.

## **Range of Sanctions - Employees (including Full-Time Faculty)**

The following sanctions may be imposed upon employees singly or in combination:

- Warning - Verbal or Written
- Performance Improvement/Management Process
- Required Training or Education
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension with pay

- Suspension without pay
- Termination
- Other Actions: In addition to or in place of the above sanctions, the decision-maker may assign any other sanctions as deemed appropriate.

## **Range of Remedies**

The following remedies may be implemented singly or in combination:

- Providing referrals for medical, mental health, and victim advocacy services;
- Providing academic support services to candidate complainant;
- Implementing a no contact order on the respondent;
- Making adjustments to class or work schedules;
- Allowing a candidate complainant to withdraw from a class, rearrange their exam schedule, switch classes, or retake a course without academic or financial consequences; and/or
- Provide for alternative grading/review of candidate's work by a neutral third party.

## **Notice of Outcome**

Upon conclusion of the Title IX Formal Grievance Process, the Title IX Coordinator, in conjunction with the Hearing Board, as appropriate, will prepare the Notice of Outcome, which must include:

- A description of the allegations potentially constituting sexual harassment;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination of responsibility, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination of responsibility;
- Conclusions regarding the application of the University's Title IX Policy or code of conduct to the facts;
- A statement of, and rationale for, the finding as to each allegation, including a determination regarding responsibility;
- Any disciplinary sanctions the University imposes on the respondent;
- Whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the complainant; and
- The University's procedures and permissible bases for the complainant and respondent to appeal.

The Notice of Outcome will typically be issued within ten (10) business days of the hearing and will be delivered to the parties simultaneously. The determination may be appealed by either party; therefore, the Notice of Outcome includes the grounds on which the parties may appeal and the steps to request an appeal.

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

## **Appeals**

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome or notice of dismissal of a formal complaint.

Any party may appeal the determination of responsibility or the dismissal of a formal complaint only under the grounds described below.

- Procedural irregularity that affected the outcome of the matter;

- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter (A summary of this new evidence and its potential impact must be included); or
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Upon receipt of an appeal, the Title IX Coordinator will notify the other party(ies) of the appeal in writing. Both parties will have five (5) days to submit a response to the appeal. A three-member panel, composed of a manager, director, and College Dean or Vice President, will be designated by the Title IX Coordinator. None of the panel members will have previously been involved in the Grievance Procedure. The Appeal Panel will review the request to determine if it meets the grounds for appeal. If the appeal does not meet the established criteria, the request will be denied, and the parties will be notified in writing of the denial and the rationale.

If the request does meet the established appeal criteria, the Appeal Panel will be provided all the documentation and materials used to make the determination of responsibility or the decision to dismiss the formal complaint. Appeals are not intended to be full re-hearings of the allegation(s). In most cases, appeals are confined to a review of documentation or record of the investigation pertinent to the grounds for appeal.

The Appeal Panel will typically issue the determination within seven (7) business days of receipt of the accepted appeal, barring exigent circumstances. A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each ground for appeal and rationale for each decision.

The Notice of Appeal Outcome will include any specific instructions for remand or reconsideration, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings, to the extent the University is permitted to share under state or federal law.

## **Appeal Considerations**

- Any sanctions imposed as a result of the hearing are postponed during the appeal process. Supportive measures may be reinstated.
- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- The Appeal Panel has the authority to apply any administrative resolution necessary based on the merits of an approved appeal, up to and including overturning a decision or sanction, fully or in part.
- In cases where new evidence is presented which warrants further review, the appeal timeframe may be extended. The parties will be notified of any such delays.
- An appeal decision is the final determination of the University.

## **Failure to Comply with Sanctions**

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 a referral to the University's Code of Conduct for candidates for additional sanction(s)/action(s), including expulsion. Employees will be referred to the Office of People Operations for further corrective action, outlined in the Employee Handbook.

## Title IX Coordinator Responsibilities

### Coordinator Responsibilities

The Title IX Coordinator is responsible for coordinating the University's compliance with its obligations under Title IX and this Policy, including but not limited to:

- Taking actions to promptly and effectively end any sex discrimination (including sexual harassment) in the University's education program or activities, prevent its recurrence, and remedy its effects;
- Notifying complainants of the Grievance Procedure, including the Formal Grievance Process and Informal Resolution Process;
- Notifying respondents of the Grievance Procedure, including the Formal Grievance Process and Informal Resolution Process, when a formal complaint is filed;
- Offering and coordinating supportive measures for complainants and respondents;
- Appropriately addressing reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures;
- Initiating and overseeing Formal Grievance Process and/or Informal Resolution Process if a formal complaint is filed;
- Effectuating any remedies or sanctions issued at the end of the Formal Grievance Process or as a result of the Informal Resolution Process; and
- Maintaining records and ensuring annual training of Title IX personnel.

### Training

The University shall provide training to Title IX Personnel, including Title IX Coordinators, Investigators, Decision-makers, and Facilitators of the Informal Resolution Process, related to their duties under Title IX. This training will occur promptly upon hiring or change of position that alters their duties under Title IX, and annually thereafter. These trainings must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints.

Training for Title IX Personnel covers the following topics:

- The definition of sexual harassment;
- The scope of the University's education program or activity;
- How to conduct an investigation and grievance process (including hearings, appeals, and informal resolutions); and
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Training for Decision-makers (members of Hearing Board or Appeal Panel) also covers:

- How to use technology in the live hearing; and
- Issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behaviors are not relevant.

Training for Investigators also covers:

- Issues of relevance to create an investigative report that fairly summarizes relevant evidence.

### Records

The University shall maintain the following records related to the implementation of this Policy for at least seven years:

- Reports or complaints alleging sexual harassment;
- Records of any dismissal of a formal complaint;
- Any notices provided to the parties;



- Records from each investigation including the determination;
- Any audio or audiovisual recording or transcript required under federal regulation;
- Any disciplinary sanctions imposed on the respondent;
- Any remedies implemented by the University designed to restore or preserve equal access to the University's education program or activity;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom;
- All materials used to train employees, including Title IX Personnel; and
- Any actions, including any supportive measures, taken in response to a report or complaint of sexual harassment, including:
  - The basis for the University's conclusion that the response was not deliberately indifferent;
  - Any measures designed to restore or preserve equal access to the University's education program or activity; and
  - If no supportive measures were provided, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The University will make the training materials used to train employees publicly available on the University's website.

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## Pregnant Candidates Policy

### Non-discrimination Policy for Pregnant Candidates

Reach University does not discriminate against any candidate in its education program or activity based on pregnancy or related conditions. Related conditions include childbirth, termination of pregnancy, and recovery from any of these conditions.

Reach University will take specific actions to promptly and effectively prevent sex discrimination and ensure equal access to the University's education program or activity once a candidate notifies the Title IX Coordinator of the candidate's pregnancy or related conditions. The Title IX Coordinator is responsible for coordinating these actions. Any complaints made by candidates about the University's compliance with the Pregnant Candidates Policy will be addressed through the University's grievance procedure in the Candidate Handbooks.

### Reasonable Modifications for Pregnant Candidates

For candidates who are pregnant or experiencing pregnancy related conditions, Reach University offers services and benefits to students who are pregnant or have a related condition if they are offered to temporarily disabled students. The Title IX Coordinator will consult with the candidate to determine what modifications are required. However, a modification that the University determines would fundamentally alter the nature of its education program or activity is not a reasonable modification.

The candidate has the discretion to accept or decline each reasonable modification offered by Reach University. If a candidate accepts an institution's offered reasonable modification, Reach University will implement it. Reasonable modifications may include (but are not limited to):

- Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom;
- Intermittent absences to attend medical appointments;
- Changes in schedule or course sequence;
- Extensions of time for coursework and rescheduling of tests and examinations;
- Counseling; and
- Other changes to policies, practices, or procedures.

## Leaves of Absence

With respect to leaves of absence, Reach University allows a leave of absence for pregnancy or related conditions for as long as a candidate's doctor deems medically necessary. When the candidate returns to the University's education program or activity, the candidate must be reinstated to their prior status.

## Required Documentation

Reach University requires supporting documentation of the need for reasonable modifications, if the documentation is necessary and reasonable for the institution to determine the reasonable modifications to make or the purpose and/or length of the leave of absence.

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## Title IX Glossary

**Candidate** means a student who is enrolled in or attempting to participate in an education program or activity at Reach University.

**Consent** means knowing, voluntary, clear permission, either by affirmative words or actions, to engage in sexual activity.

**Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

**Disciplinary sanctions** mean consequences imposed on a respondent following a determination under Title IX that the respondent violated the University's prohibition on sex discrimination.

**Formal Complaint** means a written document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the University investigate the allegation of sexual harassment.

**Incapacitation** means a state where 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). 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.

**Mandatory Reporter** means any full-time University employee including officials with authority. University contractors (including instructors who are not full-time employees and other part-time staff) are not mandatory reporters.

**Official with authority** means a University employee with authority to institute corrective measures on the behalf of the University.

**Party** means a complainant or respondent.

**Peer retaliation** means retaliation by a candidate against another candidate.

**Relevant** means related to the allegations of sexual harassment under investigation as part of this Grievance Procedure. Questions are relevant when they seek evidence that may aid in showing whether the alleged sexual harassment occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged sexual harassment occurred.

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. These measures are provided to restore or preserve that person's access to the University's education program or activity after a University determines that sexual harassment occurred.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Retaliation means intimidation, threats, coercion, or discrimination against any person by the University, a candidate, 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 Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX.

Sexual harassment is a form of sex discrimination and means conduct on the basis of sex that satisfies one or more of the following:

- (1) Quid pro quo harassment. An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's education program or activity conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct harassment. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive and is so severe and/or that it effectively denies a person equal access to the University's education program or activity.
- (3) Specific offenses.
  - (i) Sexual assault meaning any sexual act directed against another individual, without their consent, including instances where the victim is incapable of giving consent, that meets the definition of:
    - a. Rape: 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 individual.
    - b. Fondling: The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, without the consent of the individual, including instances in which the individual is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
    - c. Incest: Sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by state law.
    - d. Statutory Rape: Sexual intercourse, with a person who is under the statutory age of consent as determined by state law.
  - (ii) Dating violence meaning violence on the basis of sex committed by a person:
    - (A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
    - (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
      - (1) The length of the relationship;
      - (2) The type of relationship; and
      - (3) The frequency of interaction between the persons involved in the relationship;

\*For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

(iii) Domestic violence meaning violence on the basis of sex committed by a person:

- (A) Who is a current or former spouse or intimate partner of the victim;
- (B) With whom the victim shares a child in common;
- (C) Who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner,
- (D) Who is similarly situated to a spouse of the victim under the domestic or family violence laws of Arizona; or

- (E) Who commits acts against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Arizona.

\*To categorize an incident as domestic violence, the relationship between the respondent and the complainant must be more than two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

- (iv) Stalking, meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (A) Fear for the person's safety or the safety of others; or  
(B) Suffer substantial emotional distress.

\*For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the respondent 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.  
(ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.  
(iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Sex discrimination means different treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's sex. Sex discrimination may be committed by any person upon any other person on the basis of sex, including on the basis of sex stereotypes, sex characteristics, or pregnancy or related conditions. Sex discrimination can also include discrimination by the University on the basis of parental, family, or marital status in its admissions process, in the provision of financial assistance, or in employment actions.

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed, to:

- (1) Restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures that are designed to protect the safety of the parties or the University's educational environment or deter sexual harassment; or  
(2) Provide support during the University's Formal Grievance Process or during the Informal Resolution Process.

Title IX Personnel means the Title IX Coordinator and any designees, investigators, decision-makers (including members of the Hearing Board and Appeal Panel), facilitators of informal resolutions, and individuals who are responsible for implementing the University's Grievance Procedure or have the authority to modify or terminate supportive measures.