



Appendix B - Procedures for Resolving Reports Against Employees

I. Introduction

The University is committed to providing a prompt and equitable response to all reports and Formal Complaints of Prohibited Conduct under the Sexual Harassment and Sexual Misconduct Policy (“EIC-3” or the “Policy”). The University’s resolution processes for addressing Prohibited Conduct are grounded in the principles of support and fairness for all parties, including the provision of procedural protections that ensure notice, equitable opportunity to participate, and neutral and impartial investigation, resolution, and appeal procedures. The definitions for specific forms of Prohibited Conduct and other core concepts are included in the text of EIC-3. This resolution process will be used to resolve Reports and Formal Complaints of Prohibited Conduct made against Employees.

II. Process Overview

A. Report

Any person may make a Report against any student or student organization for alleged violation(s) of the University’s Sexual Harassment and Sexual Misconduct Policy. Reports should be referred to the Title IX Coordinator (or to EIC), who will ensure consistent application of the Policy to all individuals and allow the University to respond promptly and equitably to eliminate the prohibited conduct, prevent its recurrence, and address its effects.

B. Initial Assessment

Upon receipt of a Report, the University will conduct an Initial Assessment of the matter and will promptly contact the Complainant and provide information about and resources and options, including the Formal Resolution Process and available Supportive Measures. The Complainant will be invited to meet with the Title IX Coordinator, or their designee, to learn more about Supportive Measures and the Formal Resolution Process and to discuss the Complainant’s preferences for resolution and Supportive Measures.

During the Initial Assessment, the University will:

- Evaluate whether the alleged conduct falls within the purview this Policy;
- Assess appropriate Supportive Measures; and
- Evaluate the need for any Protective Measures, including Emergency Removal of a Respondent if they are determined to present a threat to health or safety of an individual or the University Community.

The Initial Assessment will consider the nature of the Report; the safety of the Complainant, other individuals or identifiable groups, and/or the University Community; the Complainant's expressed preferences for resolution and Supportive Measures; and the necessity for any Protective Measures, including Emergency Removal, to protect the safety of the Complainant or the University Community.

C. Preliminary Inquiry

When a Complainant is interested in participating in the University's Formal Resolution Process (to include Investigation and Adjudication or Alternative Resolution), an Investigator will meet with the Complainant to gather information about the Report. The Investigator will review the information gathered during the interview with the Complainant and will assess whether the alleged conduct, if proved, would constitute a Policy violation. The Investigator will not make credibility determinations in conducting the Preliminary Inquiry.

If the Investigator determines that the alleged conduct, if proved, would not constitute a Policy violation, the University will notify the Complainant and inform the Complainant of other options and resources available at the University or within the community, as appropriate. If the Investigator determines that the elements of a Policy violation have been raised, the Complainant may indicate their willingness to proceed with a Formal Complaint.

D. Formal Complaint

Any Complainant may file a Formal Complaint for a violation of this Policy against any student.¹ In cases where a Complainant does not wish to file a Formal Complaint or in other circumstances, as appropriate, the Title IX Coordinator may, in their discretion, file a Formal Complaint against a student for a violation of this Policy.

The University will promptly notify all Parties in writing of the filing of the Formal Complaint and will provide the Parties with information about the Investigation and Adjudication process, Alternative Resolution options, and available Supportive Measures. The written notice will include details regarding the alleged Prohibited Conduct, including sufficient details – to the extent known – regarding the nature of the alleged Prohibited Conduct; the identities of the individuals involved; and the date and location of the alleged action(s)/incident(s). Should any of this information be unknown at the time a Formal Complaint is filed, and later becomes known, the University will provide updated written notice, as appropriate. Likewise, if additional allegations that are not included in the original notice provided to the Parties are brought to the attention of the Investigator, the University will provide notice of the additional allegations to the Parties.

¹ The University will consider any request from an individual outside the University to file a Formal Complaint on a case-by-case basis after consideration of all the circumstances made known to the University, including the definition of "Formal Complaint" provided in the implementing regulations published by the U.S. Department of Education's Office for Civil Rights; the effect of the alleged Prohibited Conduct on the University Community; the location of the alleged Prohibited Conduct; and the identities of the individuals alleged to have been involved.

At any time after a Formal Complaint is filed, either Party may request an Alternative Resolution. Each resolution process is guided by the same principles of fairness and respect for all Parties.

All Respondents will be presumed “not responsible” until a Determination is reached.

1) Dismissal of Formal Complaint

The Title IX Coordinator will determine whether the conduct alleged in the Formal Complaint falls within the scope of the policy and the definitions of Prohibited Conduct. The Title IX regulations require the University to dismiss some or all of the allegations in the Formal Complaint related to Title IX Sexual Harassment if:

1. The conduct alleged, even if substantiated, would not constitute Title IX Sexual Harassment as defined in the Title IX regulations;
2. The conduct did not occur within the University’s education program or activity;
or,
3. The conduct did not occur against a person in the United States.

This means that the University may be required by law to dismiss some or all of the allegations in the Formal Complaint under Title IX and provide the parties notice of the dismissal and the opportunity to appeal that dismissal. In the event of a mandatory dismissal required by the Title IX regulations, a matter may still proceed through the University’s Formal Resolution Process, so long as the remaining allegations set forth in the Formal Complaint, if proved, would constitute violations of the Policy.²

In addition, the Title IX Coordinator may dismiss a Formal Complaint at any stage of the process in any of the following three circumstances:

1. The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
2. The Respondent is no longer enrolled or employed by the University; or
3. Specific circumstances, including a Complainant’s decision not to respond to outreach by the Title IX Coordinator, prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

The decision about whether to dismiss a Formal Complaint, in whole or in part, may be made at any time in the process and will be communicated simultaneously to all Parties in writing. Either Party may challenge the dismissal of a Formal Complaint by notifying the Title IX Coordinator in writing of the challenge within five (5) business days of the decision being communicated.

The other Party will be notified of the appeal in writing and will be provided with five (5) business days to respond in writing.

At the discretion of the Title IX Coordinator, or their designee, an appeal may be assigned to either an Appellate External Adjudicator or a senior University administrator (collectively, the “Appellate Authority”). In either case, the Title IX Coordinator, or their

² See Definitions of Prohibited Conduct in OED-3.

designee, will ensure that the Appellate Authority is trained, neutral, impartial, and free from conflict, and that the Appellate Authority does not include any previous decision-makers or the Investigator.

The Appellate Authority shall, in consultation with the Title IX Coordinator, issue a written decision describing the result of the appeal and the rationale for the result simultaneously to the Parties within ten (10) business days of receipt of the opposing Party's response to the appeal. The decision of the Appellate Authority is final.

2) Title IX Coordinator Discretion to File a Formal Complaint

The Title IX Coordinator also has the discretion to file a Formal Complaint. In evaluating the appropriate manner of resolution, including whether the Title IX Coordinator will file a Formal Complaint in the absence of a Formal Complaint by the Complainant, the Title IX Coordinator will consider the following factors:

- The totality of the known circumstances;
- The nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon;
- The respective ages and roles of the Complainant and Respondent;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether there have been other reports of other Prohibited Conduct or other misconduct by the Respondent;
- Whether the Report reveals a pattern of misconduct related to Prohibited Conduct (e.g., illicit use of drugs or alcohol) at a given location or by a particular group;
- The Complainant's interest in the University not pursuing an Investigation or disciplinary action and the impact of such actions on the Complainant;
- Whether the University possesses other means to obtain relevant evidence;
- Fairness considerations for both the Complainant and the Respondent;
- The University's obligation to provide a safe and non-discriminatory environment; and
- Any other available and relevant information.
- The Title IX Coordinator may also re-open a Report under this Policy if any new or additional information becomes available, and/or if the Complainant later decides that they would like a Formal Resolution to occur.

In those instances when the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator will notify the Complainant that the University intends to initiate an Investigation. The Complainant is not required to participate in the Investigation or in any of the actions taken by the University.

The University's ability to Investigate and respond fully to a Report may be limited if the Complainant requests anonymity or declines to participate in an Investigation. The University will, however, pursue other steps to limit the effects of the reported conduct and prevent its recurrence. In all cases, the final decision on whether, how, and to what extent the University will conduct an Investigation will be taken in connection with a Report of Prohibited Conduct will be made in a manner consistent with this policy.

3) Notice of Allegations

The University will promptly notify all Parties in writing of the filing of the Formal Complaint and will provide the Parties with information about the Investigation and Adjudication Process, Alternative Resolution options, and available Supportive Measures. The written notice will include:

- Information regarding the alleged Prohibited Conduct, including sufficient details – to the extent known – regarding the nature of the alleged Prohibited Conduct; the identities of the individuals involved; and the date and location of the alleged action(s)/incident(s). Should any of this information be unknown at the time a Formal Complaint is filed, and later becomes known, the University will provide updated written notice, as appropriate. Likewise, if additional allegations that are not included in the original notice provided to the parties are brought to the attention of the Investigator, the University will provide notice of the additional allegations to the parties.
- Notice of the University’s Resolution Processes;
- A statement that the Respondent is presumed not responsible for alleged Prohibited Conduct and that a Determination regarding responsibility will be made at the conclusion of the Investigation and Adjudication process;
- Advisement that a party may have an Advisor of their choice who may be, but is not required to be, an attorney and who may inspect and review evidence in the Investigation; and
- That knowingly making false statements or knowingly submitting false information during the Formal Resolution processes is prohibited under this Policy and the Code of Conduct.

At any time after a Formal Complaint is filed, either party may request an Alternative Resolution. Each Resolution Process is guided by the same principles of fairness and respect for all parties.

All Respondents will be presumed “not responsible” until a Determination is reached.

1) Advisors

The Complainant and Respondent may each have an Advisor of their choice present with them at any meeting, interview, or hearing conducted under this Policy. An Advisor may be, but is not required to be, an attorney. If a Party does not have an Advisor at the time of a hearing, the University will provide the Party with an Advisor for the purpose of conducting appropriate cross-examination during the hearing.

An Advisor may not provide opening or closing remarks during a hearing and may not otherwise speak on behalf of a Party during any hearing, meeting, or interview conducted under this Policy.

III. Alternative Resolution

Upon the filing of a Formal Complaint, the Complainant or the Respondent may request an Alternative Resolution. Participation in any Alternative Resolution processes must be

voluntary and mutual, and may begin only after both Parties provide voluntary, informed, written consent to attempt Alternative Resolution.

The University reserves discretion in determining whether any given case is appropriate for Alternative Resolution. Alternative Resolution is not available in cases of alleged Sexual Harassment of a student by a University employee, and may be deemed inappropriate in other cases that include, for example: allegations of Prohibited Conduct involving penetrative acts; allegations of significant violence or threats of violence; instances in which the circumstances of the alleged Prohibited Conduct give rise to concerns that the Alternative Resolution process might be used to abuse, harass, intimidate, or manipulate a Party; or where the University has received more than one Report or Formal Complaint of Prohibited Conduct against the same Respondent under this Policy.

Alternative Resolution may encompass a broad range of conflict resolution strategies including, but not limited to, a facilitated discussion between the Parties, with the assistance of the Title IX Coordinator or their designee; formal mediation between the Parties, conducted by the Title IX Coordinator or a trained designee; or targeted or broad-based educational programming or training. Both Parties will be provided with written notice disclosing the requirements of the Alternative Resolution process, including the right to withdraw from the process at any time prior to Final Resolution; any consequences resulting from participating in the Alternative Resolution process; the circumstances under which the Parties are precluded from requesting to resume the Investigation and Adjudication process with regard to the same allegations; and the records that will be maintained or could be shared as a result of participation in the process.

The Alternative Resolution process may be made available to the Parties at any point prior to a final Determination in the matter. The University will not compel a Complainant or a Respondent to engage in any form of Alternative Resolution. Participation in Alternative

Resolution is voluntary at all times and either Party can withdraw from the Alternative Resolution process and resume the Investigation and Adjudication process at any point prior to Final Resolution of the matter. Any notes taken or information disclosed during an Alternative Resolution process will not be shared or used outside of the Process, except to the extent that they may be relevant or directly related to a subsequent Investigation and Adjudication conducted under this Policy, as required by the applicable federal regulations.

If the Parties reach an agreement during the Alternative Resolution process, they will be asked to sign a written agreement, or Final Resolution, outlining the terms of the agreement. The Final Resolution indicates the conclusion of the Alternative Resolution process and will be maintained by the Office of Equality and Diversity for the sole purpose of ensuring any resulting agreements, **Remedies**, and/or sanction(s) are upheld and/or satisfied, as appropriate. After a matter has reached Final Resolution, the same matter cannot proceed through the Investigation and Adjudication process.

Alternative Resolution processes will typically be completed within sixty (60) business days. The time frame may be extended for good cause to accommodate the availability of the Parties, to provide reasonable accommodations, to address University breaks or

vacations, or for other legitimate reasons. Any extension of the time frame, and the reason for the extension, will be shared with the Parties in writing.

IV. Investigation

A. Time Frame

The Investigation and Adjudication process will typically be completed within one hundred and twenty (120) business days of the filing of the Formal Complaint, although the complexity of a Report may require a longer time frame. The time frame may be extended for good cause to ensure the integrity and completeness of the investigation, to accommodate the availability of the Parties, their Advisors and/or witnesses, to provide reasonable accommodations, to address University breaks or vacations or for other legitimate reasons. In cases where there is a concurrent law enforcement investigation, the University may temporarily delay the investigation as appropriate, which may result in the time frame being extended. Any extension of the time frame, and the reason for the extension, will be shared with the Parties in writing.

B. Consolidation of Multiple Formal Complaints

The Title IX Coordinator, or their designee, has the discretion to consolidate multiple Formal Complaints against more than one Respondent, by more than one Complainant against one or more Respondents, or by one Party against the other Party, into one investigation if the allegations arise out of similar facts or circumstances. In deciding whether to consolidate multiple Formal Complaints into a single investigation, the Title IX Coordinator will consider whether the evidence related to each Formal Complaint would be relevant in reaching a Determination with respect to the others.

1) Investigator

The University, through the Title IX Coordinator, will designate an Investigator, or Investigators, of its choosing. Any Investigator used by the University, whether internal or external, must have specific training and experience investigating allegations of sexual harassment and sexual misconduct. The Investigation will be fair, impartial, and thorough, and all Parties and witnesses will be treated with the appropriate sensitivity and respect. All Respondents will be presumed “not responsible” until a Determination is reached.

2) Participation of the Parties

Complainants and Respondents are encouraged, but never required, to participate in the University’s Investigation and Adjudication process so that the facts of each Report can be explored, and responsible Parties held accountable for their misconduct, if warranted. The University will make multiple good faith attempts to contact the Parties to encourage their participation in the Investigation and Adjudication process. If a Party is unresponsive to multiple good faith attempts to contact them, the Investigator will make reasonable efforts to conduct the Investigation without the participation of the Party. A Party who elects not to participate in any one phase of an Investigation will still be notified of any progress or developments in the process as they occur, and will be

provided with an opportunity to participate in subsequent phases of the Investigation and Adjudication process.

If a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw a Formal Complaint, or any allegations therein, the University will make every reasonable effort to comply with that request and to dismiss the Formal Complaint. As explained more fully in EIC-3, there may be exceptional circumstances when the University decides to proceed with the Investigation and Adjudication process despite the request of a Complainant. The Complainant, however, will not be required to participate in the process.

3) Presumption of Non-Responsibility

All Respondents will be presumed “not responsible” unless and until a Determination is reached in a matter.

4) Investigation Process

The first step of an Investigation will usually be a preliminary interview of the Complainant by the Investigator. The Investigator will then coordinate the gathering of information from the Complainant, the Respondent, and any other individuals who may have information relevant to the Determination. Before any interview with a Party, the Investigator will provide to the Party a written notice of the date, time, location, participants, and purpose of the interview and will allow sufficient time for the Party to prepare for the interviews. Both Parties will have an equal opportunity to provide the Investigator with evidence that is directly related to the allegations, whether inculpatory or exculpatory, and the names of possible witnesses, including expert witnesses.

The Investigator will collect all submitted evidence that is directly related to the allegations, regardless of whether or not the evidence is ultimately deemed sufficiently material to be included in the Investigative Report. The Investigator will gather any available physical or medical evidence, including documents, communications between the Parties, and other

electronic records, to the extent they are directly related to the allegations.

The Investigator will gather prior or subsequent relevant allegations of, or Determinations of responsibility for, misconduct by the Respondent. Evidence of an occurrence or occurrences of Prohibited Conduct or other relevant behavior that establishes a pattern of conduct, establishes identity, motive, intent, or opportunity may be admissible during the Investigation and Adjudication process. Evidence of a pattern of similar conduct, either before or after the conduct in question, regardless of whether there has been a prior Determination of a policy violation, may be admissible.

Information or evidence that relevant evidence was destroyed is admissible and may be considered in assessing the credibility of the Parties and the weight of the evidence.

At the conclusion of the fact gathering phase of the Investigation, the Investigator will prepare an Investigative Report that fairly summarizes the relevant evidence.

5) Inspection of Evidence and Review of Investigation Report

Upon the conclusion of an Investigation, the Parties will be given an opportunity to inspect and review a draft Investigative Report and any evidence obtained as part of the Investigation that is directly related to the allegations raised in the Formal Complaint. The University may, in certain cases, choose to redact information that is not directly related to the allegations or that is otherwise privileged. Upon receiving the draft Investigative Report and evidence, the Parties will have ten (10) business days to submit a written response, including any additional information or comment, or request that additional investigative steps be taken. At the conclusion of the 10 day period, the Investigator will review any responses received from the Parties, and will conduct any additional investigative steps, as needed, before completing a final Investigative Report.

6) Statement on Relevance

“Relevant” evidence and questions refer to any questions and evidence that tend to make an allegation of Sexual Harassment or Misconduct more or less likely to be true. Relevant evidence includes both inculpatory and exculpatory evidence. Not all evidence gathered by the Investigator that is directly related to the allegations raised in the Formal Complaint will be considered relevant – including, for example, information that is privileged but for which the individual holding the privilege has not submitted a written waiver; or prior sexual history of a Complainant, unless offered to demonstrate consent or that someone other than Respondent committed the alleged Prohibited Conduct. The Investigator will determine the relevancy of evidence for inclusion in an Investigative Report.

Relevant evidence and questions do not include the following types of evidence and questions, which are deemed “irrelevant” at all stages of the Investigation and Adjudication process:

- Evidence and questions that constitute, or seek disclosure of, information protected under a legally recognized privilege, including medical, psychological, or similar records, unless the person holding such privilege has waived the privilege by providing voluntary, written consent; and
- Evidence and questions about the Complainant’s sexual predisposition or prior sexual behavior unless:
 - They are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
 - They concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.

7) Threshold Determination

After considering and incorporating any additional relevant information or comments made by the Parties, the Investigator, in consultation with the Title IX Coordinator, will make a Threshold Determination as to whether the elements of a Policy violation have been sufficiently raised to proceed to Adjudication. In reaching a Threshold Determination, the Investigator may consider:

1. Whether the Prohibited Conduct alleged in the Formal Complaint, if assumed to be true, would constitute a violation of EIC-3; and

2. Whether a reasonable person could conclude, based on the information gathered in the Investigation, that a violation of EIC-3 had occurred.

Upon the conclusion of an Investigation, both Parties will be advised in writing of the Investigator's Threshold Determination. If the Threshold Determination is that the elements of a Policy violation have not been raised, or that a reasonable person could not conclude, based on the information gathered in the Investigative Report, that a Policy violation occurred, either Party may appeal the Threshold Determination under the Appeals procedures set forth in this Appendix (See Section VI).

If it is determined that the elements of a Policy violation have been raised or that a reasonable person could conclude, based on the information gathered in the Investigation, that a Policy violation occurred, each Party will be given an opportunity to submit written information for consideration in determining appropriate Remedies and Sanctions, should the Respondent be found responsible for the alleged Prohibited Conduct during any subsequent Adjudication process. A Complainant may submit an impact statement, and a Respondent may submit a mitigation statement. These statements will be considered as part of the sanctioning process only and will not be made available to any Adjudicator(s) until or unless a Respondent has been determined to be responsible for alleged Prohibited Conduct.

In addition, if the Threshold Determination is that the elements of a Policy violation have been raised, or that a reasonable person could conclude, based on the information gathered in the Investigation, that a Policy violation occurred, the Title IX Coordinator will meet with each Party to discuss next steps in the process.

V. Adjudication

Permissible manners of Adjudication include 1) resolution by a single Adjudicator, whether internal or external to the University. In either manner of Adjudication, the standard for evaluating whether EIC-3 has been violated is preponderance of the evidence ("more likely than not").

A. Acceptance of Responsibility

After receiving the final investigative report, the Respondent may choose not to contest the charge(s) and give up the right to a hearing by accepting responsibility for all charges. If a Respondent accepts responsibility, the Complainant will be notified in writing and both Parties will have the opportunity to submit written information for consideration by the Title IX Coordinator, a representative from Human Resources, the Respondent's supervisor and/or other appropriate administrators with oversight over the relevant unit. A Complainant may submit an impact statement, and a Respondent may submit a mitigation statement.

The Office of Human Resources, in consultation with the Title IX Coordinator, will impose appropriate Remedies and Sanctions (see below for guidelines and list of permissible Sanctions). The Complainant and Respondent will be simultaneously notified of the Remedies and Sanctions and rationale in writing, and this decision may only be appealed by both Parties based on Severity of Sanction. If there is no appeal by

either Party, the Remedies and Sanctions imposed by the Office of Human Resources will be final.

B. Choice of Adjudicator

In advance of a hearing, the Title IX Coordinator shall designate an Adjudicator, whether internal or external to the University, who is trained, neutral, impartial, and free from conflict.

In designating an Adjudicator, the Title IX Coordinator will consider, among other factors, the nature of the allegations, the complexity of the facts, whether there is any issue of conflict of interest, the availability of trained internal Adjudicators, whether the University is in session or on break, or any other relevant factors.

The Adjudicator will be supported by the Title IX Coordinator, or their designee, and a designee of the Office of Human Resources, who will be present during the hearing to serve as a resource for the Adjudicator on issues of policy and procedure, and to assure that policy and procedure are appropriately followed throughout the hearing.

C. Hearing Procedures

The Complainant, Respondent, Advisors, and witnesses will be notified in writing as to the date, time, and location of the hearing, as well as the identity of the Adjudicator(s) assigned to their case. Either Party may challenge or object to the assignment of any Adjudicator on the basis of a conflict or bias. Challenges to Adjudicator assignments must be made in writing to the Title IX Coordinator at least six (6) business days prior to a hearing, in order to provide an opportunity for an alternate Adjudicator to be identified without causing a delay in the hearing process. Hearings are not open to the public.

The Title IX Coordinator, or their designee, will provide the Investigative Report to the designated Adjudicator at least five (5) business days prior to the hearing. The Complainant, the Respondent, and their Advisors will be provided with the Investigative Report, for their review, at least ten (10) business days prior to the hearing.

The Parties are required to promptly inform the Title IX Coordinator, or their designee, of their Advisor of choice who will attend the hearing at least five (5) business days in advance of the hearing. If a Party notifies the Title IX Coordinator, or their designee, that they do not have an Advisor for the hearing, the University will provide the Party with an Advisor to conduct cross-examination on their behalf at the hearing. The Title IX Coordinator, or their designee, may reschedule the hearing to ensure that the Advisor has adequate time to prepare for the hearing.

Unless the Complainant or Respondent has declined to participate in the Investigation and Adjudication process, both the Complainant and Respondent will be expected to appear before the Adjudicator. The Complainant and the Respondent may appear at the live hearing in person or virtually through a remote electronic method.

There will be a single verbatim audio recording of all hearings before the Adjudicator, which will be the sole property of the University. In the event of an appeal, the recording

will be made available to the Parties for inspection and review upon request. This recording will be maintained for a period of seven (7) years.

The general hearing procedure is as follows:

Introductions of all attendees

- Overview of Investigation by Investigator
- Questions posed to Investigator by Advisors and Adjudicator
- Brief introductory remarks from the Complainant
- Brief introductory remarks from the Respondent
- Questions posed to Complainant by Respondent's Advisor and Adjudicator
- Questions posed to Respondent by Complainant's Advisor and Adjudicator
- Questions posed to Complainant's Witnesses by Complainant's Advisor, Respondent's Advisor and Adjudicator
- Questions posed to Respondent's Witnesses by Respondent's Advisor, Complainant's Advisor and Adjudicator
- Short recess
- Brief concluding remarks by Complainant
- Brief concluding remarks by Respondent

The hearing procedure may depart from this general order, depending on the circumstances of each case, but in no instance will either Party be deprived of an opportunity to observe substantive portions of the hearing; to ask or answer questions to or from the other Parties, witnesses, or the Adjudicator; or to provide introductory or concluding remarks.

D. Cross-Examination

During the hearing, each Party's Advisor may ask the other Party and any witnesses relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the Party's Advisor and never by a Party personally. The Parties may not question each other or other witnesses directly but may raise questions to be asked of the other Party and witnesses through their Advisor.

Before any Party or witness answers a cross-examination or other question, the Adjudicator must first determine whether the question is relevant and explain any decision to exclude a question as irrelevant. The may consult with the Title IX Coordinator or designee regarding any questions posed. If the Adjudicator determines that a question is irrelevant, the Party or witness to whom the question was posed will be directed not to answer the question.

Examples of irrelevant information that may be excluded include, but are not limited to, information protected by a legally recognized privilege and evidence about a Complainant's prior sexual history.

The Adjudicator cannot draw an inference about the Determination based solely on a Party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

A Party's Advisor may appear and conduct cross-examination even when the Party who they are advising does not appear. Similarly, where one Party does not appear and that Party's Advisor of choice does not appear, the University will designate an Advisor to cross-examine the other, appearing Party on behalf of the non-appearing Party, resulting in consideration of the appearing Party's statements but not the non-appearing Party's statements. Following cross-examination of the Parties and witnesses by Advisors, the Adjudicator may ask questions of the Parties and witnesses to seek relevant evidence and to follow up on questions asked by the Advisors.

VI. Determination

The Adjudicator will objectively evaluate all relevant evidence and will reach a Determination based upon a preponderance of the evidence standard. If a Respondent is determined to be responsible for an allegation of Prohibited Conduct, the Adjudicator responsible for determining appropriate sanctions will be provided with access to any impact or mitigating statements that have been submitted by the Parties prior to making a determination regarding Remedies and Sanctions.

Depending on the manner of adjudication, Remedies and Sanctions will be decided upon as follows:

In cases involving the use of a single Adjudicator, the Title IX Coordinator will coordinate any Remedies and Sanctions with Human Resources and the Respondent's supervisor and/or other appropriate administrators with oversight over the relevant unit.

Both Parties will receive simultaneous written notice of a Determination, including any Remedies and Sanctions, within ten (10) business days of a hearing.

A. Guidelines for Imposing Remedies and Sanctions

The University will treat Complainants and Respondents equitably by providing *Remedies* to both Complainants and Respondents, as appropriate, where a Determination of responsibility has been made against the Respondent. Remedies will be designed to restore or preserve equal access to the University's education programs or activities for Complainants, and may include, but are not limited to, the same individualized services described in this Policy as Supportive Measures.

The University will review each case on an individual basis to determine appropriate Remedies and Sanctions. Sanctions may include disciplinary measures imposed upon the Respondent.

In determining appropriate Remedies and Sanctions, the Adjudicator shall consider the following factors:

- the nature and violence of the conduct at issue;
- the impact of the conduct on the Complainant or other appropriate parties;
- the impact or implications of the conduct on the community or the University;
- prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the University or elsewhere (if known), including criminal convictions;
- whether the Respondent has accepted responsibility for the conduct;

- maintenance of a safe and respectful environment conducive to learning;
- protection of the University Community; and,
- any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

This Policy prohibits a broad range of behaviors, all of which are serious in nature. Depending on the specifics of the incident, more or less severe Sanctions may be imposed. More than one Sanction may be imposed for any single violation. Should information come to light that changes the disposition of a case, the Title IX Coordinator (or designee) has the right to reopen the case and to change the prior Sanction.

The University may be limited in its ability to issue Remedies and Sanctions in cases where Parties are no longer affiliated with the University, or where the participation of a Party or witness is limited such that it affects the quantity, quality, or kinds of information available in assessing appropriate Remedies and Sanctions.

Sanctions that may be imposed include, but are not limited to, the following:

Warning: Notice, in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.

Educational Requirements: Completion of training, projects, programs, or requirements designed to help the employee manage behavior and understand why it was inappropriate. Includes appropriate and relevant community service opportunities.

Formal Performance Improvement Plan: see Performance Improvement Process Policy, H.R. 43.

Restitution: Repayment to the University or to an affected Party for damages resulting from the policy violation.

Suspension: Exclusion from University premises, attending classes, and other privileges or activities for a specified period of time, as set forth in the suspension notice. Notice of this action will remain in the employee's file. Conditions for return to work may be specified in the suspension notice.

Termination: Permanent termination of employment status and exclusion from University premises, privileges, and activities. This action will be permanently recorded in the employee's file.

Other disciplinary measures may be imposed instead of, or in addition to, those specified here. More than one of the disciplinary measures listed above may be imposed for any single violation. The University may be limited in its ability to issue disciplinary measures in cases where the Respondent is no longer affiliated with the University.

VII. Appeals

Any Party may appeal a dismissal of a Formal Complaint or any allegations therein, a Threshold Determination made by the Investigator, a Determination made following Adjudication, or a Sanction within ten (10) business days of receiving written notice thereof. The appeal shall consist of a plain, concise, and complete written statement

outlining the grounds for appeal and all relevant information to substantiate the basis for the appeal.

Upon receipt of an appeal, the other Party will be notified of the appeal in writing and will be provided five (5) business days to respond in writing.

At the discretion of the Title IX Coordinator, or their designee, an appeal may be assigned to

either an Appellate Adjudicator or an Appeal Board (collectively, the “Appellate Authority”). In either case, the Title IX Coordinator, or their designee, will ensure that the Appellate Authority is trained, neutral, impartial, and free from conflict, and that the Appellate Authority does not include any previous decision-makers or the Investigator.

The Appellate Authority shall hear appeals on the following grounds. Dissatisfaction with the outcome of the hearing alone is not grounds for appeal.

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time of the Determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
3. 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; and
4. Unduly harsh Sanction: To determine whether the Sanction(s) imposed was appropriate for the violation of EIC-3 of which the student was found in violation.

Appeals are not intended to be full re-investigations of the allegations. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for the Appellate Authority to substitute their judgment for that of the original hearing body, but rather the Appellate Authority may only make changes to the Determination when 1) at least one of the three specified grounds for appeal is established; and 2) a clear error or an abuse of discretion is established.

The Appellate Authority shall, in consultation with the Title IX Coordinator, issue a written decision describing the result of the appeal and the rationale for the result simultaneously to the Parties within ten (10) business days of receipt of the opposing Party’s response to the appeal. The decision of the Appellate Authority is final.