

## INTRODUCTION

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Members of the University Community have the right to be free from all forms of Sexual Harassment which impede the realization of the University's mission of education. All members of the University Community are expected to conduct themselves in a manner that maintains an environment free from Sexual Harassment. As such, Trine University does not discriminate on the basis of sex and is committed to providing an educational environment free from sex discrimination.

As a recipient of federal funding, the University is required to comply with Title IX of the Higher Education Amendments of 1972, 10 U.S.C. § 1681 et seq. (Title IX). Title IX is a federal civil rights law that prohibits discrimination on the basis of sex — including pregnancy discrimination and Sexual Harassment — in educational programs and activities. Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity.

Sexual Harassment is defined broadly under this Sexual Harassment Policy (Policy). Sexual Harassment includes Sexual Assault, Sexual Harassment, Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, Sexual Exploitation, Sexual Misconduct with a Minor, Child Molesting, and sex discrimination, as defined below. Sexual Harassment is a violation of University policy, state and federal civil rights laws, and may violate state and federal criminal laws. When an allegation of Sexual Harassment is brought to an appropriate individual's attention, and a Respondent is found to have violated this policy, the University will issue appropriate sanctions to prevent future misconduct.

The University reserves the right to take whatever measures it deems necessary in response to an allegation of Sexual Harassment in order to protect the rights and personal safety of Students, employees, and other members of the University Community. Such measures include, but are not limited to, modification of living arrangements, interim suspension from campus pending a hearing, and reporting the matter to local police. Not all forms of Sexual Harassment will be deemed to be equally serious offenses, and the University reserves the right to impose different sanctions, ranging from verbal warning to expulsion for students, as well as discipline up to and including termination for employees, depending on the severity of the offense. The University will consider the concerns and rights of both the Complainant and the Respondent.

## DEFINITIONS

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The following terms and definitions apply to this Policy.

TERM	DEFINITION
<b>Actual Knowledge</b>	Notice of Sexual Harassment or allegations of Sexual Harassment to a University's Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute Actual Knowledge. This standard is not met when the only official of the University with Actual Knowledge is the Respondent. The mere ability or obligation to report Sexual Harassment or to inform a Student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the University. "Notice" includes, but is not limited to, a report of Sexual Harassment to the Title IX Coordinator. Examples of an Employee with authority to institute corrective measures on behalf of the University include the Title IX Coordinator and deputy coordinators, the President, Vice-Presidents, the Athletic Director, head athletic coaches, campus safety officers, and other employees as outlined Section III: Employees With Authority to Institute Corrective Measures.
<b>Complainant</b>	Any person who is reported to have experienced conduct prohibited by this policy, regardless of whether that individual makes a report or participates in the review of that report by the university, and regardless of whether that person is a member of the University Community.
<b>Consent</b>	<p>Permission that is clear, knowing, voluntary, and expressed prior to engaging in and during an act. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as Consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.</p> <ul style="list-style-type: none"><li>A. Consent to any one form of sexual activity cannot automatically imply Consent to any other forms of sexual activity.</li><li>B. Consent may be withdrawn at any time.</li><li>C. Previous relationships or prior Consent cannot imply Consent to future sexual acts; this includes "blanket" Consent (i.e., permission in advance for any/all actions at a later time/place).</li><li>D. Consent cannot be given by someone who, for any reason, cannot understand the facts, nature, extent, or implications of the sexual situation occurring, including, but not limited to, those who are under the legal age of consent, asleep, unconscious, or mentally or physically impaired through the effects of drugs or alcohol, or mentally impaired due to an intellectual or other disability.</li><li>E. Consent cannot be coerced or compelled by duress, threat, or force.</li><li>F. Although Consent need not be verbal, verbal communication is the most reliable form of asking for and receiving Consent and all persons are urged to</li></ul>

	seek and obtain verbal Consent.
<b>Decision Maker</b>	The administrator who oversees any hearing or appeal which takes place as part of the formal resolution process.
<b>Formal Complaint</b>	A complaint filed by the Complainant or the University that triggers the University’s full investigation and hearing process under Title IX.
<b>Investigator</b>	An individual assigned by the Title IX Coordinator to investigate the alleged Sexual Harassment and oversee the investigative hearing.
<b>Respondent</b>	Any member of the University Community who is reported to have engaged in conduct prohibited by this policy.
<b>Retaliation</b>	Any adverse employment or educational action taken against a person because of the person’s participation in a complaint or investigation of discrimination or Sexual Harassment.
<b>Sexual Harassment</b>	<p>A. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;</p> <p>B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity; or</p> <p>C. “Sexual assault” as defined in 20 U.S.C.1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).</p> <p>All such acts constitute of Sexual Harassment under this policy.</p>
<b>Student</b>	<p>An individual to whom an offer of admission has been extended, paid an acceptance fee, registered for classes, or otherwise entered into another agreement with the university to take instruction. Student status lasts until an individual graduates, is permanently dismissed, or is not in attendance for two complete, consecutive terms, and includes those with a continuing educational relationship with the university; “Student” also includes registered Student organizations. A Student organization remains a “Student” for purposes of this policy for one calendar year following the expiration of the organization’s most recent registration.</p> <p>The university reserves the right to administer this policy and proceed with any process provided by this policy even if the Student withdraws from the university, is no longer enrolled in classes, or subsequently fails to meet the definition of a Student while a disciplinary matter is pending.</p>
<b>Title IX Coordinator</b>	The designated university official with primary responsibility for coordinating the university’s compliance with Title IX. This individual provides leadership for Title IX activities; offers consultation, education, and training; and helps to ensure that the university responds appropriately, effectively, and equitably to all Title IX issues.
<b>University Community</b>	Faculty, staff, Students, student employees, volunteers, suppliers/contractors, and visitors.

## POLICY DETAILS

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### I. SCOPE

#### A. Medium

- i. This policy applies to alleged Sexual Harassment in any medium. Sexual Harassment may manifest in many evolving forms including, but not limited to: physical, verbal, and visual, whether in person or online in any format.

#### B. Jurisdiction

- i. The University has a compelling obligation to address allegations and suspected instances of Sexual Harassment when it has Actual Knowledge that this policy has been violated. The University must inform the Respondent of the allegations and may take any further action it deems appropriate, including pursuing an investigation even in cases when the Complainant is reluctant to proceed. The Complainant will be notified in advance when such action is necessary.
- ii. The University's disciplinary response may be limited if the Respondent is a visitor or other third-party or is not subject to the University's jurisdiction.

#### C. Location

- i. This policy applies to alleged Sexual Harassment that takes place in a University's educational program or activity, against a person in the United States. This includes locations, events, or circumstances over which the University exercised significant control over both the Respondent and the context in which the Sexual Harassment occurred.
- ii. This policy also applies to alleged Sexual Harassment that occurs off-campus, including virtual spaces, in any building owned or controlled by a Student organization that is officially recognized by the University, including fraternity and sorority housing.
- iii. In situations not covered above, but where the Sexual Harassment undermines the security of the University Community or the integrity of the educational process or poses a serious threat to self or others, other applicable University procedures for general misconduct may be applied.

D. This policy is not intended for, and will not be used to, infringe on academic freedom or to censor or punish members of the University Community who exercise their legitimate First Amendment rights.

#### E. Policy Maintenance

- i. This policy is managed by the Title IX Coordinator, who shall approve any revisions.

### II. RECEIVING SUPPORTIVE MEASURES

A. Members of the University Community impacted by Sexual Harassment are encouraged to use counseling and support services, including those listed here. **Because content of discussions with confidential resources is not reported to the Title IX Coordinator, such discussions do not serve as actual notice to the University to address the alleged discrimination or harassment.**

- Trine University Counseling Services (Student Services)  
260.665.4172 (after hours call Campus Safety 260.316.1877)
- Cameron Hospital (416 E. Maumee St., Angola 260.665.2141)

- Fort Wayne Sexual Assault Treatment Center/Forensic Nursing Specialists (1420 Kerrway Ct. Fort Wayne, IN. 260.423.2222)

Please also note that emergency response procedures and resources to assist victims of sexual harassment, sexual exploitation or acts of sexual misconduct (including sexual assault) are available by contacting Trine University Campus Safety (University Center, 260.316.1877) or the Angola Police Department (911 or 260.665.2121).

### **III. EMPLOYEES WITH AUTHORITY TO INSTITUTE CORRECTIVE MEASURES**

- A. The University designates certain employees who have the authority to institute corrective measures on its behalf. Under this policy, their knowledge of Sexual Harassment conveys Actual Knowledge to the University.
- B. The following employees have been designated by the University as having the authority to initiate corrective measure on its behalf:
  - i. Title IX Coordinator and all Deputy Coordinators
  - ii. President of the University
  - iii. Vice President for Administration; Vice President of Marketing and Communication; Vice President for Enrollment Management; Vice President of Development; Vice President of Finance; and the Vice President of Health Science
  - iv. Director of Athletics
  - v. Head athletic coaches of all sports
  - vi. All campus security officers
  - vii. Dean of Students
- C. When one of the above employees learns of alleged sexual harassment, that employee must contact the Title IX Coordinator as soon as possible.
- D. Employees may have additional reporting obligations provided by law and/or other University policies.
- E. Corrective action may be taken against any individual who has a duty to report and who fails to respond in a manner consistent with the provisions of applicable laws, regulations, policies, and procedures.

### **IV. EMPLOYEE DUTY TO REPORT**

*All University employees have reporting responsibilities to ensure the University can take appropriate action.*

- A. All University employees, including student-employees such as Resident Directors and Resident Assistants, except those exempted by legal privilege of confidentiality or expressly identified as a confidential reporter, have an duty to report incidents of Sexual Harassment. Any employee who receives a disclosure of Sexual Harassment or becomes aware of information that would lead a reasonable person to believe that Sexual Harassment may have occurred involving anyone covered under this policy, must report all known information immediately.
- B. Employees are not required to report disclosures of information regarding Sexual Harassment pursuant to this policy in the following circumstances, unless an individual covered under this policy is implicated or the individual is explicitly seeking assistance from the University:

- i. At public survivor support events including, but not limited to: “Take Back the Night,” candlelight vigils, protests, and survivor speak-outs;
  - ii. To Student-employees when they are operating outside of their official work capacity;
  - iii. During an individuals’ participation as a subject in an Institutional Review Board (IRB)-approved human subjects research protocol; or
  - iv. Professional Counselors are exempt from the duty to report incidents of Sexual Harassment due to their legal or professional duty of confidentiality.
- C. Employees with a duty to report should contact the Title IX Coordinator, or one of the Deputy Coordinators.
- D. Employees may have additional reporting obligations provided by law and/or other University policies.
- E. Corrective action may be taken against any individual who has a duty to report and who fails to respond in a manner consistent with the provisions of applicable laws, regulations, policies, and procedures.

## V. REPORTING ALLEGATIONS OF SEXUAL HARASSMENT

- A. Any person may report sexual harassment. By way example, this includes:
- i. Students
  - ii. Employees
  - iii. Parents
  - iv. Any University Community member or other individual who is directly involved in, observes, or reasonably believes that Sexual Harassment may have occurred.
- B. Reports can be made to the Title IX Coordinator in the following ways:
- i. **Title IX Coordinator:** Jamie Norton, Director of HR, Shambaugh Hall, Room 322, One University Ave, Angola, IN 46703, 260.665.4847.
  - ii. **Deputy Title IX Coordinator:** Cisco Ortiz, Dean of Student Services, University Center, Room 214, One University Ave, Angola, IN 46703, 260.665.4171.
  - iii. **Deputy Title IX Coordinator:** Jacqueline Delagrange, Chair, Department of Criminal Justice, Best Hall, Room 115-I, One University Ave, Angola, IN 46703, 260.665.4187.
  - iv. **Deputy Title IX Coordinator:** Stephanie George, HR/Payroll Specialist, Shambaugh Hall Room 322, One University Ave, Angola, IN 46703, 260.665.4991.
- C. Making a report to the University and to law enforcement are separate events. Making a report to the University does not preclude the individual from filing a report of a crime with law enforcement nor does it extend time limits that may apply in criminal processes. Filing a report with law enforcement is not a prerequisite of making a report with the University and does not constitute actual notice to the University. However, individuals may request assistance from the Title IX Coordinator or designee to notify law enforcement.

## **VI. CONFIDENTIALITY AND PRIVACY**

- A. The University recognizes the importance of confidentiality and privacy. Information received in connection with the reporting, investigation, and resolution of allegations will be treated as private and will only involve individuals whom the University determines are necessary to conduct an appropriate investigation, to provide assistance and resources to parties, to perform other appropriate University functions, or when the University is required to provide information under the law.
- B. If an incident is disclosed or reported to the University and the individual requests that no investigation be conducted or disciplinary action be taken, the Title IX Coordinator or designee will explain that the University prohibits Retaliation and explain the steps the University will take to prevent and respond to Retaliation if the individual participates in a resolution process. The Title IX Coordinator or designee will evaluate the request to determine whether the University can honor the request while still providing a safe and nondiscriminatory environment.
- C. A decision to proceed despite an individual's request will be made on a case-by-case basis after an individualized review, and the Complainant will be notified if such a decision is made. If the University proceeds with an investigation, the Complainant is under no obligation to proceed as a part of the investigation.
- D. All individuals involved in the process should observe the same standard of discretion and respect for everyone involved in the process.

## **VII. RETALIATION**

- A. Retaliation is prohibited by University policy and law. The University will not tolerate Retaliation in any form against any individual who makes an allegation, files a report, serves as a witness, assists a Complainant, or participates in an investigation of discrimination or harassment.
- B. Retaliation is a serious violation that can subject the offender to discipline, up to and including termination of employment and/or suspension or dismissal of a Student, independent of the merits of the underlying allegation.
- C. Allegations of Retaliation should be reported to the Title IX Coordinator.

## **VIII. INVESTIGATION AND RESOLUTION OPTIONS**

- A. Initial Assessment
  - i. The Title IX Coordinator or her designee reviews all reports of Sexual Harassment under this policy for an initial assessment of the reported information. The available resolution options will be guided by the availability of information or evidence suggesting that a policy violation may have occurred; the University's obligation to investigate and provide appropriate remedies to eliminate, prevent, and address the effects of the prohibited conduct; and the desire of the Complainant to participate in an investigation or other resolution.
  - ii. Upon completion of an initial assessment, the Title IX Coordinator or her designee will determine the available options for resolution and will communicate the options to the parties.
- B. Informal Resolution
  - i. Informal resolution may be utilized in some circumstances if the University deems it appropriate and both parties agree to it.
- C. Investigative (Formal) Resolution

The Title IX Coordinator may resolve a report of Sexual Harassment through investigative resolution when the alleged Sexual Harassment, if true, would be prohibited under applicable University policy. In instances when informal resolution is inappropriate, when the party requests, or when the University requires formal investigation, the University will consider the concerns and rights of all parties and provide a prompt, fair, impartial, and equitable process.

## **IX. REMEDIES**

- A. When the University makes a finding of a policy violation, it will take steps, whether individual or systemic, to stop the alleged Sexual Harassment, prevent its recurrence, and remedy the discriminatory effects on the Complainant and others, as appropriate. The appropriate sanction will be determined on a case-by-case basis taking into account the severity of the conduct, the student's or employee's previous disciplinary history, and other factors as appropriate.
- B. Corrective Actions/Sanctions
  - i. When the Respondent is a Student, potential sanctions include formal reprimand, disciplinary probation, suspension, dismissal, and other appropriate educational sanctions.
  - ii. When the Respondent is an employee, corrective actions may be taken pursuant to the University Employee Handbook, Faculty Supplement or other University rule or procedure. Disciplinary corrective actions may include coaching, performance improvement plans, reduction in supervisory duties and leadership responsibilities, changes in salary, termination, and other appropriate corrective actions.
  - iii. Student employees may be subject to corrective action and sanctions under Student and/or employee policies depending on the nature of the case. For instance, a Student employee who is dismissed from the university may also be subject to termination or other corrective actions.
- C. Any corrective actions or sanctions will not take effect until any appeals have been completed.
- D. Interim Supportive Measures
  - i. Supportive measures will be made available to both the Complainant and Respondent whether or not a Formal Complaint is filed to ensure equal access to the University's education and employment programs and activities. The Title IX Coordinator or designee will conduct an individualized assessment and will review requests from Complainant and Respondent to determine supportive measures that are appropriate and reasonably available at no cost to the Complainant or Respondent. Supportive measures may include, but are not limited to:
    - a. "No contact" directives;
    - b. Referral to campus and community resources for victim advocacy, counseling, health services, legal assistance, immigration assistance, disability services;
    - c. Academic support including extensions of time and other course-related adjustments;
    - d. Modification of work or class schedules;
    - e. Change in work or housing locations;
    - f. Change in reporting relationship;
    - g. Consideration of leave requests; and
    - h. Assistance with academic petitions.
  - ii. During the period of any investigation a Respondent can be put on administrative leave if they are an employee of the University. If the Respondent is a Student of the University, they may be removed from educational activities following an individualized safety and risk analysis



determines that the Respondent poses an imminent threat to the physical health or safety of anyone due to the allegations made. If a Student is removed from educational activities in this way, they have the right to challenge the determination of the safety and risk analysis.

- iii. The Title IX Coordinator or designee will coordinate the provision of interim supportive measures. Parties will not be required to arrange such measures by themselves but may need to participate in communication with supervisors, faculty, and other University employees with a need to know.
- iv. The University will 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.

#### E. Other Remedial Measures

- i. When the university is unable to proceed with investigative resolution, such as lack of information in the report or request by the Complainant that an investigation not move forward, the university may take other remedial measures as appropriate to remedy the effects of the alleged Sexual Harassment and/or prevent its recurrence. Remedial measures may also be implemented when it is determined that inappropriate behavior occurred, but that the behavior did not rise to the level of a policy violation.
- ii. Remedial measures may include and are not limited to:
  - a. Providing training on Sexual Harassment;
  - b. Increasing security in a designated space;
  - c. Changing policy or procedure; and
  - d. Conducting climate checks.

## **X. FALSE ALLEGATIONS**

- A. It is a violation of this policy for anyone to make a false allegation of Sexual Harassment in bad faith. Corrective actions or sanctions may be imposed on individuals who in bad faith make false allegations of Sexual Harassment.
- B. The absence of a finding of a policy violation is not equivalent to finding that the Complainant acted in bad faith.

## **XI. PROCESS ABUSE**

- A. No member of the University Community may:
  - i. Obstruct, prohibit, exert improper influence over, or interfere with any individual making a report, participating in a process, or carrying out a responsibility covered by this policy;
  - ii. Make, in bad faith, materially false statements in or related to a process covered by this policy;
  - iii. Disrupt or interfere with the orderly conduct of any proceeding conducted under this policy;
  - iv. Fail to comply with any directive, sanction, or corrective action issued pursuant to this policy.

## **XII. TRAINING**

- A. All faculty, staff, Student employees and Students are required to take Sexual Harassment training as directed by the university.

## **PROCEDURE**

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### **I. INITIAL ASSESSMENT**

- A. Upon receiving a report, the Title IX Coordinator will provide information to the Complainant on the availability of supportive measures, the right to file a Formal Complaint, and how to file a Formal Complaint.
- B. The Title IX Coordinator or her designee reviews all reports of Sexual Harassment under this policy for an initial assessment of the reported information. Available resolution options will be guided by the availability of information and evidence suggesting that a policy violation may have occurred; the University's obligation to investigate and provide appropriate remedies to eliminate, prevent, and address the effects of the prohibited conduct; and the availability or desire of the Complainant to participate in an investigation or other resolution.
- C. Upon completion of an initial assessment, the Title IX Coordinator or designee will determine the available options for resolution and will communicate these options to the parties.
- D. If the Complainant or the University elects to file a Formal Complaint, the Title IX Coordinator will provide written notice to the Respondent within ten days including:
  - i. The actual allegations of facts that constitute Sexual Harassment and any evidence that supports this;
  - ii. That there is a presumption of innocence in their favor;
  - iii. That all parties are entitled to an advisor of their choice;
  - iv. That all parties can inspect and review evidence; and,
  - v. Information regarding any code of conduct provisions that prohibit false statements made in bad faith.

### **II. DISMISSAL OF A COMPLAINT**

- A. In the event that prior to, or in the course of, an investigation, the University determines that the allegations fail to meet the definition of Sexual Harassment or did not occur while in the United States and under the University's educational program or activity, the investigation and Formal Complaint will be dismissed. Formal Complaints may still be resolved through an informal resolution process as outlined above or according to procedures set forth in the Student Code of Conduct and/or the University Employee Handbook.
- B. The University reserves the right to dismiss the Formal Complaint and stop the investigation if:
  - i. The Complainant notifies the Title IX Coordinator in writing that they wish to withdraw their Formal Complaint;
  - ii. The Respondent is no longer enrolled in or employed by the University; or
  - iii. Specific circumstances prevent the school from gathering sufficient evidence to reach a determination about allegations (e.g., passage of time, lack of participation in the investigative process by parties or witnesses).
- C. If the University dismisses the Formal Complaint for any reason, either party may appeal the decision as outlined in this policy's appeals process.

### **III. INFORMAL RESOLUTION**

- A. Informal resolution may be utilized in some circumstances if a Formal Complaint is filed.
- B. The usage of an informal resolution process is limited in a number of ways:
  - i. Informal resolution is unavailable if the Respondent is an employee of the school.
  - ii. Informal resolution may only be used if any and all parties to an investigation agree to it.
- C. In all cases, the University will inform the parties of the right to end the informal resolution process at any time. If a party chooses to end the informal resolution process, the University will inform the Complainant of options, including the option to begin the investigative resolution process.
- D. The University will provide a facilitator who is free from conflicts of interest and has received special training regarding Title IX in order to facilitate resolution of the Formal Complaint.
- E. Informal resolution can take any form that the parties agree upon, and that is approved by the Title IX Coordinator. The Title IX Coordinator or designee will work with the parties to develop a form of resolution that adequately resolves the needs of the parties.
- F. As part of the resolution process, additional measures (including, but not limited to educational programming, training, regular meetings with an appropriate university individual or resource, extensions of no contact orders, or counseling sessions) may be agreed upon.

### **IV. FORMAL RESOLUTION & HEARINGS**

- A. The University may resolve a report of Sexual Harassment through its formal resolution process when the alleged Sexual Harassment, if true, would be prohibited under applicable University policy. In instances when informal resolution is inappropriate, when any party requests, or when the University requires formal investigation, the University will consider the concerns and rights of all parties and provide a prompt, fair, impartial, and equitable process.
- B. Investigation
  - i. Following the filing of a Formal Complaint, an Investigator will be assigned to the case by the Title IX Coordinator. During the investigation, the Investigator will seek to meet separately with the Complainant, Respondent, and any relevant witnesses who may have information relevant to the incident. The Investigator may also gather or request other relevant information or evidence when available and appropriate. Both the Complainant and Respondent will be asked to identify witnesses and provide other relevant information in a timely manner to facilitate prompt resolution of the case. All investigations will be conducted by the Title IX Coordinator, a Deputy Coordinator, or another person designated by the Title IX Coordinator who is appropriately trained to conduct investigations.
  - ii. Although both the Complainant and Respondent are advised to participate in the investigation process to enable a fair and equitable resolution to any case, neither the Complainant nor the Respondent are required to participate in the investigation process.
  - iii. Formal Complaints of sexual harassment may be consolidated where the allegations arise out of the same facts or circumstances.
  - iv. During the investigation process, parties have an equitable right to:
    - a. Receive notice of the allegations before participating in an interview with sufficient time to prepare for meaningful participation;

- b. A process with reasonably prompt timeframes, with extensions for good cause, as described in the Procedure section below;
  - c. Present relevant information to the Investigator, including evidence and witnesses;
  - d. Receive timely and equal access to any relevant information, documentation, and evidence gathered during the investigation;
  - e. Have an advisor of their choosing, or through appointment by the University, including an attorney, advocate, or other support person who is not a potential witness in the investigation or could otherwise compromise the investigation, who provides support throughout the formal resolution process, including being present for any meetings or hearings; and
  - f. Investigators who are adequately trained to resolve cases of alleged Sexual Harassment, are familiar with applicable policies and procedures, and who do not have a conflict of interest or bias for or against either party.
- v. The University must provide a written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings to all parties whose participation is invited or expected with sufficient time for the party to prepare to participate.
  - vi. The University will not restrict the ability of a Complainant or Respondent to discuss the allegations under investigation or to gather and present relevant evidence.
  - vii. Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.
  - viii. Following the completion of the investigation, the Investigator will complete an investigative report on the allegations contained in the Formal Complaint. Before the report is finalized, the Investigator will send to each party and their advisors an electronic or hard copy of all evidence that is directly related to the allegations. The University must include all evidence directly related to the allegations, even if the investigator does not intend to rely on that evidence in making a determination of responsibility. The parties then have at least ten days to provide a written response, which the Investigator will consider before finalizing the investigative report. The finalized report is then circulated for no less than ten days before a hearing is held.

### C. Hearings

- i. All hearings are overseen by a Decision Maker. All Decision Makers have received special training on how to be impartial and are assigned to cases by the Title IX Coordinator to avoid any bias and present an objective analysis of the evidence. In no case is the Investigator for a given case also the Decision Maker.
- ii. The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the investigation and hearings.
- iii. The Decision Makers will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding the privilege has waived it.
- iv. Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.
- v. Hearings are not legal proceedings and do not follow courtroom procedure or the formal rules of evidence. During any hearings, each party must have an advisor present to ask questions to the other party. This advisor does not need to be licensed to practice law and may be a person of the party's choice or, if they do not have an advisor, the University will provide an advisor for them.

- vi. Questioning & Cross-Examinations
  - a. The Decision Maker may question individual parties and witnesses.
  - b. Parties will have the opportunity to cross-examine the party or witness. Parties may never ask questions directly, and questions must be asked to the other party through the use of a party's advisor. All questions asked must be relevant. Any questions determined not to be relevant by the Decision Maker are not required to be answered.
  - c. 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.
  - d. If a party or witness is absent from the live hearing or refuses to answer cross-examination or other questions, the Decision Maker may not rely on any statement of that person in reaching a determination of responsibility. The Decision Maker may not draw an inference about the determination regarding responsibility based solely on a party's or witness' absence from the live hearing or refusal to answer cross-examination or other questions.
- vii. If, at any point during the hearing, the Decision Maker determines that unresolved issues exist that could be clarified through additional investigation time, the Decision Maker may suspend the hearing and reconvene it in a timely manner that accommodates further investigation.
- viii. Hearings may be conducted virtually through the use of technology at the University's discretion. However, if either the Complainant or Respondent asks to be in separate rooms, the University must grant this request and provide appropriate technology to allow for simultaneous participation.
- ix. All hearings will be memorialized through an audio or audiovisual record or transcript of the live hearing. The recording or transcript will be made available for parties to inspect and review following their completion.

#### D. Resolution

- i. The Decision Maker will communicate his or her decision to both parties, concurrently. The Decision Maker will communicate the decision in writing and orally as soon as possible after the hearing. In all cases, the Decision Maker will send the parties a final outcome letter within ten days of the conclusion of the hearing.
- ii. The Decision Maker bases all conclusions by examining all evidence from the investigation and the hearing. Their conclusion is based on the "preponderance of the evidence" standard. If the evidence indicates that it is more likely than not that the Respondent committed the alleged act(s), then Respondent will be found responsible for violating this policy.
- iii. The Decision Maker's written decision must include the following information:
  - a. Identification of the allegations potentially constituting Sexual Harassment;
  - b. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
  - c. Findings of fact supporting the determination;
  - d. Conclusions regarding the application of the University's code of conduct to the fact;

- e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctioned imposed upon the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided; and
  - f. The procedures and permissible bases for either party to appeal.
- iv. If the Respondent is found responsible for violating this policy, the Decision Maker will consult with the Title IX Coordinator or other appropriate University officials in order to determine the corrective actions and/or sanctions to resolve the case. Any such corrective actions and/or sanctions will be outlined in the Decision Maker's written decision.

## **V. APPEALS PROCESS**

- A. If either party disagrees with the outcome of the Decision Maker's determination, they may file a written appeal with the Title IX Coordinator within ten days of receiving the Decision Maker's written decision.
- B. Appeals may be filed due to:
  - i. A procedural irregularity that affected the outcome of the matter;
  - ii. 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; or
  - iii. The Title IX Coordinator, investigator, or Decision Maker 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.
- C. The University will utilize a second decision maker to review all appeals. The second decision maker will examine all evidence in order to determine if the appeal has merit. The University President will make an unbiased objective conclusion as to the appeal's merit and issue a written decision describing the result of the appeal and the rationale for the result; and will provide the written decision simultaneously to both parties.

## **VI. RECORDKEEPING**

- A. The University shall maintain all records relating to Formal Complaints of Sexual Harassment, as well as all training materials used under this Policy, for seven years.