

TITLE IX ADMINISTRATIVE PROCEDURES, PART D: GRIEVANCE PROCEDURES

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PART D: GRIEVANCE PROCEDURES

I. Purpose

The purpose of these Grievance Procedures is to describe how the University will promptly and equitably resolve Formal Complaints of sexual harassment under the University's Title IX Policy.

II. Scope and Application

These Grievance Procedures apply to all Formal Complaints of sexual harassment within the scope of the Title IX Policy and set forth the process for resolving all such Formal Complaints.

III. Authority

These Grievance Procedures are promulgated under section XIV.B of the Title IX Policy.

IV. Formal Complaints of Sexual Harassment

A. Formal Complaints Filed by Complainants

A complainant who is currently participating or attempting to participate in an education program or activity shall have the right to file a Formal Complaint of sexual harassment requesting that the University investigate and make a determination about the alleged sexual harassment under the Title IX Policy in accordance with these Grievance Procedures.

B. Formal Complaints Brought by the Title IX Coordinator

If the Title IX Coordinator receives a Report of possible sexual harassment and the complainant identified therein declines to file a Formal Complaint, the Title IX Coordinator will determine, based on the available information, whether a Formal Complaint and the resolution process under these Grievance Procedures should nonetheless go forward.

1. Determining Whether to Bring a Formal Complaint

In making a determination whether to bring a Formal Complaint, the Title IX Coordinator will consider, among other factors, whether the complainant has requested confidentiality; whether the complainant is willing to participate in an investigation or Hearing; the severity and impact of the alleged sexual harassment; the respective ages of the individuals involved in the alleged sexual harassment; whether the complainant is a minor under the age of 18; whether the respondent has admitted to the sexual harassment; whether the respondent has a pattern of committing sexual

harassment; the existence of independent evidence; and the extent of prior remedial methods taken with the respondent.

2. If the Title IX Coordinator Decides to Bring a Formal Complaint

(i) Where the Title IX Coordinator determines that it is appropriate to sign a Formal Complaint and pursue the resolution process against the complainant's desires, the Title IX Coordinator will communicate in writing with the complainant about that chosen course of action.

(ii) Upon drafting and signing the Formal Complaint, the Title IX Coordinator shall initiate the resolution process as described below.

(iii) Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a "complainant" or otherwise a party for purposes of the resolution process under these Grievance Procedures.

3. If the Title IX Coordinator Declines to Bring a Formal Complaint

Where the Title IX Coordinator elects not to sign a Formal Complaint and pursue the resolution process against the complainant's desires, the relevant provisions of the Response Procedures shall continue to apply.

C. Consolidation of Formal Complaints

(1) For purposes of applying the resolution process described in these Grievance Procedures, the Title IX Coordinator may consolidate multiple 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. The Title IX Coordinator may also consolidate Formal Complaints with related complaints of retaliation.

(2) Where a resolution process involves more than one complainant or more than one respondent, references herein to the singular "party," "complainant," or "respondent" include the plural, as applicable.

V. Investigation Stage

A. Assignment of Investigator

(1) As soon as reasonably practicable after receiving a Formal Complaint from the complainant or signing a Formal Complaint themselves,

the Title IX Coordinator will assign an appropriate individual to serve as the Investigator for the Formal Complaint. The Investigator may be the same individual as the Title IX Coordinator. In any event, the individual assigned shall have received training on carrying out this role and shall not have a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent named in the Formal Complaint.

(2) If, at any time during the course of the Investigation Stage, an assigned individual must leave the Investigator role, the Title IX Coordinator will assign another appropriate individual to serve as the Investigator and continue the investigation process as promptly as reasonably possible.

B. Notice of Allegations

(1) As soon as reasonably practicable after being assigned to a new Formal Complaint, the Investigator will issue a written notice of the investigation and allegations (a "Notice of Allegations") to all known parties.

(2) The Notice of Allegations will include:

- (i) The name and contact details of the Investigator.
- (ii) Notice of these Grievance Procedures and the Title IX Policy.
- (iii) A statement of the allegations of sexual harassment underlying the Formal Complaint, including, to the extent such details are known at the time the Notice of Allegations is issued:
 - (a) The identities of the complainant, respondent and any potential witness(es) (to the extent then known); and
 - (b) The date(s) and location(s) of the conduct allegedly constituting sexual harassment.
- (iv) 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 resolution process.
- (v) A statement that the parties may each have an Advisor of their choice, who may be, but is not required to be, an attorney paid for by the party.

- (vi) A statement that the parties will have an equal opportunity to inspect and review the collected evidence obtained as part of the investigation process that is directly related to the allegations raised in the Formal Complaint, including inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the Investigation Stage.
- (vii) A statement that retaliation is prohibited.
- (viii) Notice that the University prohibits knowingly making false statements or knowingly submitting false information during the resolution process.

(3) The Notice of Allegations will be amended if and as necessary during the investigation process should the nature of the allegations materially change during the investigation.

C. Investigation Process for a Formal Complaint

1. General Principles of the Investigation Process

- (i) All investigations are to be thorough, reliable, impartial, prompt, and fair.
- (ii) The burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University and not the Parties. However, the University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so for a resolution process under these Grievance Procedures.
- (iii) All parties have an equitable opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence to the Investigator.
- (iv) The University will not restrict the ability of any party to discuss the allegations under investigation or to gather and present relevant evidence.

(v) The Investigator will provide timely written notice of any hearing, investigative interview, or other meeting to any party whose participation is expected, including the date, time, location, participants, and purpose of each such hearing, interview, or meeting.

(vi) All parties will have the same opportunity to have an Advisor present at any hearing, investigative interview, or other meeting conducted during the investigation process.

(vii) The Investigator may not gather evidence that constitutes or seeks disclosure of information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege.

(viii) Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant and will not be gathered by the Investigator, 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.

(ix) The rules of discovery and evidence afforded in courts of law do not apply to the resolution process under these Grievance Procedures.

2. Steps in the Investigation Process

(i) The Investigator will typically take the following steps to compile relevant, non-duplicative inculpatory and exculpatory evidence as reasonably possible during the investigation process:

(a) Commence the process by identifying issues and developing a strategic investigation plan (subject to update as evidence is gathered), including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and parties.

(b) Ask the parties to identify any witness(es) and/or other evidence they each wish to present to the Investigator for consideration as part of the investigation process.

- (c) Interview all reasonably available, relevant witnesses and the parties and conduct follow-up interviews as necessary.
- (d) Review all documentary or physical evidence provided by the parties and/or witnesses.
- (e) Request, obtain, and review documents or other records or physical items that the Investigator reasonably believes may provide relevant evidence.
- (f) Complete the gathering of evidence promptly and without unreasonable deviation from the intended timeline absent good cause.
- (g) Amend the Notice of Allegations as warranted by the investigation process and revise the allegations therein as appropriate based on testimonial and documentary evidence obtained.

There is no strict requirement that every step listed above must be taken, that the steps must be taken in the order presented, or that no other steps may be taken. The exact steps taken in any investigation process will depend upon the specific circumstances of the Formal Complaint and the discretion of the Investigator.

(ii) After completing the gathering of evidence, the Investigator must provide each party, and the party's Advisor, with access to all evidence directly related to the allegations raised in the Formal Complaint that was compiled by the Investigator, from any source, including both inculpatory and exculpatory evidence, so that the parties may inspect and review such evidence.

(iii) After receiving such access to the compiled evidence related to the allegations, the parties will have ten (10) business days to submit a written response about such evidence (an "Evidence Response") to the Investigator, which the Investigator will consider prior to completion of the Investigation Report (see below). No party is required to submit an Evidence Response, and there is no required format other than that the Investigator must be able to read it and share it.

D. The Investigation Report

(1) After receiving the Evidence Responses (if any) from the parties, the Investigator must create an investigation report ("Investigation Report") that:

- (i) Explains the investigation process to date, including the procedural steps taken since receipt of the Formal Complaint, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence; and
- (ii) Fairly summarizes all the relevant, non-duplicative evidence gathered.

(2) Copies of the parties' Evidence Responses must be appended to the Investigation Report. Additional appendices, including (i) relevant physical or documentary evidence, and (ii) transcripts or summaries/outlines/write-ups of all interviews, must be attached to the Investigation Report if reasonably practicable. If it is not reasonably practicable to attach all such additional appendices (e.g., because the volume of such material would make the Investigation Report too difficult to share with the parties), some portion or all the relevant physical or documentary evidence and transcripts or summaries/outlines/write-ups of all interviews may be collected separately from the Investigation Report, but they must be organized in such a way that they may be clearly identified and located using textual references in the Investigation Report.

(3) The Investigation Report must include no credibility determinations, findings of fact, policy analysis, or recommendations.

(4) The complete Investigation Report must be issued to all parties and their Advisors simultaneously. Access to the complete Investigation Report should also be provided to the Title IX Coordinator (if different than the Investigator) as soon as reasonably practicable thereafter.

(5) After the Investigation Report has been delivered, the Parties will have ten (10) business days to submit a written response about the Investigation Report (a "Report Response") to the Title IX Coordinator. No party is required to submit a Report Response, and there is no required format other than that the Title IX Coordinator must be able to read it and share it.

VI. Hearing Stage

A. Assignment of Decisionmaker

(1) If the Title IX Coordinator has not already done so, then as soon as reasonably practicable after receiving the Investigation Report, the Title IX Coordinator will assign an appropriate individual to serve as the Decisionmaker for the Formal Complaint. The Decisionmaker may not be

the same individual as the Title IX Coordinator or the Investigator. The individual assigned shall have received training on carrying out this role and shall not have a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent named in the Formal Complaint.

(2) The Title IX Coordinator will provide the Decisionmaker with access to the complete Investigation Report, including all appended (and/or referenced) evidentiary materials, and the parties' Report Responses as soon as practicable.

(3) As soon as reasonably practicable after being assigned or after issuance of the Investigation Report, whichever is later, the Decisionmaker must contact the parties and their Advisors to initiate the process for holding a live hearing on the relevant evidence (the "Hearing").

B. General Principles of the Hearing Process

(1) All evidence directly related to the allegations raised in the Formal Complaint that was compiled by the Investigator, from any source, including both inculpatory and exculpatory evidence, will be made available at the Hearing to give each party equal opportunity to refer to such evidence during the Hearing, including for purposes of cross-examination. However, even though such evidence is made available, the Decisionmaker need not determine all such evidence to be relevant if any such evidence is, in fact, not relevant.

(2) Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant and will be excluded by the Decisionmaker, 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.

(3) All parties will be required to have an Advisor present at the Hearing for any questions the party may desire to have asked of another party or witness. In the event a party cannot arrange for an Advisor of their choice to participate in the Hearing, the University will appoint an appropriate individual to serve as that party's Advisor for the duration of the Hearing process. Each party must have an Advisor present at the Hearing. There are no exceptions.

(4) At the Hearing, the Decisionmaker will permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up

questions, including those challenging credibility. Such cross-examination at the Hearing must be conducted directly, orally, and in real time by the party's Advisor and never by a party personally. The Decisionmaker may restrict such questioning to the extent it is duplicative, not designed to elicit relevant testimony, or argumentative.

(5) At the request of any party, the University will provide for the Hearing to occur with the parties located in separate rooms with technology enabling the Decisionmaker and parties to simultaneously see and hear the party or the witness answering questions.

(6) Hearings may be conducted with all parties physically present in the same geographic location or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the Hearing virtually, with technology enabling participants simultaneously to see and hear each other.

(7) The Decisionmaker must not require, allow, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege.

(8) The rules of discovery and evidence afforded in courts of law do not apply to the resolution process under these Grievance Procedures.

C. Pre-Hearing Procedures

(1) To initiate the Hearing process, the Decisionmaker must schedule a pre-hearing conference (the "Pre-hearing Conference") with all parties and their Advisors for a mutually acceptable date not less than ten (10) business days after submission of the Investigation Report. The Pre-hearing Conference may be held in person or virtually, at the Decisionmaker's discretion.

(2) At the Pre-hearing Conference, the attendees must discuss at least: (a) whether the Hearing will be held virtually or in person (and, if so, where); (b) what witnesses, if any, each party and the Decisionmaker want to call at the Hearing; (c) the process for questioning and cross-examination by the Advisors; (d) whether the parties will be allotted time (and how much) to make opening and/or closing statements to the Decisionmaker; (e) what technology will be available (if any) for sharing documentary or physical evidence among the necessary Hearing attendees; and (f) the University's Rules of Decorum for Hearings. The attendees may discuss any other topics the Decisionmaker believes appropriate.

(3) No later than five (5) business days after the Pre-hearing Conference, the Decisionmaker shall circulate to the parties and their Advisors a set of minutes or other appropriate memorandum reflecting what was discussed and decided during the Pre-hearing Conference.

(4) Either before or after the Pre-hearing Conference, the Decisionmaker must schedule a date or series of dates and length of time for the Hearing, which must not start less than ten (10) business days after the Pre-Hearing Conference.

(5) No less than ten (10) business days prior to the start of the Hearing, the Decisionmaker shall provide the parties and their Advisors with a formal, written notice of the Hearing (a "Notice of Hearing"), which will contain:

- (i) The time, date, and location of the Hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- (ii) The identification of any technology that will be used to facilitate the Hearing.
- (iii) Information on how the University anticipates recording the Hearing and how to access to the recording after the Hearing.
- (iv) A statement that if any party or witness does not appear at the scheduled Hearing, the Hearing may be held in their absence, at the Decisionmaker's discretion.
- (v) A reminder to notify the Title IX Coordinator in advance of the Hearing if an Advisor must be appointed for a party.
- (vi) 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 five (5) business days prior to the Hearing.
- (vii) A copy of the University's Rules of Decorum for Hearings and reminder that all Hearing attendees must abide by those Rules of Decorum.
- (viii) An overview of the procedures by which the Decisionmaker will run the Hearing.
- (ix) Information on appeals.

(6) Any party or other permitted attendee that wishes to request any disability accommodations, language assistance, and/or interpretation services that may be needed at the Hearing must do so at least five (5) business days prior to the Hearing or, in emergency situations, as soon as reasonably possible.

D. Hearing Procedures

(1) The Decisionmaker has ultimate authority over proceedings during a Hearing, but they must exercise that authority in a way that is equitable to all parties and consistent with the University's Rules of Decorum.

(2) ***All questioning permitted to be done “by the parties” under these Hearing procedures must be conducted by the parties’ respective Advisors on behalf of the parties and never by the parties personally.***

(3) During the course of a Hearing, the following events will occur, in whatever order the Decisionmaker deems most appropriate:

- (i) The Investigator presents the Investigation Report:
 - (a) The Investigator will present a summary of the Investigation Report and will be subject to questioning by the Decisionmaker and by the parties.
 - (b) Neither the parties nor the Decisionmaker may ask the Investigator their opinion(s) on credibility, recommended findings, or determinations, and the Investigator and parties must refrain from discussion of or questions about these assessments. If such information is introduced, the Decisionmaker must disregard it.
- (ii) Any witness(es) called by a party or the Decisionmaker must submit to questioning. One at a time (if more than one is being called), each witness will submit to questioning by the Decisionmaker and then by the parties.
- (iii) Each party will be given the opportunity to provide relevant evidence, including both testimonial and documentary or physical, in turn, beginning with the complainant.
- (iv) Each party also will submit to questioning by the Decisionmaker and then by the other party (*i.e.*, “cross-examination”).

(4) All questions asked by the parties (that is, asked through their Advisors) are subject to a relevance determination by the Decisionmaker. The Advisor will pose the proposed question orally, pause to allow the Decisionmaker to consider it, and determine whether the question will be permitted, disallowed, or must be rephrased.

(i) If a question is permitted, the individual to whom the question was directed will be allowed to answer.

(ii) If a question is disallowed, the Decisionmaker will explain their decision to exclude the question as not relevant, cumulative, argumentative, or otherwise improper.

(iii) If the Decisionmaker asks the Advisor to rephrase the question, the Decisionmaker will explain why and then allow the Advisor to rephrase, after which the Decisionmaker will conduct a new relevance determination.

(5) The Decisionmaker will limit or disallow questions on the basis that they are not relevant, unduly repetitious (and thus not relevant), or abusive.

(6) The Decisionmaker may not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the Hearing or refusal to answer cross-examination or other questions.

(7) At the Decisionmaker's request, an appropriate employee may participate in the Hearing solely to assist with logistics, technology, organizing witness participation, or similar services. At the Decisionmaker's request, counsel for the University may be present as well.

(8) In the event a Hearing runs longer than anticipated, the Decisionmaker has the authority to adjourn the Hearing at an appropriate time on the originally scheduled date and work with the parties to schedule a continuation of the Hearing on a later date, or to terminate the proceedings as scheduled.

(9) Hearings are recorded by the University for purposes of recordkeeping and review in the event of an appeal. The parties may not record the proceedings, and no other unauthorized recordings are permitted. At the start of the Hearing, or at the start of each day of the Hearing if it lasts multiple days, the Decisionmaker must inform the parties how the Hearing is being recorded at that time.

VII. Determination Stage

A. The Determination

(1) After the Hearing is complete, the Decisionmaker will make a determination regarding the respondent's responsibility, if any, for sexual harassment that was proven to have occurred (a "Determination") based on the relevant evidence gathered by the Investigator, the Investigation Report (and the parties' Report Responses thereto), and the relevant evidence offered at the Hearing.

(2) To reach the Determination, **the "preponderance of the evidence standard" must be applied.** Under the preponderance of the evidence standard, a fact is considered proven when the relevant evidence convinces the Decisionmaker that there is a greater than 50% chance that the fact is true.

(3) The Determination must be based on an objective evaluation of all relevant evidence made available to the Decisionmaker, including both inculpatory and exculpatory.

(4) Credibility determinations may not be based on an individual's status as a complainant, respondent, or witness.

B. The Decision

(1) The Decisionmaker shall state and explain their Determination in a written decision (the "Decision"). The Decision must include, at a minimum:

- (i) Identification of the allegations potentially constituting sexual harassment that were presented to the Decisionmaker for determination;
- (ii) A description of the procedural steps taken from during the Hearing Stage through the Determination, including any notifications to the parties, conferences with the parties, and hearings held;
- (iii) Findings of fact supporting the Determination;
- (iv) Conclusions regarding the application of the Title IX Policy to the facts;
- (v) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (based on the preponderance of the evidence standard), any

disciplinary sanctions the University imposes on the respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity are necessary; and

- (vi) The permissible bases for a party to appeal the Determination and procedures for doing so.

(2) In the event the Decisionmaker determines that the respondent is responsible for sexual harassment:

- (i) The Decisionmaker shall confer with either (i) the University's Human Resources Department and Vice President of the employee's reporting line or (ii) the Office of the Dean of Students, as appropriate, to determine what disciplinary sanctions should be imposed; and
- (ii) The Decisionmaker shall confer with the Title IX Coordinator to determine what remedies, if any, should be provided.

(3) Copies of the parties' Report Responses (if any) must be appended to the Decision. The Investigation Report, or any parts thereof, or any other appropriate document(s) may be appended to the Decision at the Decisionmaker's discretion.

(4) The finalized Decision and appendices must be issued to all parties and their Advisors simultaneously, and full access to same must be provided to the Title IX Coordinator as soon as practicable.

C. Finality of Determination and Disciplinary Sanctions

(1) A Determination and/or decision on disciplinary sanctions becomes "final" either on the date that the Appeal Decisionmaker provides the parties with the Appeal Decision, if an appeal is filed (see below); or, if an appeal is not filed, the date on which a request for appeal would no longer be considered timely.

(2) Once final, the Title IX Coordinator will coordinate the provision and implementation of remedies (if any) and the imposition of disciplinary sanctions on the respondent (if any).

- (i) If the respondent is an employee, the Title IX Coordinator may inform the Human Resources Department, the respondent's supervisor, and the Vice President of the respondent's reporting line of the final finding(s) of responsibility for sexual harassment and/or

of the disciplinary sanctions, if the Title IX Coordinator believes such notice to be appropriate.

(ii) The Title IX Coordinator may inform any employee(s) of remedies as necessary in order to implement them.

(3) Once a Determination that a respondent is responsible for sexual harassment is final, copies of the Investigation Report and the Decision shall be added to the respondent's University personnel file or student file.

VIII. Voluntary Withdrawal of a Formal Complaint or Allegations Therein

A. Complainant's Right to Withdraw

At any point in this resolution process before the start of the Determination Stage described in Section VII, a complainant may voluntarily withdraw their Formal Complaint or any of the allegations therein. In order to make such a voluntary withdrawal, the complainant must notify the Title IX Coordinator in writing that they wish to withdraw the entire Formal Complaint or some specifically identified allegations in the Formal Complaint (a "Notification of Withdrawal").

B. Title IX Coordinator's Determination in Response to Notification of Withdrawal

(1) Upon receipt of a Notification of Withdrawal that covers an entire Formal Complaint, the Title IX Coordinator will determine, based on the available information and in consideration of the factors set forth in subparagraph B.1 of Section IV, whether the resolution process under these Grievance Procedures should nonetheless go forward.

(i) If the Title IX Coordinator determines that the resolution process should not continue, the Title IX Coordinator will dismiss the Formal Complaint in accordance with Section IX below.

(ii) If the Title IX Coordinator determines that it is appropriate for the resolution process to go forward despite the complainant's withdrawal, the Title IX Coordinator will (a) communicate in writing with the complainant about that chosen course of action, and (b) instruct that the resolution process proceed as if the Title IX Coordinator had signed the Formal Complaint in the original instance.

(2) Upon receipt of a Notification of Withdrawal that covers only some, but not all, of the allegations in a Formal Complaint, the Title IX Coordinator will determine whether, without the complainant's withdrawn allegations, the remaining allegations constitute sexual harassment if proven.

(i) If the Title IX Coordinator determines that the conduct that remains alleged in the Formal Complaint would constitute sexual harassment if proven, the Title IX Coordinator will instruct the resolution process to proceed in consideration of only the remaining allegations.

(ii) If the Title IX Coordinator determines that the conduct that remains alleged in the Formal Complaint would not constitute sexual harassment even if proven, the Title IX Coordinator will determine, based on the available information and in consideration of the factors set forth in subparagraph B.1 of Section IV, whether the resolution process under these Grievance Procedures should nonetheless go forward.

(a) If the Title IX Coordinator determines that the resolution process should not continue, the Title IX Coordinator will dismiss the Formal Complaint in accordance with Section IX below.

(b) If the Title IX Coordinator determines that it is appropriate for the resolution process to go forward despite the complainant's withdrawal, the Title IX Coordinator will (1) communicate in writing with the complainant about that chosen course of action, and (2) instruct that the resolution process proceed as if the Title IX Coordinator had signed the Formal Complaint in the original instance.

IX. Dismissal of a Formal Complaint

(A) The Title IX Coordinator must dismiss a Formal Complaint if the conduct alleged therein: (1) would not constitute sexual harassment even if proved; (2) did not occur in a University education program or activity; or (3) did not occur against an individual in the United States; or (4) did not occur against a complainant who is **currently** participating or attempting to participate in a University education program or activity at the time of filing their Formal Complaint.

(B) The Title IX Coordinator may dismiss a Formal Complaint or any allegations therein, if at any time during the Investigation Stage or Hearing Stage:

- (1) The Complainant voluntarily withdraws any or all of the allegations in the Formal Complaint;
- (2) The respondent is not participating in the University's education program or activity and is not an employee; or

- (3) Specific circumstances prevent the University from gathering evidence sufficient to reach a Determination as to the Formal Complaint or allegations therein.

In determining whether to exercise their discretion to dismiss a Formal Complaint, the Title IX Coordinator may consult with the Investigator, any appropriate employee(s), or legal counsel.

(C) Upon dismissal of a Formal Complaint (a “Dismissal”), the Title IX Coordinator will promptly provide a written notification of the basis for the Dismissal (a “Notification of Dismissal”) simultaneously to all parties and their Advisors. The Notification of Dismissal will include information about how a party may appeal the Dismissal.

(D) Appeals of the Dismissal of a Formal Complaint will be conducted in accordance with Section X.

X. Appeal Stage

(A) Any party may appeal from a Dismissal of a Formal Complaint or from a Determination or disciplinary sanction on any of the following bases applicable:

- (i) Procedural irregularity that affected the outcome of the matter;
- (ii) 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;
- (iii) The Title IX Coordinator, Investigator, or Decisionmaker 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
- (iv) The disciplinary sanction(s) imposed is substantially disproportionate to the severity of the sexual harassment for which the respondent was determined to be responsible.

(B) A party may initiate an appeal on one or more of those grounds by submitting a written request for appeal (“Request for Appeal”) to the Title IX Coordinator.

(C) For an appeal from a Dismissal, the Request for Appeal must be submitted to the Title IX Coordinator within ten (10) business days of delivery of the Notice of Dismissal. For an appeal from a Determination or disciplinary sanction, the Request for Appeal must be submitted to the Title IX Coordinator within ten (10) business days of delivery of the Decision.

(D) An Appeal Decisionmaker will be appointed by the Title IX Coordinator for purposes of deciding the requested appeal. The Appeal Decisionmaker must be someone other than the Title IX Coordinator, an Investigator who worked on the investigation, or the original Decisionmaker. The individual assigned shall have received training on carrying out this role and shall not have a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent named in the Formal Complaint.

(E) The Appeal Decisionmaker will determine if the Request for Appeal meets any of the permissible grounds for appeal, and all parties and Advisors will be notified simultaneously in writing of that determination and the underlying rationale (the “Notice of Appeal”). In the event an appeal has been requested before a Notice of Allegations has been provided to all parties, the Notice of Appeal shall include a notice of the allegations in the Formal Complaint consistent with the Notice of Allegations requirements.

(F) If the Request for Appeal does not meet any of the permissible grounds, the Notice of Appeal will inform the parties and their Advisors that the appeal is dismissed. The Appeal Decisionmaker will inform the Title IX Coordinator of the dismissal of the appeal so the Title IX Coordinator can take all appropriate next steps under these Grievance Procedures.

(G) If the Request for Appeal does meet one or more of the grounds for appeal, each party will have an opportunity to submit a written statement to the Appeal Decisionmaker in support of or challenging the Dismissal, Determination, or disciplinary sanction being appealed (an “Appeal Statement”). In the Notice of Appeal, the Appeal Decisionmaker will explain the submission process and set the due date for the parties’ Appeal Statements, which date will be no less than ten (10) business days from the date of delivery of the Notice of Appeal. No party is required to submit an Appeal Statement, and there is no required format other than that the Appeal Decisionmaker must be able to read it and share it.

(H) The Appeal Decisionmaker will collect any additional information needed, at their discretion, and, based on the additional information, all documentation related to the relevant ground(s) for appeal, and the Appeal Statements, will render a decision on the appeal.

(I) The decision on the appeal will be sent, in writing, (the “Appeal Decision”) to all parties and their Advisors simultaneously, and will include a rationale for the decision. A copy of the Appeal Decision shall be made available to the Title IX Coordinator as soon as practicable.

(J) In the event multiple parties file Requests for Appeal, they may be consolidated into a single appeal process and determined by a single Appeal Decisionmaker, at the Title IX Coordinator’s discretion.

(K) Any disciplinary sanctions imposed on a Respondent will be stayed during the appeal process.

(L) With respect to appeals from Determinations and disciplinary sanctions:

- (1) Decisions on appeal are to be deferential to the original determination, making changes to the findings and/or outcome only when there was clear error and compelling justification to make a change.
- (2) The appeal process is not intended to provide for a full re-hearing of the allegations of a Formal Complaint. In most cases, an appeal is confined to a review of the written documentation or record of the Investigation Report, Hearing, Decision, and pertinent documentation regarding the specific ground(s) for the appeal.
- (3) An appeal is not an opportunity for the Appeal Decisionmaker to substitute their judgment for that of the original Decisionmaker.

(M) An appeal granted on grounds of new evidence should normally be remanded to the original Investigator and Decisionmaker for reconsideration. Appeals granted on other grounds may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal by the Appeal Decisionmaker.

(N) Once an appeal is decided, the outcome is final. Further appeals are not permitted, even if a responsibility determination or disciplinary sanction is changed based on an appeal.

XI. Informal Resolution

At its discretion, the University may offer a process for the “informal” or “voluntary” resolution of a Formal Complaint (an “Informal Resolution”), in accordance with the requirements of Title IX, to the complainant and respondent; and the complainant and respondent may voluntarily agree to participate in such Informal Resolution.

XII. Supportive Measures

(A) In accordance with its Response Procedures, the University will offer and coordinate supportive measures, as appropriate, to the parties to provide support during the Formal Complaint resolution process under these Grievance Procedures.

(B) If, during the course of a resolution process under these Grievance Procedures, the Investigator or Decisionmaker comes to believe that changes or

additions to the parties' supportive measures might be appropriate, they should inform the Title IX Coordinator so that the Title IX Coordinator can look into the matter.

(C) If, during the course of a resolution process under these Grievance Procedures, a party's circumstances change, they may seek additional or modified supportive measures or termination of any supportive measures applicable to them.

(D) The offering, coordination, provision, denial, modification, or termination of supportive measures during the course of a resolution process under these Grievance Procedures will be governed by the University's Response Procedures.

XIII. Notices and Communications

(A) The primary method by which the Title IX Coordinator, Investigator, Decisionmaker, and Appeal Decisionmaker (if any) will issue notices to and communicate with participants in the Formal Complaint resolution process will be via email addressed to the participants' respective University-issued email or designated accounts. The parties and Advisors are responsible for monitoring their email accounts to ensure they do not miss any notices or other communications related to these Grievance Procedures, even when courses are not in session.

(B) In the event a party, Advisor, or a witness is unable to receive notices, communications, or documents/files via email, they should contact the Title IX Coordinator, Investigator, Decisionmaker, or Appeal Decisionmaker (as applicable) as soon as possible so that alternative arrangements for the delivery of notices, communications, and/or documents/files, such as (but not limited to) delivery by U.S. Mail or in person, may be reached.

(C) For purposes of setting due dates for party submissions (e.g., Requests for Appeal), once a notice or notification has been emailed (or mailed out or delivered in person if such arrangements have been made), the notice or notification will be presumptively deemed delivered.

(D) The Title IX Coordinator, Investigator, Decisionmaker, and Appeal Decisionmaker (if any) prefer to receive communications and submissions via email addressed to the recipient's University-issued email address or otherwise designated email account. Delivery of any communication or submission by a means other than email must be pre-arranged with the recipient.

XIV. Advisors

A. Right to Be Accompanied by a Chosen Advisor

- (1) Every party to a Formal Complaint resolution process under these Grievance Procedures has the right to be accompanied to any meeting, interview, hearing, or other proceeding by one Advisor of their choice.
- (2) A party's chosen Advisor may be, but is not required to be, an attorney paid for by the party. Whether or not the Advisor is an attorney, the Advisor may be the party's friend, mentor, or family member or any other individual selected by the party and willing to act in the role of the party's Advisor.
- (3) The University will not limit a party's choice of an Advisor. However, the University urges parties to consider any individual carefully before choosing them as an Advisor.
- (4) A party has the right to choose **not** to be accompanied by any Advisor for any portion of the Formal Complaint resolution process, except for during the Hearing Stage.
- (5) Except under the circumstances described in paragraph C of this Section:
 - (i) The University cannot force any individual to serve as an Advisor. The parties are responsible for securing their chosen Advisor's agreement to serve.
 - (ii) The University will not cover any costs associated with an Advisor's service under these Grievance Procedures (whether professional fees, expense reimbursements, or otherwise).
- (6) Each party will be asked to identify their chosen Advisor at the start of the Investigation Stage under these Grievance Procedures. If a party has not selected an Advisor at that time, they may inform the Title IX Coordinator later in the process once they have made their selection (if any).
- (7) The University may ask the parties to confirm their respective choice of Advisor in writing and to provide preferred contact details for such Advisor (an "Advisor Designation").
- (8) If the University deems it appropriate, the University will ask a party to sign a release under the Family Educational Rights and Privacy Act

(FERPA, 20 U.S.C. § 1232g; 34 CFR Part 99) in order to lawfully share necessary education records with the Advisor during the Formal Complaint resolution process (a “FERPA Form”).

(9) A party has the right to change their Advisor at any time during the Formal Complaint resolution process but must notify the Title IX Coordinator of such change. Upon making such a change, the party may be asked to complete another Advisor Designation and/or FERPA Form. Voluntarily changing Advisors shall not delay the proceedings.

B. Role of Advisors under These Grievance Procedures

(1) The role of an Advisor under these Grievance Procedures is to provide support for their party during the course of the Formal Complaint resolution process.

- (i) Except as explained to the contrary in subparagraph B(xii) of this Section, Advisors may not participate directly in the resolution process and are not permitted to speak substantively during investigative interviews (*e.g.*, Advisors may not make objections, advocate a position, directly provide evidence, influence their party’s responses, or unreasonably interrupt proceedings).
- (ii) Advisors are not meant to be “zealous advocates” for their parties, as may be the case for attorneys in legal proceedings (even if an Advisor is an attorney).
- (iii) An Advisor is allowed, and encouraged, to assist their party in preparing for any meeting, investigatory interview, or Hearing, and to speak privately with their party during breaks in any proceeding.
- (iv) Advisors are entitled to access compiled evidence to the same extent as the parties, as explained in these Grievance Procedures.
- (v) An Advisor may, with their party’s permission, assist in the preparation of any written submission by the party.
- (vi) Advisors are further encouraged to provide emotional support for their respective party in addition to support directly related to the resolution process.

- (vii) Advisors are required to follow all information security protocols imposed by the University to protect privacy and preserve confidentiality during the resolution process.
- (viii) Advisors are required to follow the University's Rules of Decorum during any Hearing.
- (ix) Advisors are, generally, allowed to contact any Title IX Coordinator, Investigator, or Decisionmaker to ask questions or discuss procedural matters (*e.g.*, scheduling) not related to the substance of the Formal Complaint being resolved.
- (x) Advisors may not interfere with the University's efforts to conduct the Formal Complaint resolution process under these Grievance Procedures.
- (xi) An Advisor may not advise a party to give false information during the Formal Complaint resolution process.
- (xii) Notwithstanding anything else in this paragraph B to the contrary, the parties' Advisors will be expected to participate in the questioning/cross-examination process during a Hearing under Section VI as described in that Section.

(2) The Title IX Coordinator, Investigator, or Decisionmaker (as applicable) may remove an Advisor from any proceeding if the Advisor engages in disruptive or hostile behavior or fails to follow these Grievance Procedures or Rules of Decorum. The University reserves the right to bar completely an individual from serving as an Advisor if that individual's conduct is egregious enough to warrant such action.

C. Additional Considerations Regarding University Appointment of Advisors During the Hearing Stage

(1) Each party must have an Advisor present at a Hearing conducted under Section VI. If a party does not have an Advisor of their choice for such a Hearing, the University will appoint an appropriate individual to accompany the party during the Hearing Stage as that party's Advisor. At any time during the Hearing Stage under Section VI, the party may replace the University-appointed Advisor with an Advisor of the party's choice.

(2) With respect to University-appointed Advisors, the University does not guarantee equal advisory rights, meaning that if one party has chosen an attorney to serve as their Advisor, and the other party does not choose an attorney or cannot afford an attorney, the University is not obligated to appoint an attorney to serve as Advisor for the other party.

XV. Formal Complaint Resolution Process Timeline

A. Proposed Timeline for Resolution of Complaints

(1) The University will make every reasonable attempt to complete the major stages of the complaint resolution process under these Grievance Procedures within the following timeframes:

- Investigation State – forty-five (45) business days
- Hearing Stage – thirty-five (35) business days
- Determination Stage – forty (40) business days
- Appeal Stage (if any) – thirty (30) business days

This proposed timeline does not account for any attempt(s) that may be made to resolve a complaint through informal resolution in accordance with Section XI.

(2) This proposed timeline anticipates all parties, Advisors, and witnesses reasonably cooperating with the Investigator and Decisionmaker in scheduling all meetings, interviews, and hearings. If a party, Advisor, or witness fails or refuses to cooperate and make themselves reasonably available to attend any necessary meetings, interviews, or hearings, the Investigator and/or Decisionmaker has the discretion to move forward with the Formal Complaint resolution process without that individual's participation.

(3) Ultimately, the length of the Formal Complaint resolution process will depend on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

(4) The University may undertake a temporary delay in a resolution process if circumstances—including but not limited to a request from law enforcement or a regulatory agency to delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions—so require.

(5) The Title IX Coordinator, Investigator, and Decisionmaker (as applicable) will provide the parties and Advisors with written notice and updates on the progress and expected timeline of the Grievance Procedures, including the anticipated duration of and reason for any delays.

B. Extension of Due Dates

(1) The University will entertain requests for reasonable extensions of the due dates for party submissions (e.g., a Request for Appeal). If a party wants to request any such extension, the party must do so in writing to the individual (i.e., the Title IX Coordinator, Investigator, Decisionmaker, or Appeal Decisionmaker) to whom the submission must be made. The written request for the extension should include the requested length of the extension and the reason(s) the extension should be granted. ***Requests for extensions should be made before the due date of the submission.***

(2) Extensions will be considered on a case-by-case basis and granted for good cause.

(3) If an extension is granted, all parties and Advisors will be notified in writing of the extended due date, and of any reset subsequent due dates, and the reason for the delay. If a request for extension is denied, the party requesting the extension and their Advisor will be notified in writing of that fact.

XVI. Recordkeeping

Records related to the Formal Complaint resolution process under these Grievance Procedures for each Formal Complaint of sexual harassment shall be maintained in accordance with the University's Recordkeeping Procedures.

=====END OF PROCEDURE TEXT=====