



# Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Policy (Title IX)

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**Last Revision: July 2016**

**Responsible University Officer**  
Title IX Coordinator & Vice President  
of Administration

**Responsible Office**  
Human Resources & Academic Affairs

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## Policy Statement

Friends University affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the Friends University's Grievance Process, as detailed below. The Grievance Process is applicable regardless of the status of the parties involved, who may be members or non-members of the campus community, students, student organizations, faculty, administrators, and/or staff. Friends University reserves the right to act on incidents occurring on-campus or off-campus, when the off-campus conduct could have an on-campus impact or impact on the educational mission of Friends University.

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Inquiries about this policy and procedure may be made internally to:

Kelley Williams  
Title IX Coordinator & Vice President of Administration  
Office of Human Resources  
Tel: (316) 295-5864  
Email: [kwilliams@friends.edu](mailto:kwilliams@friends.edu)

## Who Should Know This Policy

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All members and non-members of Friends University including: Students, Faculty, Adjunct Faculty, Staff, Administrators, Independent Contractors, and On-Site Vendors.

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## Section 1: Discriminatory Conduct

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Friends University adheres to all federal and state civil rights laws prohibiting discrimination in private institutions of higher education. Friends University does not discriminate on the basis of sex, age, race, color, national origin, or disability in its programs and activities generally available to students.

- I. *Discrimination* is conduct that is based upon an individual's race, color, national origin, sex, age, disability, or any other category protected by applicable law, that excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment, or participation in a University program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.
- II. *Harassment* is covered under this policy if it is based upon an individual's race, sex, age, color, national origin, disability, or any other category protected by applicable law. Harassing conduct may take various forms, including name-calling, graphic or written statements (including the use of cell phone or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm be directed at a specific target, or involve repeated incidents. Sex-based harassment includes sexual harassment, which his further defined below, and non-sexual harassment based on stereotypical notions of what is female/feminine v. male/masculine, or a failure to conform to those gender stereotypes.

Harassment violates this policy when it creates a hostile environment, as defined in Section II.B below.

### A. Sexual Harassment

*Sexual Harassment* can include unwelcome: sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, including sexual assault. Sexual harassment, including sexual assault, can involve persons of the same or opposite sex.

Consistent with the law, this policy prohibits two types of sexual harassment:

- i. **Tangible Employment or Educational Action**  
This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, or living environment or participation in a University activity is conditioned upon, either explicitly or implicitly, submission to or

- rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity. Generally, perpetrators will be agents or employees with some authority from the University.
- ii. Hostile Environment  
Sexual harassment may create a hostile environment as defined in Section II.B below.

B. Hostile Environment Harassment

A Hostile Environment based on race, color, national origin, sex, age, disability, or any other category protected by applicable law exists when harassment:

- i. is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities; or
- ii. when such conduct has the purpose or effect of unreasonably interfering with an individual's employment.

Harassment that creates a hostile environment ("hostile environment harassment") violates this policy.

A hostile environment can be created by anyone involved in a University program or activity (e.g., administrators, faculty members, students, and even campus guests). Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a serious incident, such as a sexual assault, even if isolated, can be sufficient.

In determining whether harassment has created a hostile environment, consideration will be given not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. Also, the following factors will be considered:

- The degree to which the conduct affected one or more students' education or individual's employment;
- The nature, scope, frequency, duration, and location of incident or incidents;
- The identity, number, and relationships of persons involved;
- The nature of higher education.

III. *Sexual Misconduct* includes sexual assault, inducing incapacitation for sexual purposes, sexual exploitation, and relationship violence.

A. *Sexual Assault* means an actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:

- i. Involvement in any sexual contact when the victim is unable to consent.
- ii. Intentional and unwelcome touching of, or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts (defined as genital area, groin, inner thigh, buttocks, or breasts).
- iii. Sexual intercourse without consent, including acts commonly referred to as "rape".

*Consent* is informed, freely given, and mutual. If coercion, intimidation, threats, or physical force are used, there is no consent. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious. There is no consent when there is force, expressed or implied, or use of duress or deception upon the victim. Silence does not necessarily constitute consent. Past consent to sexual activities does not imply ongoing future consent. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent.

- B. *Inducing incapacitation for sexual purposes* includes using drugs, alcohol, or other means with the intent to affect or having an actual effect on the ability of an individual to consent or refuse to consent (as “consent” is defined in this policy) to sexual contact.
- C. *Sexual Exploitation* occurs when a person takes non-consensual or abusive sexual advantage of another for anyone’s advantage or benefit other than the person being exploited, and that behavior does not otherwise constitute one of the proceeding sexual misconduct offenses. Examples of behavior that could rise to the level of sexual exploitation include:
- i. Prostituting another person;
  - ii. Non-consensual visual (e.g., video, photograph) or audio recording of sexual activity;
  - iii. Non-consensual distribution of photos, other images, or information of an individual’s sexual activity, intimate body parts, or nakedness, with the intent to embarrass or having the effect of embarrassing an individual who is the subject of such images or information;
  - iv. Going beyond the bounds of consent (such as letting your friends hide in the closet to watch you having consensual sex);
  - v. Engaging in non-consensual voyeurism;
  - vi. Knowingly transmitting a sexually transmitted infection (“STI”), such as HIV, to another without disclosing your STI status’
  - vii. Exposing one’s genitals in non-consensual circumstances, or inducing another to expose his or her genitals;
  - viii. Possessing, distributing, viewing, or forcing others to view illegal pornography.
- D. *Relationship Violence* is abuse or violence between partners or former partners involving one or more of the following elements:
- i. Battering that causes bodily injury;
  - ii. Purposely or knowingly causing reasonable apprehension of bodily injury;
  - iii. Emotional abuse creating apprehension of bodily injury or property damage;
  - iv. Repeated telephonic, electronic, or other forms of communication – anonymously or directly – made with the intent to intimidate, terrify, harass, or threaten.
- IV. *Stalking* includes repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.

- V. *Retaliation* is action taken by an accused individual or an action taken by a third party against any person because that person has opposed any practices forbidden under this policy or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.
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## **Section 2: Consensual Relationships**

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There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy. Friends University does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the Friends University. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift a party out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes RAs and students over whom they have direct responsibility. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required may result in disciplinary action for an employee.

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## **Section 3: Off-Campus Conduct**

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Conduct that occurs off campus can be the subject of a complaint or report and will be evaluated to determine whether it violates this policy, *e.g.* if off-campus harassment has continuing effects that create a hostile environment on campus. Allegations of off-campus sexual misconduct are of particular concern, and should be brought to the University's attention.

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## **Section 4: Mandatory Employee Reporting of Sex-based Discrimination, Sexual Harassment and Sexual Misconduct Involving Students**

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In order to enable the University to respond effectively and to stop instances of sex-based discrimination, sexual harassment and sexual misconduct involving students at the University proactively, all University employees must, within 24 hours of receiving the information, report information they have about alleged or possible sex-based discrimination, sexual harassment, and sexual misconduct involving students to the Title IX Coordinator. Employees who are statutorily prohibited from reporting such information are exempt from these reporting requirements, including licensed health-care, counseling, or pastoral professionals. Please note that this policy does not reach curriculum or in any way prohibit or abridge the use of particular textbooks or curricular materials.

Upon receiving a report of alleged or possible sex-based discrimination, sexual harassment, or sexual misconduct, the Title IX Coordinator will evaluate the information received and determine what further action should be taken. The Title IX Coordinator will follow the procedures described in the [Discrimination Grievance Procedures](#). The Title IX Coordinator will take steps, either directly with the complainant or through a reporting employee, to provide information about the University's Discrimination Grievance Procedures, as well as available health and advocacy resources and options for criminal reporting.

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## **Section 5: Sanctions and Corrective Action**

Violations of this policy will be addressed through the [Discrimination Grievance Procedures](#). Consequences for violating this policy will depend upon the facts and circumstances of each particular situation. Sanctions and Corrective Action could include: a requirement not to repeat or continue the discriminatory, harassing, or retaliatory conduct; a reprimand; a no-contact order; denial of a pay increase; reassignment; suspension; or termination. The severity of sanctions or corrective action will depend on the frequency and severity of the offense and any history of past discriminatory, harassing or retaliatory conduct, and if an employee, other employment history or performance. A finding of discrimination, harassment that creates a hostile environment or results in a tangible employment or educational action, or sexual misconduct may be cause for disciplinary action, up to and including the discharge of employees and the expulsion of students, in accordance with applicable University procedures. The University may also take appropriate action if it does not find discrimination or harassment that creates a hostile environment or results in a tangible employment or educational action, but (a) the University found that the respondent engaged in disruptive behavior, or (b) to prevent the creation of a hostile environment.

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## **Section 6: Amnesty for Drug or Alcohol Possession and Consumption Violations**

The University strongly encourages students to report instances of sex-based discrimination, sexual harassment, and sexual misconduct involving students. Therefore, students who report information about sex-based discrimination, sexual harassment, or sexual misconduct involving students will not be disciplined by the University for any violation of the University's drug or alcohol possession or consumption policies in which they might have engaged in connection with the reported incident.

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## **Section 7: Academic Freedom**

Constitutionally protected speech and traditional notions of academic freedom are valued in higher education. These ideals help to create the stimulating and challenging learning environment that should characterize higher education. In the spirit of a true university environment, individuals are encouraged to invite, rather than inhibit,

discourse on ideas. In addressing all complaints and reports under this policy, the University will take all permissible actions to ensure the safety of students and employees while complying with any applicable free speech requirements for students and employees. While the University will vigilantly protect students' and employees' rights against sex discrimination under this policy, this policy does not apply to curriculum or in any way prohibit or abridge the use of particular textbooks or curricular materials.

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## **Section 8: External Complaints**

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### Students:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100.  
Customer Service Hotline #: (800) 421-3481  
Fax: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

### Employees:

[U.S. Equal Employment Opportunity Commission \(EEOC\)](http://www.eeoc.gov)  
Contact: <http://www.eeoc.gov/contact/>  
The charge filing process:  
(800) 669-4000  
(800) 669-6820 (TTY)  
[info@eeoc.gov](mailto:info@eeoc.gov)

Kansas Human Rights Commission (KHRC)  
900 SW Jackson, Suite 568-S  
Topeka, KS 66612-1258  
Tel: 785.296.3206  
Fax: 785.296.0589  
Web: <http://www.khrc.net/contact>

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## **Section 9: Discrimination Grievance Procedures**

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### **Purpose**

The purpose of these procedures is to provide a prompt and equitable resolution for complaints or reports of discrimination based upon race, color, national origin, sex, age, disability, or any other category protected by applicable law. Any person believing that they have been subjected to discrimination or harassment on any of these bases may file a complaint or report with the University. These procedures address all complaints or reports of alleged discrimination or harassment, including conduct that violates the Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Policy (hereinafter referred to as "Policy Violations"). The procedures also address complaints or reports of retaliation against those who have opposed practices forbidden

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under the policy, those who have filed complaints or reports under the policy, and those who have testified or otherwise participated in enforcement of the policy.

### **University Complaints and Reporting**

Complaints and third-party reports of discrimination, including Policy Violations, should be made to the Title IX Coordinator or Deputy. The Title IX Coordinator and Deputy are trained to help you find the resources you might need, to explain all reporting options, and to respond appropriately to conduct of concern. All instances of retaliation should be reported and will be addressed in the same manner. The contact information for the Title IX Coordinator and Deputy is listed below.

Kelley Williams

Title IX Coordinator & Vice President of Administration

Office of Human Resources

(316) 295-5864

Email: [kwilliams@friends.edu](mailto:kwilliams@friends.edu)

Jasper Lesage

Deputy Title IX Coordinator & Vice President of Academic Affairs

(316) 295-5770

Email: [jasper\\_lesage@friends.edu](mailto:jasper_lesage@friends.edu)

Complaints and reports should be made as soon as possible after an incident. The Title IX Coordinator coordinates and tracks all complaints and reports under this procedure.

There are several avenues available for submitting a complaint or report:

- Leave a private voice message for the Title IX Coordinator or Deputy;
- Send a private email to Title IX Coordinator or Deputy;
- Mail a letter to the Title IX Coordinator or Deputy or to the Human Resources office;
- Report to another trusted University official (e.g., Resident Assistant, Professor, Coach, Advisor) who will provide information as required under the policy to the Title IX Coordinator or Deputy.

If there is a complaint about the Title IX Coordinator or Deputy, that complaint should be filed with the President of the University. The President will appoint another trained individual to take the place of the Title IX Coordinator or Deputy for purposes of the complaint.

### **Criminal Reporting**

Please remember that if someone is in immediate danger or needs immediate medical attention, the first place to report is 911. You may also report to the University Security by dialing 316-295-5911 or to the Wichita Police Department. Some forms of discrimination and harassment may also be crimes. For example, sexual assault, stalking, and rape are crimes. Criminal reports should be made to law enforcement, even if it is uncertain whether the particular conduct is a crime. Calling local law enforcement can help you: obtain emergency and nonemergency medical care; get immediate law enforcement response for your protection; understand how to provide assistance in a situation that may escalate to more severe criminal behavior; arrange a meeting with victim advocate services; find counseling and support; initiate a criminal investigation; and answer questions about the criminal process.

## **Confidentiality of Complaints and Reports**

Parties in these processes, including the Complainant, the individual accused of a Policy Violation (“Respondent”), and witnesses, have privacy rights and reasonable expectations of confidentiality in the investigation of matters subject to this procedure. In addition, the integrity of the process depends on ensuring reasonable expectations of confidentiality. The Title IX Coordinator will keep confidential the complaint, report, witness statements, and any other information provided by the Complainant, Respondent, or witnesses, and will disclose this information only to the Complainant, Respondent, or witnesses, as necessary to give fair notice of the allegations and to conduct the investigation; to law enforcement consistent with state and federal law; to other University officials as necessary for coordinating interim measures or for health, welfare, and safety reasons; and to government agencies who review the University’s compliance with federal law. The investigation report and any written decision from the Discrimination Grievance Committee will be disclosed only to the Complainant, Respondent, Title IX Coordinator or Deputy, Management authority as necessary, and University officials as necessary to prepare for subsequent proceedings (e.g., University President and University Legal Counsel). Members of the Discrimination Grievance Committee have the same obligations to keep all information they learn confidential, subject to the limited exception when necessary to protect health, welfare or safety, and as noted above. Information about complaints and reports, absent personally identifiable information, may be reported to University officials, including the University Council on Student Assault, and external entities for statistical and analysis purposes pursuant to federal and state law or University policy.

## **Anonymous and Third Party Reporting**

The Title IX Coordinator accepts anonymous and third-party reports of conduct alleged to violate this Policy and will follow up on such reports. The individual making the report (Reporter) is encouraged to provide as much detailed information as possible to allow the Title IX Coordinator to investigate and respond as appropriate. The Title IX Coordinator may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator to conduct a meaningful and fair investigation.

## **Role of the Title IX Coordinator**

The Title IX Coordinator is charged with coordinating the University’s compliance with federal civil rights laws, which are listed at the end of these Procedures. The Title IX Coordinator is not an advocate for either the Complainant or the Respondent. The Title IX Coordinator will explain to both parties the informal and formal processes outlined below and the confidentiality provisions as outlined above. Where appropriate, the Title IX Coordinator will provide to both parties: information about options for obtaining medical and counseling services; information about making a criminal report; information about receiving advocacy services; and information about other helpful campus and community resources. The Title IX Coordinator will offer to coordinate with other campus officials, when appropriate, to implement interim remedial measures, such as no-contact orders, rearrangement of living arrangements, or academic accommodations. The Title IX Coordinator will describe the process of a fair and impartial investigation. The Title IX Coordinator will explain the right of the Respondent to review and respond to allegations and evidence against him or her. The Title IX Coordinator will explain to both parties their rights to have a person of support, union representative (if applicable), or attorney, with them during their interviews and during the hearing stage of these procedures. If an individual does not want to pursue a complaint, the Title IX Coordinator will inform the individual that the University is limited in the actions it can take without the cooperation of the individual. The Title IX Coordinator will also explain to parties and witnesses that retaliation for reporting alleged violations of the policy, or participating in an investigation of an alleged violation, is strictly prohibited, and that any retaliation should be immediately reported and will be promptly addressed.

## **Immediate Action and Interim Measures**

The University may take interim measures to assist or protect the parties during the grievance process, as necessary, and with the Complainant's consent. Such measures for a student Complainant may include: arranging for changes in class schedules or living arrangements; issuing a no-contact order; obtaining counseling; and modifying test schedules or other class requirements temporarily. For an employee Complainant, the University may temporarily reassign or place on administrative leave an employee alleged to have violated this policy.

## **Resolution**

If a Complainant chooses to file a complaint, there are two avenues for resolution of an alleged Policy Violation: formal and informal resolution. The Complainant has the option to proceed informally, when permissible. In cases involving allegations of sexual assault, informal resolution is not appropriate, even if both the Complainant and Respondent indicate a preference for informal resolution. The Title IX Coordinator is available to explain the informal and formal resolution procedures.

### **A. Informal Process and Resolution**

If the Complainant, the Respondent, and the Title IX Coordinator all agree that an informal resolution should be pursued, the Title IX Coordinator (or her/his designee) shall attempt to facilitate a resolution of the conflict that is agreeable to all parties. Under the informal process, the Title IX Coordinator shall be required only to conduct such fact-finding as is useful to resolve the conflict and is necessary to protect the interests of the parties, the University, and the community. Typically, an informal investigation will be completed within twenty (20) days of receipt of the complaint. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe.

A Complainant or Respondent always has the option to request a formal investigation. The Title IX Coordinator also always has the discretion to initiate a formal investigation. If at any point during the informal process, the Complainant, the Respondent, or the Title IX Coordinator wishes to cease the informal process and to proceed through formal grievance procedures, the formal process outlined below will be invoked.

The informal resolution must adequately address the concerns of the Complainant, as well as the rights of the Respondent, and the overall intent of the University to stop, remedy and prevent Policy Violations. (Informal actions might include, but are not limited to: providing training to a work unit; having an informal discussion with an individual whose conduct, if not stopped, could rise to the level of discrimination or hostile environment harassment; or having a confidential conversation with a supervisor or instructor.)

### **B. Formal Process (Title IX Coordinator also refers to trained designees)**

**Step 1:** Title IX Coordinator discusses concerns with Complainant, and the Respondent as appropriate, including providing information about the policy and procedures and other helpful resources. Title IX Coordinator also considers whether immediate or interim actions or involvement of other University offices is appropriate. Title IX Coordinator determines whether the office has jurisdiction to investigate the matter. The Title IX Coordinator only has

jurisdiction to investigate complaints alleging discrimination, harassment, sexual misconduct, stalking, and retaliation.

**Option 1:** If the Title IX Coordinator determines that there is no jurisdiction, he/she will offer to assist the Complainant and, as appropriate, the Respondent, in finding appropriate campus and off-campus resources for addressing the issue of concern.

**Option 2:** If the Title IX Coordinator determines that there is jurisdiction, they will proceed to Step 2.

**Step 2:** Title IX Coordinator conducts or oversees the conducting of a fair and impartial investigation of the alleged Policy Violation, and proceeds to Step 3. Typically, an investigation will be completed within twenty (20) days of receipt of the complaint. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe.

Only a trained investigator will conduct an investigation. Respondents will have the opportunity to review and respond to evidence considered against them. Both parties will have the opportunity to review and provide comments to the investigator about the written investigation report before it is finalized.

**Step 3:** Title IX Coordinator determines whether there is a preponderance of the evidence to believe that an individual engaged in a Policy Violation. This means that individuals are presumed not to have engaged in alleged conduct unless a “preponderance of the evidence” supports a finding that the conduct has occurred. This “preponderance of the evidence” standard requires that the evidence supporting each finding be more convincing than the evidence in opposition to it.

In making the determination of whether harassment has created a hostile environment, the Title IX Coordinator will consider not only whether the conduct was unwelcome to the Complainant, but also whether a reasonable person in the Complainant’s situation would have perceived the conduct as objectively offensive. The Title IX Coordinator’s findings will be in writing and will be provided to both the Complainant and to the Respondent(s).

**Option 1:** If Title IX Coordinator finds a preponderance of the evidence of a Policy Violation does not exist, the matter is documented and closed; in this case, the Complainant may appeal the finding to the Discrimination Grievance Committee.

**Option 2:** If Title IX Coordinator finds that a preponderance of the evidence of a policy violation exists, the Title IX Coordinator’s written report will include recommendations for steps to take to prevent recurrence of any such violation, and as appropriate, remedies for the Complainant. The Respondent may appeal the finding to the Discrimination Grievance Committee. If the Respondent does not contest the finding, the Respondent will be required to sign the written finding, and the written finding will be provided to the Discipline Authority for a determination of appropriate sanctions. In the case of student Respondents, the Discipline Authority will be the VP of Student Affairs. In the case of employee Respondents, the Discipline Authority is the University Administrator with the authority to impose sanctions in accordance with applicable employment policies and

procedures and any active collective bargaining agreements. The Discipline Authority must inform the Title IX Coordinator of the ultimate sanctions imposed upon a Respondent. The Title IX Coordinator will inform the Complainant of the sanctions, as permitted by applicable Title IX and privacy laws.

### **Retaliation to the Student Code of Conduct**

The VP of Student Affairs is charged with imposing sanctions on students who are found to have violated the policy. Sanctions may include eviction from campus housing, suspension, expulsion, probation, a warning, or any other sanction set forth in the Student Conduct Code. Disciplinary records for policy violations are maintained in the same manner as other disciplinary records, as described in the Student Conduct Code.

### **Reporter or Complainant Requests No Investigation**

If a reporter or Complainant requests that an investigation not be conducted, the Title IX Coordinator will consider the reasons for the request, including concerns about continued safety of the person reportedly harmed, and members of the campus community. The Title IX Coordinator must also balance considerations about the continued health and safety of members of the community against a reporter's or Complainant's desire not to have the report investigated. In cases when a reporter or Complainant does not want to have a report investigated, but the Title IX Coordinator has concerns that not taking formal or informal action might endanger the health or safety of members of the campus community, the Title IX Coordinator will initiate confidential consultation with appropriate individuals to analyze the situation and assist in determining appropriate measures to take. Consultation may occur with the appropriate members of the University with relevant knowledge and with legal counsel. The Title IX Coordinator will make the ultimate decision about whether to conduct a formal investigation or respond to the report in another manner, including taking informal actions, such as those described above.

### **Appeals to the Discrimination Grievance Committee**

#### **Composition of the Committee**

The committee shall have four (4) regular members, including the Chair. Of the four regular members, one shall be a student, one shall be a member of the faculty, one shall be a member of the staff, and one shall be a representative of the administration.

#### **Selection of Members**

Members shall be appointed by the President of the University. Each of the four groups listed below will nominate two (2) candidates. The President will appoint one member from each pool of two (2) candidates. The President shall also designate one (1) alternate from each of these groups:

- a. The Faculty Senate.
- b. The Student Government Association (student involvement only).
- c. Administration.

#### **Appointment of Chair**

The President shall appoint the Chair.

### **Term of Appointment**

To assure cumulative experience and development of expertise, as well as continuity and uniformity of decisions, the terms of regular members will be of extended duration. The student shall be appointed for two (2) years. Members of each of the other groups (faculty, staff, and administrators) shall be appointed for five (5) years.

Any member whose term has expired and who is willing to continue to serve on the committee may be reappointed by the President of the University.

The President may appoint one or more persons to serve temporarily as a member of the committee to fill a vacancy or ensure a quorum, or in response to a request from the Chair to avoid delay in proceedings. The term of temporary appointment continues for the duration of the proceedings or until the temporary appointee is replaced by a regular member.

### **Removal of Members**

The Committee Chair may either permanently or temporarily remove or replace any regular member of the committee under the following circumstances:

- a. In response to a request from those responsible for the nomination of the member;
- b. In response to a request from a majority of the committee members;
- c. In response to a request from the Title IX Coordinator;
- d. In response to a request from a committee member that he/she be excused;
- e. In response to a request from a party who raises a legitimate concern regarding a conflict of interest.

If any person or group other than the member requests removal, that member will have an opportunity to rebut any evidence presented in support of the request for removal. If a concern as enumerated above is raised about the Chair, the President of the University will make the determination about either permanent or temporary removal from the committee.

### **Quorum**

There must be a member from each of the four constituent groups specified above to constitute a quorum.

### **Authority of the Committee**

The committee may: (1) call student and employee witnesses to testify or to be present during a hearing, and obtain other evidence held by the University or any student or University employee; (2) arrange with the University Title IX Coordinator for appropriate funding and staff support to facilitate hearings; (3) hold pre-hearing conferences; (4) issue hearing orders; (5) hold formal hearings and control conduct of such hearings; and (6) make decisions, findings of fact, and recommendations, including recommended sanctions, to the President by vote of a majority of the members involved in the hearing process.

### **Filing an Appeal**

A request for a hearing before the University Discrimination Grievance Committee must be filed by the person appealing (the appellant) within five (5) working days of the receipt of the Title IX Coordinator's decision, unless good cause can be shown for an extension of time. The request for a hearing must be filed with the Title IX Coordinator. The request for a hearing must be in writing and must describe the appellant's desired outcome, as well as describe how the appellant believes the Title IX Coordinator: (1) exhibited unfair bias which influenced the result of the investigation; (2) failed to conduct a thorough investigation; (3) issued arbitrary findings and recommendations; (4) had a conflict of interest; or (5) issued findings and recommendations that, if adopted, would result in substantial injustice. As soon as practicable, the Title IX

Coordinator will provide the non-appealing party and the Chair of the Discrimination Grievance Committee with a copy of the written appeal.

### **Standard of Review**

The committee reviews the findings and recommendations of the Title IX Coordinator. The committee may approve, overturn, or modify the findings and recommendations of the Title IX Coordinator. The committee may overturn or modify the Title IX Coordinator's findings and recommendations if it finds that the Title IX Coordinator: (1) exhibited unfair bias which influenced the result of the investigation; (2) failed to conduct a thorough investigation; (3) issued arbitrary findings and recommendations; (4) had a conflict of interest; or (5) issued findings and recommendations that, if adopted, would result in substantial injustice.

### **Notice of Hearing**

Within ten (10) working days of receipt of the written request for a hearing, the Title IX Coordinator will notify the Complainant and the Respondent of the time and place of the formal hearing before the Discrimination Grievance Committee. This process might be extended during periods between academic semesters when a quorum of the committee cannot be convened. The hearing will normally be scheduled within thirty (30) days of receipt of the written appeal. If such an appeal causes a significant delay, the Title IX Coordinator will consider interim measures, as described above, to continue to protect the parties during the process.

### **Preparation for and Conduct of the Hearing**

#### *Written Statements on Appeal*

Within ten (10) working days of filing the appeal, the party appealing the decision (appellant) must submit to the Title IX Coordinator the following information:

(a) detailed statement of facts relevant to the complaint or report of discrimination, hostile environment harassment, sexual misconduct, stalking, or retaliation; (b) names and addresses and anticipated testimony from witnesses to be called; (c) copies of any documents which will be submitted as evidence; (d) additional materials the party believes the committee should obtain prior to the hearing; (e) reference to the portion of the policy alleged to be violated; (f) specific remedy(ies) requested; and (g) whether the party will be represented by legal counsel and the identity of the counsel.

The non-appealing party (appellee) may also submit the information described in (a) through (f), above. If the non-appealing party will participate in the hearing, that party must notify the Title IX Coordinator whether he or she will be represented by legal counsel and the identity of the counsel. In cases in which the non-appealing party chooses not to participate in the hearing, the Title IX Coordinator will provide to the Discrimination Grievance Committee, in addition to the written investigation report, any additional documents or other materials, and names and addresses of any witnesses the Title IX Coordinator believes should provide information to the Committee at the hearing.

#### *Advisor or Legal Counsel Representation*

Both parties have a right to have an advisor of their choice (including an attorney) who can provide support during the grievance process. If either party chooses to be represented by legal counsel, University legal counsel will be present to ensure that the rights of all interested persons and the University are respected. The role of a party's attorney shall be limited to consultation with the attorney's client and client witnesses. The parties are expected to ask and respond to questions on their own behalf without representation by their advisors. The advisor may consult with the advisee quietly or in writing, or during outside breaks, but may not

speak on behalf of the advisee. Any advisor who steps outside of this defined role will be given one warning, and then will be asked to leave the hearing. A substitute advisor is not permitted at the hearing in which the original advisor has been removed, and the original or a substitute advisor will only be permitted to attend additional meetings, hearing, or interviews at the discretion of the Title IX Coordinator.

### *Forwarding Appeal Documents*

The Title IX Coordinator will forward copies of the Title IX Coordinator's written investigation report; the above-listed materials; and any additional evidence relevant to the matter to the members of the Discrimination Grievance Committee at least five (5) days prior to the hearing.

### *Pre-hearing Conference*

At any time within five (5) days prior to the date of the formal hearing, the Chairperson of the University Discrimination Grievance Committee may call a pre-hearing conference. Topics discussed at a pre-hearing conference may include, but are not limited to: (a) whether the evidence presented is complete; (b) whether additional investigation is required; (c) whether additional witness should be called; and (d) time limits and order of presentation of evidence at the hearing. At the request of any party, the Committee Chairperson will conduct separate meetings with the appellant and the appellee for purposes of the pre-hearing conference.

With concurrence of a majority of the University Discrimination Grievance Committee, the Chair may decide to set aside the hearing date for any period up to ten (10) days for additional investigation, or to obtain additional witnesses or evidence.

### *The Hearing*

The Chair of the University Discrimination Grievance Committee will conduct the hearing. The hearing will be a non-adversarial proceeding, and strict rules of evidence will not be applied. However, the Chair of the Committee may limit or refuse to allow evidence or testimony that is not reasonably related to a determination of whether a violation of the policy occurred.

The hearing will be conducted to assure fairness and accuracy in fact-finding. The parties and witnesses will address the members of the Committee rather than each other. The Chair will be the final arbiter of all matters of procedure. All hearings are closed to the public.

### *The Decision*

Within ten (10) working days of the conclusion of the formal hearing, the University Discrimination Grievance Committee will submit a decision in writing to the parties, the Title IX Coordinator, and to the President. The written decision will contain the following:

- a. A summary of the allegations, including a description of the harm alleged to have been caused;
- b. A summary of the response to the allegations;
- c. A statement of the relief sought by the Complainant, if known, or of the recommendation of the Title IX Coordinator, if applicable;
- d. Specific reference to the portion(s) of the policy(ies) alleged to have been violated;
- e. Analysis of whether the Title IX Coordinator: (1) exhibited unfair bias which influenced the result of the investigation; (2) failed to conduct a thorough investigation; (3) issued arbitrary findings and recommendations; (4) had a conflict of interest; (5) issued findings and recommendations that, if adopted, would result in substantial injustice; and
- f. Recommendations, if any, regarding redress of the complaint as well as any other recommendations, as applicable, for precluding further policy violations.

### *Action on Decision*

The President will review the Committee’s decision. The President’s review is limited to determining: (1) Whether the evidence provides a reasonable basis for the resulting decision; and (2) Whether specified procedural errors were so substantial as to deny a fair hearing to either party. Within ten (10) days of receipt of the Committee's decision, the President will notify the Committee Chair, the Title IX Coordinator, and the parties, in writing, of the decision relative to each of the findings and recommendations forwarded by the University Discrimination Grievance Committee. The Title IX Coordinator will distribute copies to Committee members and to the parties.

### **Conflict of Interest and Training**

All University officials who are involved in the discrimination grievance process, including the Title IX Coordinator, designated investigators, Discrimination Grievance Committee, and Administrators, will have adequate training. Training will address, but is not limited to, recognizing and appropriately responding to allegations of discrimination and harassment, including hostile environment harassment, sexual misconduct, and retaliation; conducting investigations; protecting confidentiality; and recognizing the link between alcohol and drug use and sexual assault and sexual harassment.

The names of the investigator and the individuals who will serve on the Discrimination Grievance Committee for a particular matter will be readily accessible. These individuals must promptly disclose any potential conflict of interest they might have in a particular case. In the rare situation in which an actual or perceived conflict of interest arises between an Investigator or a member of the Discrimination Grievance Committee, that conflict must be disclosed to both parties.

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## **Contacts**

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<b>Policy Administrator</b>	<b>Contact</b>	<b>Phone</b>
Title IX Coordinator & Vice President of Administration	Human Resources	Ext. 5864

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## **History / Policy Revisions**

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**Adopted:** October 2, 2014

**Edited:** October 14, 2014

**Edited:** May 2016

**Edited:** July 2016

\*This Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Policy (Title IX) replaces the former Human Resources Harassment Policy