



BRYAN UNIVERSITY

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BRYAN UNIVERSITY TITLE IX POLICY

Institutional Commitment

Bryan University (the “College”) is committed to maintaining a learning and working environment that is free from unlawful discrimination, harassment, and retaliation. In accordance with Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its Education Programs and/or Activities, which extends to admission and employment. The College encourages individuals who have witnessed or experienced sex discrimination, Sexual Harassment (including sexual violence) to report it according to the procedures outlined below.

Policy Statement

The College prohibits unlawful discrimination and retaliation. The College also prohibits Sexual Harassment (as defined below) on the basis of sex in its Education Program or Activities committed against persons in the United States as part of the College’s Education Programs or Activities. Individuals who violate this Policy will be subject to disciplinary action.

Scope

This policy applies to current and prospective students, current and prospective employees and third parties.

Definitions

Actual Notice	Notice of Sexual Harassment or allegations of Sexual Harassment to the College’s Title IX Coordinator or any Official of the College who has the authority to institute corrective measures on behalf of the College. The College receives notice when an employee, student, or third party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge.
Complainant	An individual who is alleged to be the victim of conduct that could constitute harassment, discrimination, or retaliation under Title IX.
Consolidated Complaint	A Formal Complaint with more than one Complainant or Respondent submits formal complaints arising out of the same facts and circumstances and as deemed appropriate for consolidation by the Title IX Coordinator.



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Dating Violence	As defined in 34 U.S.C. 12291(a)(10), means violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and, the frequency of interaction between the persons involved in the relationship.
Decision Maker(s)	A trained individual with responsibility for making a Final Determination as set forth in the College's Grievance Process. A Decision-Maker must maintain neutrality and cannot perform the function of either the Title IX Coordinator or Investigator.
Deputy Title IX Coordinator	Any employee delegated with responsibility for compliance with Title IX and this Policy by the Title IX Coordinator, and acting within the scope of authority of a Title IX Coordinator as set forth herein.
Domestic Violence	As defined in 34 U.S.C. 12291(a)(8), includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
Education Program or Activity	On or off campus locations, events, or circumstances over which the College exercises substantial control over both the Complainant and Respondent and the context in which the Sexual Harassment occurred.
Education Program or Activity (Scope)	The College's educational programs and activities including locations, events, or circumstances within the U.S., where the College has substantial control over both the Respondent and the context in which the alleged Sexual Harassment or discrimination occurs. This includes any building owned or controlled by the College, student organizations or clubs, online learning platforms, College networks, technology and equipment associated with the College.
Final Determination	A decision rendered and provided in writing to the Parties of a Formal Complaint after application of the College's Grievance Process concluding whether or not Respondent is responsible for conduct alleged within a Formal Complaint in violation of this Policy.
Finding	A conclusion within the Final Determination as evaluated under the burden of proof that a specific allegation within a Formal Complaint did or did not occur.



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Formal Complaint	A document (hard copy or electronic) filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting the College investigate. A Formal Complaint must be signed (physical or digital) by the Complainant, the Title IX Coordinator, or otherwise indicate that the Complainant is the person filing the Formal Complaint. At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in the College's Education Program or Activity with which the Formal Complaint is filed.
Formal Grievance Process	The method of formal resolution designated by the College to address conduct that falls within the scope of this Policy, and which complies with the requirements of 34 CFR Part 106.45.
Informal Resolution Process	An alternative resolution process which may be available to the Parties to seek Resolution of a Formal Complaint in lieu of the Formal Grievance Process. Informal Resolution is facilitated by appropriately trained individuals, is made available at the discretion of the College, and as deemed appropriate by the Title IX Coordinator, and offered only if informed, voluntary, and written consent is made by all Parties to a complaint. Any party may opt out of the informal process at any time, and the matter will proceed through the Formal Grievance Process. Examples of informal resolution include, but are not limited to, mediation and restorative justice.
Investigator	A trained individual responsible for fulfilling the College's burden of gathering and evaluating all evidence related to allegations within a Formal Complaint as required under the College's Grievance Process.
Mandated Reporter	An employee of the College who is obligated by Policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
Official with Authority	An employee of the College explicitly vested with the responsibility to implement corrective measures for Title IX harassment, discrimination, and/or retaliation on behalf of the College.
Parties	The Complainant(s) and Respondent(s), collectively.
Remedies	Post-Finding actions directed to the Complainant and/or the College community implemented to address safety, prevent the recurrence of harassment, and ensure continued access to the College's educational program and activities.
Respondent	An individual who has been reported to be the perpetrator of conduct that could constitute harassment, discrimination, or retaliation under Title IX.



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Sanction	A disciplinary consequence imposed by the College on a Respondent who is found to have violated this policy.
Sexual Assault	As defined in 20 U.S.C. 1092(f)(6)(A)(v), it means an offense classified as a forcible or non forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
Sexual Harassment	<p>Behavior or conduct as defined under Title IX and its implementing regulations at 34 CFR 106. Conduct on the basis of sex that satisfies one or more of the following:</p> <ol style="list-style-type: none">1. An employee of the College conditioning educational benefits or participation on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo);2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's Education Program or Activity; or3. Sexual Assault (as defined in the Clery Act), or Dating Violence, Domestic Violence or Stalking as defined in the Violence Against Women Act (VAWA) (collectively referred to as "Sexual Violence"). <p><i>Please note: In accordance with the Violence Against Women Reauthorization Act of 2013 ("VAWA"), state definitions for Sexual Assault, Dating Violence, Domestic Violence, Stalking and Consent are contained in the College's Annual Safety and Security Report ("ASR"). VAWA crimes are reported in the ASR based on the definitions above.</i></p>
Stalking	As defined in 34 U.S.C. 12291(a)(30), means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.
Title IX Coordinator	The College's employee responsible for ensuring compliance with Title IX.
Title IX Personnel	Those individuals collectively tasked with implementation of this Policy and Grievance Process including specifically, the Title IX Coordinator (including any designees as applicable), any Investigator or any Decision-Maker.

Title IX Coordinator

The Title IX Coordinator oversees implementation and enforcement of this Policy, which includes primary responsibility for coordinating the College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.



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The College's Title IX Coordinator is identified below and may be contacted with questions about this Policy, to file a report or Formal Complaint, or to otherwise assist individuals in ensuring equal access to the College's educational programs or activities in compliance with Title IX.

Title IX Coordinator: Jana Colyar

Department: Student Affairs

Address: 350 W. Washington Street, Suite 100, Tempe, AZ 85281

Tel.: 602-835-6155

Email: TitleIX@bryanuniversity.edu

Web: bryanuniversity.edu

Where to Report

If you believe that you have experienced or witnessed sex discrimination, Sexual Harassment (including sexual violence) or retaliation, the College encourages you to notify the Title IX Coordinator. A report may be made to both the police and to the Title IX Coordinator. The criminal process is separate from the College's Grievance Process. The College's grievance process is an administrative procedure required under Title IX to address sexual discrimination, and therefore is separate and independent of any law enforcement investigation or criminal proceedings. While a law enforcement investigation may necessitate a temporary delay in the College's grievance process, such law enforcement investigations do not replace the College's grievance process, as the College is legally obligated to address and remedy potential Sexual Harassment in its educational programs and activities set forth in the Policy.

For employees, complaints alleging a violation of this policy will be reported to the Human Resources Department, which will enforce the College's employment policies and procedures separately from this Policy. No person is required to report Sex Discrimination or Sexual Harassment to the alleged offender.

Any person can report alleged sex discrimination, Sexual Harassment, or retaliation to the Title IX Coordinator, irrespective of whether the reporting person is the alleged victim of such conduct. A report is differentiated from a Formal Complaint, which is a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging Sexual Harassment and requesting that the College investigate the allegation(s) and implement the College's grievance process. A report can be made at any time, including during non-business hours using the contact information above.

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

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline: (800) 421-3481
Facsimile: (202) 453-6012



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TDD: (877) 521-2172

Email: OCR@ed.gov

Web: <http://www.ed.gov/ocr>

Reporting Responsibility

To make informed choices, it is important to be aware of confidentiality and reporting requirements when consulting College resources. Every supervisor, administrator, and College official is responsible for promptly reporting incidents of sex discrimination and Sexual Harassment that come to his or her attention to the Title IX Coordinator.

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide Remedies may be more limited or impossible. Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or Remedies, and/or engage in informal or formal action, as appropriate.

If a Complainant submits an anonymous report or complaint, the College will investigate to the extent possible. The investigation will include assessing the allegation(s) and determining if supportive measures or Remedies can be provided. When an anonymous report is submitted it may limit the College's ability to investigate and respond, depending on the available information in the report. The Title IX Coordinator may decide to issue a Formal Complaint even when the Complainant's report was made anonymously.

If a Complainant does not want to be identified, does not wish for an investigation to occur or be pursued, the Complainant must make a request directly to the Title IX Coordinator. The Title IX Coordinator will evaluate the request to determine compliance with the state and federal law and ensure the safety of the College community. The College will comply with the Complainant's request unless it is determined by the Title IX Coordinator that initiating a complaint is warranted under the circumstances. The Complainant may decide what involvement they will have if the Title IX Coordinator formalizes the complaint. The Complainant retains all rights under the Title IX policy regardless of participation level. Supportive measures will be offered to the Complainant by the College to ensure that the Complainant has access to the College's educational programs and activities. At any time, the Complainant can file a complaint.

The College will undertake reasonable efforts to preserve the confidentiality of reports and the identity of the Complainant, Respondent, and witnesses except as provided herein and necessary to effectuate this Policy, or as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99, or as required under applicable law.

Complainants wishing to speak to someone confidentially are encouraged to seek professional resources that must abide by strict confidentiality laws. Some of these resources include licensed counselors and mental health providers, licensed medical and health care providers, licensed attorneys, victim advocates, licensed clergy and resources related to Domestic Violence and rape crisis centers. Communication with these professionals and resources are legally privileged and cannot be shared without a party's written consent.



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Cleary Act Reporting

Reports or complaints of Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking that pose a serious or continuing threat of bodily harm or dangers to the College community may require a timely warning by the College under the Cleary Act. If a warning is warranted, the College will ensure that a Complainant's name and other identifiable information is not disclosed, while still providing enough information for the College community to make appropriate safety decisions.

Report Receipt

Upon receipt of a report or complaint, the Title IX Coordinator will conduct an initial assessment to determine next steps as required under this Policy, including an initial threat assessment to ensure there is no immediate danger to Complainant or the campus community. If there is an identified threat, appropriate action will be taken and may include emergency removal of the Respondent. See information regarding Emergency Removal of Respondent below.

The Title IX Coordinator will contact the Complainant to discuss appropriate supportive measures that may be implemented, seeking input from the Complainant, including the review of the Formal Grievance Process and notification of the rights for the Complainant to have an Advisor.

If a report has been made without filing a complaint, the Title IX Coordinator will discuss options with the Complainant, including the process of filing a Formal Complaint. If the Complainant does not want to proceed with a Complaint, the Title IX Coordinator may submit a complaint if the complaint is warranted.

After a complaint is filed, the Title IX Coordinator will follow the grievance process and notify the Respondent of the Complainant's allegations. The Parties will be notified of the availability of informal resolution, as applicable. All Parties must voluntarily consent in writing to any Informal Resolution Process. The Parties may withdraw consent at any time and resume the Formal Grievance process.

During the process, irrespective of any resolution or grievance process which may be implemented, responsive and reasonable supportive measures will be implemented to ensure continued access to the College's educational programs and activities.

Emergency Removal of Respondent

The College reserves the right to remove a Respondent from its Education Program or Activities on an emergency basis when the Respondent poses an immediate threat to the health and safety of a student or campus community member. The least restrictive actions will be taken based on circumstances and safety concerns. If an emergency removal of a Respondent is necessary, the Respondent will be notified of such action and be given the option to meet with the Title IX Coordinator prior to such action, or as soon thereafter as reasonably possible, to show cause why the removal should not be implemented. Emergency removals are not subject to appeal.



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Supportive Measures

The Title IX Coordinator will provide Supportive Measures, as necessary. Supportive Measures are individualized services reasonably available to ensure equal educational access, protect safety or deter prohibited conduct. Supportive Measures are available, as appropriate to either or both the Complainant and Respondent and are non-punitive, non-disciplinary and not unreasonably burdensome to the other party. Examples include counseling, extensions of time or other course-related adjustments, modifications to work or class schedules, campus escort services, restrictions on contact between the Parties, leave of absence, increased security, and monitoring of certain areas on campus, and other similar accommodations.

Supportive Measures are individualized and appropriate based on the information gathered by the Title IX Coordinator. The Supportive Measures needed by the Complainant and/or Respondent may change over time, and the Title IX Coordinator will communicate with each party to ensure that any Supportive Measures are necessary and effective based on evolving needs.

Once the Title IX Coordinator receives a report, the Title IX Coordinator will promptly contact the Complainant confidentially to discuss the availability of Supportive Measures (available with or without filing a Formal Complaint) and explain the process for filing a Formal Complaint and providing a copy of this policy. The Title IX Coordinator will consider the Complainant's wishes with respect to Supportive Measures.

The College will keep confidential the Supportive Measures provided, to the extent that maintaining such confidentiality will not impair the College's ability to provide the Supportive Measures.

Advisor

A party may be accompanied by an Advisor of their choice during the Grievance Process. The Parties may choose Advisors from inside or outside the College. If the Complainant or Respondent does not have an Advisor present at the Live Hearing, the College will select and provide an Advisor, without fee or charge, to conduct cross-examination of witnesses on behalf of that party. A party may reject a College appointed Advisor and choose their own Advisor, but they may not proceed without an Advisor. The Complainant and Respondent may not conduct cross-examination.

An advisor who witnesses the allegations in the complaint creates potential for bias or conflict of interest. A party who chooses an advisor who is also a witness can anticipate issues of potential bias will be explored by the Decision-Maker(s). Any bias may, but will not necessarily, impact the Final Determination.

The College cannot guarantee equal advisory rights, meaning that if one party selects an advisor with an attorney, but the other party does not select or retain an attorney or cannot afford an attorney, the College is not obligated to provide the party with an attorney.



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Bias/Conflict of Interest

Concerns of bias or potential conflict of interest by any Title IX Personnel should be raised with the Title IX Coordinator. The Title IX Coordinator is trained to ensure they have no conflict of interest and are not biased for or against any party in a specific case.

Administrative Leave of Employee Respondent

Respondents that are employees of Bryan University may be placed on administrative leave during the grievance process as determined by the Title IX Coordinator and Human Resource department.

Consolidated Complaints

The College may elect to consolidate complaints wherein the complaint involves one or more Complainants or Respondents related to the allegations and set of circumstances.

Informal Resolution

Informal Resolution may be an appropriate choice when the conduct involved is not of a serious or repetitive nature. Disciplinary action can be implemented. Methods for Informal Resolution may include, but are not limited to: mediation, coaching the person on how to directly address a situation which is causing a problem; aiding in the modification of a situation in which the offensive conduct occurred; or assisting a department or division with the resolution of a real or perceived problem.

If the Complainant and Respondent voluntarily consent in writing, Formal Complaints can be resolved through Informal Resolution. The Title IX Coordinator will facilitate an appropriate Informal Resolution Process depending on the nature of the allegations, the Parties involved, and the overall circumstances. Informal Resolution will be conducted by a facilitator, who may or may not be the Title IX Coordinator. It is not necessary to pursue Informal Resolution first in order to pursue the College's Grievance Process. At any time prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution Process and resume the Grievance Process. Informal Resolution is unavailable to resolve allegations that an employee sexually harassed a student.

The College shall document any Informal Resolution. Such documentation shall be retained by the Title IX Coordinator, as appropriate, and will be kept confidential to the extent permitted by law.

Dismissal of a Formal Complaint

A Formal Complaint will be dismissed if at any time during the investigation or hearing the following is determined:

1. The alleged conduct does not meet the definition of Sexual Harassment under Title IX.
2. The conduct did not occur in the College's Education Program or Activity
3. The College does not have jurisdiction over the Respondent.
4. The conduct did not occur against a person in the United States.
5. At the time the complaint was filed, the Complainant was not participating in an educational



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program or activity with the College.

The College may also dismiss a Formal Complaint if at any time during the investigation or Hearing it is determined that:

1. The Complainant notifies the Title IX Coordinator in writing that they are withdrawing the complaint.
2. The Respondent is no longer enrolled or employed in the College.
3. The College is unable to secure evidence sufficient to reach a decision as the complaint or allegations in the report.

Filing of False Complaints

Any person who knowingly and intentionally files a false complaint or knowingly provides false evidence under this policy is subject to disciplinary action up to and including dismissal from the College.

Grievance Process

The College utilizes a prompt, equitable and impartial Grievance Process to evaluate Formal Complaints. This process will be outlined below. Generally, the Grievance Process consists of a Formal Complaint, investigation, Live Hearing, Determination, Disciplinary Actions, Remedies and Appeal (if applicable). The Grievance Process, barring extenuating circumstance, will conclude within ninety (90) days from the date a Formal Complaint is filed.

Title IX Personnel (Title IX Coordinator/Deputy, Investigators, Decision-Makers, individuals who facilitate Informal Resolution Process, etc.) will be free from conflicts of interest or bias for or against Complainants or Respondents. Title IX Personnel will objectively evaluate all relevant evidence and avoid credibility determinations based on a person's status as a Complainant, Respondent, or witness.

Both Parties will receive equal opportunity to provide information, witness statements, evidence, and other information that may be necessary to fully evaluate the alleged offense. Both Parties will be afforded equitable rights and access during the Grievance Process. The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Process.

Notification of Allegations

Upon receipt of a Formal Complaint, The Title IX Coordinator will provide written notice of the allegations to the Respondent and Complainant. The notification will be provided to the Respondent and their Advisor, if applicable, prior to any meeting or interview. The notice will include:

- Summary of the allegations
- Identify Parties involved, if known
- The misconduct being alleged
- Date and location of alleged incident(s), if known
- Policies alleged to have been violated



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- A statement that the Respondent is presumed not responsible for the alleged misconduct until a determination is made according to the College's Grievance Process
- Description of the grievance process
- A statement that the Parties may have an Advisor of their choice
- A statement of potential sanctions/responsive actions
- A statement of the expectation of truthfulness including consequences for submitting false information
- A statement indicating that all Parties will be given an opportunity to inspect and review all directly related and relevant evidence obtained in the investigation
- Instructions to preserve any evidence related to the alleged allegations
- A statement on how a party may request disability accommodation during the interview process
- The College's policy regarding retaliation
- Information regarding privacy

Investigation of Formal Complaints

The College will investigate Sexual Harassment (including Sexual Violence) allegations when a Formal Complaint is filed by a Complainant or signed by the Title IX Coordinator. The Title IX Coordinator will respect the Complainant's wishes as to whether the College investigates an allegation of Sexual Harassment unless the Title IX Coordinator determines that not investigating would be deliberately indifferent or harmful to the College community. Investigators are trained to investigate allegations contained in a Formal Complaint and will do so objectively. The College, not the Parties, has the burden to collect related evidence to the complaint. More than one Investigator may be assigned based on the complexity of the case. Investigators must be free from bias and conflicts of interest.

Investigation Timeline

The College will make every effort to conduct a complete investigation as promptly as circumstances allow. The Title IX Coordinator will communicate regularly with Parties to update them on the timing and progress of the investigation. Reasonable delays could occur, but are not limited to law enforcement investigations, the absence of Parties and/or witnesses, accommodation for disabilities or health-related conditions, and language assistance. If a delay occurs, the College will notify Parties in writing the timeline and anticipated duration of the delay. Supportive measures will be provided during any period when the investigation and/or resolution is delayed.

Investigation Process

Investigators will investigate free from bias from any conflict of interests. During the investigation, the Title IX Coordinator, or his/her designee ("Investigator") will conduct interviews with all relevant Parties and witnesses to gather relevant evidence. The College bears the burden to gather evidence pertaining to proof. The Parties will be provided an equal opportunity to present facts, witnesses or other evidence.

The Parties (and their Advisors) will be provided with evidence related to the allegations, in electronic format or hardcopy, for the Parties to inspect, review, and respond to the evidence. The Investigator will consider the responses received from the Parties before issuing the final investigative report. The Parties

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will have ten (10) business days to review and provide comment so each party may meaningfully respond to the evidence. The comments provided by the Parties may or may not be included in reaching a decision regarding the allegations and evidence gathered. The Investigator will provide a final report with all Parties and their Advisors through hard copy or electronic format at least ten (10) days prior to the Hearing.

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

Witnesses

Interviewing witnesses may occur in-person or remotely. The College will ensure the security and privacy of remote interviews.

Live Hearing

Upon conclusion of the investigation and distribution of the investigative report, the College will conduct a Live Hearing. The Live Hearing will be in real time and will include cross examination. Live Hearings are facilitated by a designated Decision-Maker selected by the Title IX Coordinator. The Decision-Maker will not have any previous involvement with the investigation. Investigators, Title IX Coordinators (or Designees) or Advisors are prohibited from serving as Decision-Makers. The College may designate an administrative facilitator for the Hearing, which may be the Title IX Coordinator, if there are no conflicts of interests.

All Parties participating in the Live Hearing are expected to behave respectfully. Harassing, intimidating or disruptive behavior will not be tolerated. The College reserves the right to exclude anyone from participating in the Hearing if the individual (s) fails to comply and act appropriately.

During the Live Hearing, the Decision-Maker may question the Parties and any witnesses. The Live Hearing will be conducted directly, orally, and in real time by the party's Advisor and not by a party personally. Only relevant questions, testimony, and evidence related to the allegations may be offered at the Hearing.

The Decision-Maker will permit each party's Advisor to ask the other party and any witnesses relevant questions and follow-up questions, including those challenging credibility. Before a Complainant, Respondent, or Witness answers a cross-examination or other question, the Decision-Maker will determine whether the question is relevant.

Rape shield protections are applied to Complainants, deeming irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged Sexual Harassment or offered to prove consent.

If a party or witness does not submit to cross-examination at the Live Hearing, the Decision-Maker will



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not rely on any statement of that party or witness in reaching a determination regarding responsibility. The Decision-Maker will not draw an inference about the determination regarding responsibility based solely on a party's or witness' absence from the Live Hearing or refusal to answer cross-examination or other questions.

During the Grievance Process, the College will not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. The College will not access or use a party's medical, psychological, and similar treatment records unless the party provides voluntary, written consent.

At the request of either party, the College will provide for the Live Hearing to occur with the Parties located in separate rooms with technology enabling the Parties to see and hear each other. Hearings may be conducted with all Parties physically present in the same geographic location or, at the College's discretion, any or all Parties, witnesses, and other participants may appear at the Live Hearing virtually. An audio or audiovisual recording, or transcript, of any Live Hearing will be created and maintained for seven (7) years. No other recording of the hearing will be allowed.

Standard of Evidence

For all Formal Complaints of Sexual Harassment (including where employees are Respondents), the College utilizes the preponderance of the evidence standard, which means "more likely than not."

Written Determination

Upon completion of the Hearing, the Decision-Maker will deliberate privately and will render Findings to each of the allegations in the complaint by applying clear and convincing evidence; whether there is a high probability that the Respondent violated the Policy as alleged. The decision will be provided simultaneously to the Parties through a Written Determination. The Written Determination will include the following:

1. Outline of the allegations that constitute sexual harassment under the Policy.
2. The procedural steps taken from the receipt of the Formal Complaint through the Hearing.
3. Findings of fact supporting determination.
4. Conclusions about whether the alleged conduct occurred.
5. A statement, and rationale for, the result as to each allegation, including the determination regarding responsibility, and disciplinary Sanctions the College imposes on the Respondent, and whether Remedies designed to restore or preserve equal access to the College's educational programs and activities will be provided by the College to the Complainant.
6. The College's permissible basis for the Complainant and Respondent to appeal.

The determination regarding responsibility becomes final after expiration or exhaustion of any appeal rights.



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Disciplinary Actions and Remedies

Disciplinary actions against the Respondent will not be imposed before the completion of the College's Grievance Process. Following a determination of responsibility, appropriate corrective action will be taken, and the College will focus primarily on actions aimed at ending, and preventing the recurrence of, discrimination, harassment, and/or retaliation and the need to remedy the effects it has on the Complainant and College community. Disciplinary Actions taken will be determined on a case-by-case basis.

Disciplinary Action for student-related claims may include, but are not limited to, additional training, a restriction on contact, warning, suspension, or termination. Disciplinary Action will be placed in a student's permanent academic file.

Any employee determined to be responsible for an act of Sexual Harassment will be subject to appropriate Disciplinary Action, up to and including termination. Disciplinary Action will be placed in an employee's permanent personnel file. Employees are also subject to processes and discipline determined by the Human Resources Department. The HR process is separate and apart from the Title IX process and not constrained by the outcome of the Title IX process.

Remedies are provided to a Complainant whenever a Respondent is found responsible. Remedies are implemented by the Title IX Coordinator and may be disciplinary and punitive. Student Remedies are designed to maintain the Complainant's equal access to education. Remedies will be determined on a case-by-case basis and may include Supportive Measures. At the discretion of the Title IX Coordinator, measures may also be provided to the Parties even if no Policy violation is found.

Failure to abide by imposed disciplinary actions (whether by refusal, neglect, or any other reason), may result in additional disciplinary action, including suspension or termination.

Appeal

Both Parties have the right to appeal a determination regarding responsibility. Appeals must be submitted in writing to the Title IX Coordinator within three (3) days of the delivery of the Notice of Outcome. After the expiration of the appeal window, determination will be considered final, and any applicable Sanctions will be imposed.

Grounds for appeal can be made for the following:

1. Procedural irregularity that affected the outcome of the matter.
2. 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.
3. Title IX Personnel had a conflict of interest or bias for or against Complainants and Respondents that affected the outcome of the matter.

Title IX Personnel with prior involvement will not be able to serve as a Decision-Maker in the appeal.

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Appeals will not include a Hearing. A decision will be based on information provided in the appeal document. If an appeal is based on new evidence the appeal must be described with specificity and must be available for review within a prompt timeframe for consideration.

The appeal outcome will review the Findings on each ground for appeal, any specific instructions for remaining or reconsideration, and the rationale supporting the Findings. Appeal decisions will be made within ten (10) business days, barring exigent circumstances, including the review of new evidence not immediately available for submission with the appeal request.

Notifications of the appeal outcome will be made in writing and will be distributed simultaneously to the Parties by one or more of the following methods: in person, mailed, and/or emailed. Decisions on appeal are considered final.

Retaliation Prohibited

Retaliation (including intimidation, threats, coercion, or discrimination) against an individual for raising an allegation of Sexual Harassment, and/or for cooperating in the Grievance Process is prohibited. A student, faculty or staff member who engages in retaliation, is subject to disciplinary action, up to and including dismissal from the College. If you believe you have been retaliated against, you should notify the Title IX Coordinator.

Training

The College ensures that its Title IX Personnel have adequate training. The Title IX Coordinator and Investigators are trained on the definition of Sexual Harassment, the scope of the College's Education Program and Activity, how to conduct an investigation, the College's Grievance Process (including Live Hearings, appeals, and Informal Resolution Processes, as applicable) and how to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Decision-Makers are trained on the definition of Sexual Harassment, the Live Hearing process, technology to be used in Live Hearings, and issues of relevance (including how to apply the rape shield protections provided for Complainants). Informal Resolution facilitators are trained on the Informal Resolution Process.

Effect on Pending Personnel Actions

The filing of a sex discrimination, sexual harassment, or retaliation complaint will not stop or delay any evaluation or disciplinary action related to the Respondent who is not performing up to acceptable standards or who has violated College rules or policies.

Recordkeeping

The College's records of investigations and resolutions are maintained for seven (7) years. The College will maintain records of Title IX procedures as required by law, including records of:

- Sexual Harassment investigations, including any determination regarding responsibility and any



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audio or audiovisual recording or transcript, any Disciplinary Actions imposed on the Respondent, and any Remedies provided to the Complainant designed to restore or preserve equal access to the education Program or Activity.

- Any appeal and the result therefrom.
- Any informal resolution; and
- All materials used to train Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an Informal Resolution Process.

The College will create and maintain records of any actions (including any Supportive Measures) taken in response to a report or Formal Complaint of Sexual Harassment. In each instance, the College will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the Education Program or Activity. If the College does not provide a Complainant with Supportive Measures, the College will document the reasons why supportive measures were not provided due to the Complainant.

Information is shared internally between administrators who need to know to complete their job duties. When information must be shared to permit the investigation to move forward, the Parties will be informed. Privacy of the records specific to the investigation is maintained in accordance with state law and the federal FERPA statute. Irrespective of state law or public records access provisions, information about Complainants is maintained privately in accordance with Title IX and FERPA.

Additional Information

For assistance: Questions regarding this policy should be directed to the Title IX Coordinator.

In addition, the U.S. Department of Education Office for Civil Rights (“OCR”) investigates complaints of unlawful harassment of students in educational programs or activities. This agency may serve as a neutral fact finder and will attempt to facilitate the voluntary resolution of disputes with the Parties. For more information, visit the OCR website at <http://www.hhs.gov/ocr/>. To the extent that an employee or contract worker is not satisfied with the College’s handling of a complaint, he or she may also contact the appropriate state or federal enforcement agency for legal relief.