



Section 1.3 PROCEDURE RELATED TO THE INVESTIGATION AND RESOLUTION OF DISCRIMINATION AND HARASSMENT COMPLAINTS INVOLVING SEXUAL MISCONDUCT

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1.3.1 INTRODUCTION: The University of Central Oklahoma (the “University”) is committed to providing a safe and non-discriminatory environment for all members of the University community. The University prohibits Sexual Misconduct including Sexual Harassment, Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, Sexual Exploitation, Domestic Violence, Dating Violence, Stalking, Complicity and Retaliation (together, “Prohibited Conduct”). These forms of Prohibited Conduct are defined in the University of Central Oklahoma Policy Prohibiting Discrimination and Harassment as Defined, Including Sexual Misconduct (the “Policy”, Section 1.2). This Section identifies the procedures (the “Procedures”) the University follows when it receives a report alleging Prohibited Conduct by an Employee. The University uses these Procedures to investigate and adjudicate any such allegations and

to impose disciplinary sanctions against Employees found responsible for violating the Policy and implement directives to prevent and remedy affected individuals and communities, as appropriate.¹

INITIAL ASSESSMENT: Upon receipt of a report of Prohibited Conduct committed by an Employee, the Title IX Coordinator will make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report.² In this initial assessment, the Title IX Coordinator will:

- A. Assess the Complainant's safety and well-being and offer the University's immediate support and assistance;
- B. Inform the Complainant of the right to seek medical treatment and explain the importance of obtaining and preserving forensic and other evidence;
- C. Inform the Complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- D. Inform the Complainant about University and community resources, including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other on- and off-campus services available. Individuals will be informed of and offered resources such as living situation support (room changes and on-campus housing relocation), academic support (such as tutoring and emergency absence notifications), transportation situation support, working situation support, and other protective measures available to help ensure safety, as relevant. Additional rights that may be appropriate and available include protective measures such as a UCO No Contact Order, restraining order, Emergency Order of Protection or Victim's Protective Order. Information regarding how to access and/or request remedial and protective measures will be provided, as appropriate. Remedies or protective measures are provided if the individual requests them and if they are reasonably available, regardless of whether the Complainant chooses to report the crime to campus police or local law enforcement.
- E. Inform the Complainant that the University will maintain as private any remedies or protective measures provided, to the extent that maintaining such privacy does not impair the ability of the institution to provide the remedy or protective measure.

¹ These Procedures should be read in conjunction with the Policy. Capitalized terms used and not otherwise defined in these Procedures are defined in the Policy. For purposes of these Procedures, the following definitions apply: (1) the "Title IX Coordinator" means the Title IX Coordinator, any Deputy Title IX Coordinator, and/or any of their respective trained designees; (2) "Supervisor" means the individual or individuals to whom an Employee reports in the context of their employment with the University (for academic faculty, that individual may be the Department Chair, Dean or other unit administrator).

² Pursuant to University policy, most University employees, called "Responsible Employees," are required to report to the Title IX Coordinator all information disclosed to them about an incident of Prohibited Conduct. (See Section 1.2.7.B "Reporting to "Responsible Employees")

- F. Inform the Complainant of the right to seek Informal Resolution (where available) or Formal Resolution under these Procedures; ascertain the Complainant's expressed preference (if the Complainant has, at the time of the initial assessment, expressed a preference) for pursuing Informal Resolution, Formal Resolution, or neither; and discuss with the Complainant any concerns or barriers to participating in any University investigation and resolution under these Procedures;
- G. Explain the University's prohibition against Retaliation and that the University will take prompt action in response to any act of Retaliation;
- H. Assess the nature and circumstances of the report, including whether it provides the names and/or any other information that personally identifies the Complainant, the Respondent, any witness, and/or any other third party with knowledge of the reported incident;
- I. Ascertain the ages of the Complainant and the Respondent, if known, and, if either of the parties is a minor (under 18), whether to contact the Department of Human Services (DHS);
- J. Communicate with appropriate University official(s) to determine whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log and/or issuance of a timely warning, and take steps to meet those obligations; and
- K. Provide notice of the complaint and an opportunity to respond to all persons alleged to have violated the University's policies regarding discrimination and/or harassment. **NOTE:** The investigation may otherwise involve meeting with the parties, interviewing witnesses, requesting written statements from the parties, and accepting relevant evidence.

The Title IX Coordinator will promptly inform the Complainant of any action(s) undertaken by the University to respond to a health or safety threat to the Complainant or the University community, including the decision to proceed with an investigation where the Complainant may request confidentiality (see Section 1.2.8 "Requests for Confidentiality"). The Title IX Coordinator also will promptly inform the Respondent of any action(s), including any interim protective measures that will directly impact the Respondent. The Respondent may respond to such action(s). The Title IX Coordinator retains the discretion to impose and/or modify any interim protective measures based on all available information. Interim protective measures will remain in effect through resolution of the report by the appropriate University executive, unless new circumstances arise which warrant reconsideration of the protective measures prior to rendering a final decision. A Complainant or Respondent may challenge interim protective measures or other actions, or failure to impose interim protective measures or take other actions, by contacting the Title IX Coordinator to address any concerns.

1.3.3 UNIVERSITY RESOLUTION: These Procedures offer two forms of resolution for reports of Prohibited Conduct: (1) Informal Resolution (as described in Section 1.3 .3 (A) of these Procedures), which includes a variety of informal options for resolving reports, and (2) Formal Resolution, which involves an investigation and review and sanction (if applicable) by the appropriate University Manager (as described in Section 1.3.3 (B) of these Procedures).

A. INFORMAL RESOLUTION: The Complainant may seek Informal Resolution in lieu of an investigation and Formal Resolution. The University, however, holds discretionary authority to determine if (1) the nature of the reported conduct is appropriate for Informal Resolution, (2) the type of Informal Resolution that may be appropriate in a specific case, and (3) the Procedures, under Section 1.3.3 (B), necessitate referral to Formal Resolution at any time. In addition: **Forms of Informal Resolution that involve face-to-face meetings between the Complainant and the Respondent, such as mediation, are not available (1) in cases involving Non-Consensual Sexual Intercourse, and/or (2) where the Complainant is a Student and the Respondent is an Employee in a position of authority over the Complainant.**

Participation in Informal Resolution (including any specific form of Informal Resolution) is voluntary. The University will (1) not compel a Complainant or Respondent to engage in Informal Resolution, (2) not compel a Complainant to directly confront the Respondent, and (3) allow a Complainant or Respondent to withdraw from Informal Resolution at any time. The University may decline the request for Informal Resolution in any particular case and may terminate an ongoing Informal Resolution process at any time. Pursuing Informal Resolution does not preclude later use of Formal Resolution if the Informal Resolution fails to achieve a resolution acceptable to the parties and the University. Where the Complainant or the Respondent withdraws from Informal Resolution or where Informal Resolution is otherwise terminated for any reason, the University may consider any statements or disclosures made by the parties during the course of the Informal Resolution in a subsequent investigation and Formal Resolution.

With any form of Informal Resolution, each party has the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness to the reported incident(s). Advisors may accompany their respective parties to any meeting or proceeding held as part of Informal Resolution. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.

Informal Resolution may involve individual and/or community remedies designed to address a report of Prohibited Conduct, such as:

- **One-on-One Communication**: If a Complainant wishes to address a situation with a Respondent without the direct involvement of a third party, the Complainant may communicate directly with the Respondent. This form of Informal Resolution is appropriate only (1) if the Complainant does not feel threatened, (2) there is no risk of physical harm, and (3) the Complainant reasonably believes the Respondent will be receptive to the communication. **Complainants are NOT required to engage in one-on-one communication before seeking third party assistance or other help.**
- **Resolution with the Assistance of a Third Party**: A Complainant may seek assistance in informally resolving a report of Prohibited Conduct from (1) the Complainant's supervisor, if the Complainant is an Employee; (2) the Respondent's supervisor; (3) Human Resources; (4) Office of the Provost (Faculty); (5) the Title IX Coordinator; or (6) a trained mediator. The availability of this form of Informal Resolution, and any resolution reached through such form of Informal Resolution, is subject to the agreement of the Title IX Coordinator, the Complainant, and the Respondent. Any of the foregoing third parties must consult with the Title IX Coordinator before taking action to resolve a report of

Prohibited Conduct. This form of Informal Resolution may not be used where the allegation involves Non-Consensual Sexual Intercourse.

- Interventions and Remedies: Informal Resolution agreements may involve a host of other interventions and remedies, such as: actions designed to maximize the Complainant's access to educational, extracurricular, and/or University employment activities; increased monitoring, supervision, and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur; targeted or broad-based educational programming or training for relevant individuals or groups; academic and/or University housing modifications for Student Complainants; workplace modifications for Employee Complainants; one or more of the restorative remedies or other sanctions described in these Procedures, including suspension and termination, in accordance with relevant disciplinary procedures; and/or any other remedial or protective measures that can be tailored to the involved individuals to achieve the goals of the Policy.

Any form of Informal Resolution and any combination of interventions and remedies may be utilized. If an acceptable agreement to the University, Complainant, and Respondent is reached through Informal Resolution, the University will implement the terms of the agreement and consider the matter resolved and closed. If an agreement is not reached, and the Title IX Coordinator determines that further action is necessary, or if a Respondent fails to comply with the terms of the Informal Resolution, the Title IX Coordinator may defer the matter to investigation and Formal Resolution under these Procedures.

The Title IX Coordinator will maintain records of all reports and conduct referred for Informal Resolution, which typically will be completed within thirty (30), but not more than sixty (60), calendar days.

B. FORMAL RESOLUTION: Formal Resolution commences when:

- A Complainant reports that an Employee engaged in one or more instances of Prohibited Conduct and requests, at any time, an investigation and disciplinary action; or
- Informal Resolution does not resolve a reported incident of Prohibited Conduct and, in the Title IX Coordinator's discretion, an investigation of the report of Prohibited Conduct is required; or
- Based upon a review of the totality of the circumstances which may be guided by a consideration of the Behavioral Intervention and/or Threat Assessment Teams, investigation of the reported conduct is necessary to ensure the health and safety of the Complainant and/or other members of the University community, notwithstanding the Complainant's request that (1) personally-identifiable information not be shared with the Respondent, (2) that no investigation be pursued, and/or (3) that no disciplinary action be taken.

1. Investigation. Whenever Formal Resolution is commenced, the Title IX Coordinator will designate one or more Investigators and/or an experienced external Investigator to conduct a prompt, thorough, fair, and impartial investigation. All Investigators will receive annual training on (1) issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking and (2) how to conduct fair and impartial investigations that (a) is fair and impartial, provides parties with notice and a meaningful opportunity to be heard and

(b) protects the safety of Complainants and the University community while promoting accountability.

- a. Notice of Investigation. The Title IX Coordinator will provide written notice to the Complainant and Respondent of the commencement of an investigation. Such notice will (1) specify reported details regarding the actual or approximate date, time (if known), location, and nature of the alleged Prohibited Conduct; (2) identify alleged Policy violation(s); (3) identify the Investigator, if the notice is not from the Investigator; (4) explain the prohibition against Retaliation; and (5) provide access to a copy of the Policy and these Procedures.

The Title IX Coordinator may also provide written notice to the Respondent's supervisor and/or Human Resources that an investigation has been initiated. Such notice will inform these individuals that (1) the Title IX Coordinator received a report alleging that the Respondent engaged in Prohibited Conduct under the Policy; (2) the University will investigate the report in accordance with these Procedures; (3) the supervisor and Human Resources are obliged to monitor the relevant environment, depending on the facts of the case, for Retaliation; and (4) the information related to the report, including the identity of the Complainant, is confidential and will only be shared as needed to either obtain information pertinent to the investigation or to facilitate fulfillment of the duty of the supervisor and/or Human Resources to address any concerns regarding safety or Retaliation.

- b. Other Forms of Discriminatory and/or Harassing Conduct. If a report of Prohibited Conduct also implicates other forms of discriminatory and/or harassing conduct prohibited by the University's Discrimination and Harassment Policy, the Title IX Coordinator will evaluate all reported allegations to determine whether the alleged Prohibited Conduct and the alleged violation(s) may be appropriately investigated together without unduly delaying the resolution of the report of Prohibited Conduct. Where the Title IX Coordinator determines that a single investigation is appropriate, the determination of responsibility for the violation of University policy will be evaluated under the applicable policy, but the investigation and resolution will be conducted in accordance with these Procedures.
- c. Presumption of Non-Responsibility. The investigation is a neutral, fact-gathering process. The Respondent is presumed "Not Responsible"; this presumption may be overcome only where there is sufficient evidence, by a Preponderance of the Evidence, to support a finding that the Respondent violated the Policy.
- d. Burden of Proof. The preponderance, or "weight of the evidence" standard, is used to determine what more than likely occurred. Formal rules of due process, procedure, and/or technical rules of evidence applied in criminal or civil court are not used in administrative proceedings.
- e. Participation by the Parties. In the event one or more party(s) decline to participate in the investigation, the process will continue without the benefit of the respective party's participation.

- f. Timeframe for Completion of Investigation; Extension for Good Cause. Typically, the period from commencement of an investigation through resolution (finding and sanction, if any) will not exceed sixty (60) calendar days. This timeframe may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation to: comply with a request by external law enforcement for temporary delay; gather evidence for a criminal investigation; accommodate the availability of witnesses; account for University breaks or vacations; account for complexities of a case, including the number of witnesses and volume of information provided by the parties; or allow for other legitimate reasons. The Investigator will notify the parties in writing of any extension of this timeframe and the reason for such extension.
- g. Overview of Investigation. During the investigation, the parties will have an equal opportunity to: be heard; submit information and corroborating evidence; and identify witnesses who may have relevant information. The Investigator will notify and seek to meet separately with the Complainant, the Respondent, and third-party witnesses, and will gather other relevant and available evidence and information, including, but not limited to, electronic or other records of communications between the parties or witnesses (e.g. via voicemail, text message, email, and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party).
- h. Advisors. Throughout the investigation and resolution process, each party has the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. Advisors may accompany their respective party to any meeting or proceeding related to the investigation and resolution of a report under these Procedures. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.
- i. Prior or Subsequent Conduct. Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a Policy violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct. Such prior or subsequent conduct may also constitute a violation of the Policy and/or other University policy, in which case it may subject the Respondent to additional sanctions. The Investigator will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.

- j. Prior Sexual History. The sexual history of a Complainant or Respondent will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history of either of the parties is generally irrelevant to the determination of a Policy violation and will be considered only in limited circumstances. For example, if the existence of Consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether Consent was sought and given during the incident in question. However, even in the context of a relationship, Consent to one sexual act does not, by itself, constitute Consent to another sexual act and Consent on one occasion does not, by itself, constitute Consent on a subsequent occasion. In addition, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve another question raised by the report. The Investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.
- k. Relevance. The Investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. In general, the Investigator will not consider statements of personal opinion, rather than direct observations or reasonable inferences from the facts, or statements as to any party's general reputation for any character trait.
- l. Site Visit(s). The Investigator may visit relevant sites or locations and record observations through written, photographic, or other means.
- m. Expert Consultation(s). The Investigator may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.
- n. Coordination with Law Enforcement. The Investigator will contact any law enforcement agency that is conducting its own investigation to: (1) inform that agency that a University investigation is also in progress; (2) ascertain the status of the criminal investigation; and (3) determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation. At the request of law enforcement, the Investigator may delay the University investigation temporarily while an external law enforcement agency gathers evidence. The Investigator will promptly resume the University investigation when notified that law enforcement completed the evidence-gathering stage of its criminal investigation.
- o. Draft Investigation Report. At the conclusion of the investigation, the Investigator will prepare a Draft Investigation Report summarizing the information gathered and outlining the contested and uncontested facts. The Draft Investigation Report will not include any findings. The Complainant and Respondent will have an opportunity to: (1) review the Draft Investigation Report; (2) meet with the Investigator; (3) submit additional comments and information to the Investigator; and, (4) identify any additional witnesses or evidence for the Investigator to pursue. The Investigator will designate a reasonable time for this review and response by the parties, not to exceed five (5) University days. In the absence of good cause, neither the Investigator nor the University Manager will

consider discoverable information found through the exercise of due diligence that parties failed to provide to the Investigator during the designated review and response period in the determination of responsibility for a Policy violation.

- p. Final Investigation Report. Unless there are significant additional investigative steps requested by the parties or identified by the Investigator, within five (5) University days after receipt and consideration of any additional comments, questions and/or information submitted by the parties during the designated review and response period, the Investigator will prepare a Final Investigation Report, which will include a recommendation as to whether there is sufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility for a violation of the Policy (and, where applicable, any other relevant University policy). In reaching this recommended finding, the Investigator will consult with and deliver the Final Investigation Report to the Title IX Coordinator.
 - i. Recommended Finding(s). The Investigator will provide a recommendation whether there is sufficient evidence, by a Preponderance of the Evidence to support a finding of responsibility for the alleged policy violation(s). The Title IX Coordinator will provide the Final Investigation Report, together with any statements by the parties, to the University Manager for a decision as outlined in Section 1.3.3 (B) 3. of these Procedures.
- 2. Acceptance of Responsibility. The Respondent may, at any time, elect to resolve the Formal Resolution process by accepting responsibility for the Prohibited Conduct, in which case the Title IX Coordinator will refer the matter for imposition of sanction(s).
- 3. Review and Determination of the University Manager. The final investigative report is issued to the appropriate University Manager to determine whether there is sufficient evidence to support the Investigator's recommended finding(s) by a Preponderance of the Evidence.

The University Manager shall render a decision and determine what action, if any, is appropriate. Possible outcomes include a finding of: "responsible", "not responsible", sanctions or directives intended to stop, prevent, or remedy the effects of discrimination or harassment determined to have occurred; remanding the matter to the Title IX Coordinator with instructions for further investigation; or other action. The instructions may include guidance regarding the scope of information to be further investigated and any appropriate stipulations, including the appointment of a new Investigator.

Possible directives or sanctions applicable to the Respondent include, but are not limited to: gender-based harassment and discrimination training; formal and informal referral to the Employee Assistance Program (EAP); progressive disciplinary action; imposing or extending a No Contact Order; transfer of position; removal of administrative appointment; demotion; suspension; and/or termination of employment.

The Policy prohibits a broad range of conduct, all of which is serious in nature. The propriety of any particular sanction is reviewed on an individual basis based on the unique facts and

circumstances outlined in the investigative report. In keeping with the University's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the Policy provides the appropriate executive with wide latitude in the imposition of sanctions tailored to the facts and circumstances of the Prohibited Conduct, the impact of the conduct on the Complainant and University community, and accountability for the Respondent. The imposition of sanctions is designed to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects while supporting the University's educational mission and legal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires severe sanctions, including suspension or termination of employment from the University.

Once the appropriate executive has determined that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility under the Policy, any one or more sanctions may be imposed. In determining the appropriate sanction(s), the appropriate executive will be guided by a number of considerations, including:

- The severity, persistence, or pervasiveness of the Prohibited Conduct;
- The nature of violence (if applicable) of the Prohibited Conduct;
- The impact of the Prohibited Conduct on the Complainant;
- The impact or implications of the Prohibited Conduct within the University community;
- Prior misconduct by the Respondent, including the Respondent's relevant prior disciplinary history, at the University or elsewhere, and any criminal convictions;
- Whether the Respondent has accepted responsibility for the Prohibited Conduct;
- The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and
- Any other mitigating, aggravating, or compelling factors.

The University Manager will consult with other administrators as needed, including Human Resources, the Office of the Provost, and the Title IX Coordinator, to ensure that any disciplinary action is appropriate for the violation and consistent with the disciplinary procedures for the Employee type and prior University action for similar policy violations. The University Manager will also determine any other appropriate actions, which may include but are not limited to: (1) imposing or extending a No Contact Order; (2) imposing or extending academic, University housing, and/or University employment modifications; (3) imposing or extending other restorative remedies for the Respondent, such as formal referral to the Employee Assistance Program (EAP) and education and training that encourage the Respondent to develop insight about the Prohibited Conduct, learn about the impact of the Prohibited Conduct on the Complainant and the University community, and identify how to prevent that Prohibited Conduct in the future (including community service and mandatory participation in training, education and/or prevention programs related to the Prohibited Conduct); (4) imposing or extending increased monitoring, supervision, and/or security at locations or in connection with activities where the Prohibited Conduct occurred or is likely to reoccur; (5) arranging for conducting targeted or broad-based educational programming or training for relevant persons or groups; and/or (6)

imposing any other remedial or protective measures that are tailored to achieve the goals of the Policy.

Any sanction or combination of sanctions imposed upon a Respondent may be documented in the Respondent's personnel file. Nothing in these Procedures prevents the University Manager from imposing disciplinary action against a Respondent where the Final Investigation Report demonstrates that the Respondent engaged in other conduct prohibited by the University, regardless of whether the Respondent has been found responsible for violating the Policy.

4. Notice of Outcome. The University Manager will notify the Title IX Coordinator in writing of his or her decision, outlining acceptance or rejection of the recommendation of the Investigator(s), the rationale for the decision, any sanction(s) against the Respondent, the rationale for such sanction(s), and any other remedial actions for the Complainant, the Respondent, and/or community to be implemented as a result of the finding.

The Title IX Coordinator shall notify the Complainant and the Respondent, simultaneously, in writing (which may be via email) of the outcome of the investigation and notice of opportunity to appeal.

5. Notice of When Results Become Final. All parties shall receive notice when the results are final which states that no appeal requests were received and/or granted. The process concludes, unless an appeal request is submitted and granted (see Section 1.3.3 (B) 6. "Appeal Requests").
6. Appeal Requests. In the event that either the Complainant or Respondent believes that the resolution of the complaint is not adequate or has not rectified the situation, an appeal request may be made. The Appeal Request process serves as a procedural safeguard for the involved parties. Appeal requests may be submitted in writing, filed with the Title IX Coordinator, within five (5) University days of receipt of the decision.

- a. Appeal Request Description and Merits: An appeal is a review of the record of the original investigation, finding of responsibility, sanctions/directives assigned (if any), and/or procedures. Appeals are limited to a review of the investigation, findings of the initial investigation, related procedures, and supporting documents. The party requesting the appeal must demonstrate their selected appeal merit(s), as the original findings and sanctions will be presumed to have been decided reasonably and appropriately.

Appeal review will take place to review appeals that are received within the appeal deadline and substantially articulate one (1) or more of the following appeal merits:

- i. Disproportionate Sanction(s)/Directive(s): To consider whether the sanctions or directives imposed are significantly disproportionate to the severity of the violation. (Simple dissatisfaction with a sanction is not grounds for overturning under this provision.)
- ii. New Information: To consider new documentation, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction(s). A summary of this new documentation and its potential impact must be included.

- iii. Procedural Error: To determine that a procedural or substantive error occurred during the investigation or hearing that significantly impacted the outcome of the hearing (e.g. unjustified and significant deviation from published procedures, etc.).
 - b. Appeal Request Review: When an appeal request is submitted, the Appellate Reviewer will review the appeal request to determine if the appeal request was (1) submitted within five (5) University days and (2) substantially articulates one (1) or more of the aforementioned appeal merits.
 - i. Request Denial: If the appeal request fails to IS NOT submitted within five (5) University days and/or the appeal request DOES NOT substantially articulate one (1) or more of the appeal merits, then the Appellate Reviewer will notify the Title IX Coordinator in writing of his or her decision to deny the appeal request and the rationale for the decision.
 - ii. Request Granted: If the appeal request IS submitted within five (5) University days AND the appeal request DOES meet one (1) of the appeal merits, then the Appellate Reviewer will notify the Title IX Coordinator in writing of his or her decision to grant the appeal request and the rationale for the decision.
 - c. Notice of Outcome of Appeal Request: The Title IX Coordinator shall notify the Complainant and the Respondent, simultaneously, in writing (which may be via email) of the outcome of an appeal request. A granted appeal request shall proceed to an Appeal Review. A denied Appeal Request shall not proceed further and the process concludes.
- 7. Appeal Review. For a granted appeal request, the Title IX Coordinator will inform the opposing party of a granted appeal request (e.g., if the Respondent's appeal request is granted, the appeal request will be shared with the Complainant, who may also wish to file a response).

Every effort will be made to hear or resolve an appeal within fifteen (15) University days of the submitted appeal request.

- a. In cases involving complaints against faculty members, the University Provost and Vice President for Academic Affairs shall serve as the Appellate Body.
- b. In cases involving complaints against staff members, the Vice President of Finance shall serve as the Appellate Body.

An appeal is a review of the record of the original investigation, finding of responsibility, sanctions/directives assigned (if any), and/or procedures. An appeal is limited to a review of the investigation, findings of the initial investigation, related procedures, and supporting documents. The Appellate Body may consult with other administrators as needed to address the merits of the appeal.

The Appellate Body shall review the case and render a written decision to 1) uphold the decision of the Managing Body; 2) overturn the decision of the Managing Body; 3) modify the decision of the Managing Body; or, 4) remand the matter to the original or a new Managing Body for the acceptance of more evidence or further investigation.

8. Notice of Final Outcome. The Appellate Body will notify the Title IX Coordinator in writing of his or her decision, outlining a rationale for the decision, any directive(s)/sanction(s) against the Respondent (or modification), the rationale for such directive(s)/sanction(s) (or modification), and any other remedial actions for the Complainant, the Respondent, and/or community to be implemented as a result of the finding.

The Title IX Coordinator shall notify the Complainant and the Respondent, simultaneously, in writing (which may be via email) of the final outcome of the appeal. ***The decision of the Appellate Body shall be final.***

9. Pending Directions and/or Sanctions during Request and Review. All directives and/or sanctions imposed by the University Manager will be in effect during an appeal request and review. A request may be made to the Title IX Coordinator for special consideration, due to exigent circumstances, but the presumptive stance of the University is that the directives and/or sanctions will stand. Work, scholarship, travel, graduation, study abroad, internships, co-curricular activities, and athletic team involvement do not, in and of themselves, constitute exigent circumstances. Hence, employees and students may not be able to participate in certain activities during an appeal request and review. In cases whereby an appeal review results in a reinstatement to the University or of a return of previously lost privileges, all reasonable attempts will be made to restore the employee or student to a prior status and assist with correspondence for missed work or coursework, while acknowledging that some opportunities may be lost in the short term. The University shall maintain safety as the first priority.
10. Significant Newly Acquired Information. In cases whereby newly acquired or discovered documentation, sufficient enough to alter the original decision is submitted as an appeal request beyond the expired appeal request deadline, the matter may be reviewed by the Title IX Coordinator and Appellate Body for consideration of re-opening the case. If the newly acquired or discovered documentation was not accessible during the original appeal deadline, then the Appellate Body may conduct an initial review of the newly submitted information and remand the case to the original investigator(s) for re-opening of the hearing or Managing Body to allow reconsideration of the original determination. If the newly acquired or discovered documentation is not sufficient enough to alter the original decision, the appeal request may be denied. The decision of the Appellate Body shall be final.

1.3.4 TIMELINES: In order that complaints result in a timely decision, the following timelines are established:

- A. Investigation by University Investigator(s): Investigation conducted and findings and conclusions reported to Title IX Coordinator and/or Managing Body within forty-five calendar (45) days.
- B. Decision by Managing Body: Rendered within five (5) days of receipt of findings and recommendations from Title IX Coordinator.

C. Appeal to Appellate Body: Opportunity to request and appeal within five (5) days of receipt of Outcome decision. Decision by Appellate Body within five (5) days. Total of ten (10) days for this phase of the process.

D. Every effort will be made to resolve complaints, including appeals, in sixty (60) calendar days or less.

E. Under unusual circumstances, such as extremely complex issues requiring extensive research, witness unavailability, or situations when strict adherence to these timelines would detrimentally affect the quality of the process, the timelines may be extended upon written notice to the parties. The written notice shall state the reason for the delay and the anticipated date of completion of the relevant phase of proceedings.

1.3.5 RECORDS RETENTION: The University shall retain all records relating to a report of Prohibited Conduct, including investigation files and personnel record documentation of disciplinary or other personnel actions, in accordance with the University's Records Retention Guidelines. Please direct all questions regarding Records Retention to the Office Manager in Human Resources.

Approved by Cabinet & President March 1, 2016.