

Prohibition of Discrimination on the Basis of Sex

Franklin Pierce University | August 1, 2024

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Notice of Nondiscrimination on the Basis of Sex

Franklin Pierce University (the University) does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

Inquiries about Title IX may be referred to the University's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both. The University's Title IX Coordinator is the Vice President for Student Affairs. The Department of Education's Office for Civil Rights contact information is available at <https://ocrcas.ed.gov/contact-ocr>.

The University's nondiscrimination policy and grievance procedures can be located on the University's [Sexual Misconduct Prevention & Support](https://franklinpierce.edu/student-experience/student-affairs/conduct/sexual-misconduct.html) website page (<https://franklinpierce.edu/student-experience/student-affairs/conduct/sexual-misconduct.html>) and within the *Prohibition of Discrimination on the Basis of Sex* policy and procedures.

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to the procedures within this policy.

Policy Statement

Title IX of the Educational Amendments of 1972 (Title IX) prohibits any person in the United States, on the basis of sex, from being excluded from participation in, denied the benefits of, or subjected to discrimination under any education program or activity receiving Federal financial assistance.

On April 29, 2024, the U.S. Department of Education issued a Final Rule under Title IX that is reflected in the following policies and procedures. The full text of the Title IX Final Rule and its extensive Preamble (34 CFR Part 106) is available here: <https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>.

As an institution of Higher Education based on the liberal arts tradition, Franklin Pierce is committed to creating a community of living and learning that is free from discrimination, harassment, and violence. Franklin Pierce University prohibits discrimination and harassment on the basis of race, color, national origin, sex, ethnicity, pregnancy or parenting status, sexual orientation, gender identity or expression, religion, disability, age, or other characteristics protected under applicable federal or state law. The University does not discriminate in its educational programs or activities. Sex discrimination and sex-based harassment, as defined by University policies and State and Federal laws, will not be tolerated at Franklin Pierce University.

The University remains committed to addressing any violations of Title IX and its regulations and has developed policies and procedures that provide for prompt, fair, and impartial resolution of allegations of sex discrimination and sex-based harassment.

All members of the Franklin Pierce community share a responsibility for upholding this policy as we strive to reach our goal of creating a violence-free community. This Policy is intended to provide the University Community with clearly defined behavioral standards, definitions, and prohibited conduct. The procedures described below apply to all complaints involving students, staff, faculty, and any other university community members.

Application of this Policy

This policy applies to Franklin Pierce University and to all sex discrimination occurring under the University's education program or activity in the United States.

Conduct that occurs under the University's education program or activity includes, but is not limited to:

1. The physical campuses in Rindge, New Hampshire; Manchester, New Hampshire; West Lebanon, New Hampshire; Goodyear, Arizona; Round Rock, Texas;
2. Those engaging in coursework/the University Community online.
3. Conduct that occurs in a building owned or controlled by a student organization that is officially recognized by a postsecondary institution and
4. Conduct that is subject to the University's disciplinary authority.

The University has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside of the University's education program or activity or outside the United States.

Effective Date

This Policy will become effective on August 1, 2024, and will only apply to complaints of sex discrimination and sex-based harassment brought on or after August 1, 2024. Complainants brought prior to August 1, 2024, will be addressed under the appropriate Title IX policy or non-discrimination policy effective at the time of the alleged conduct.

Disability Accommodations

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator, the Student Success Center for student matters, or Human Resources (for employee matters) at any point before or during the Process that do not fundamentally alter the Process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other University programs and activities.

Revocation by Operation of Law

Should any portion of the Title IX Final Rule (April 29, 2024), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified not to require the elements of this policy, then this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication. Should the Policy be revoked in this manner, any conduct covered under the Policy shall be investigated and adjudicated under Franklin Pierce's existing Codes of Conduct.

Use of External Professionals

The University reserves the right to contract outside experienced professionals, as necessary, to serve in any role necessary to implement the Policy and Process, including but not limited to investigators, decision makers, hearing board members or chairs, appellate decision makers, advisors, informal resolution facilitators, or support persons.

Designation of a Title IX Coordinator

The Vice President for Student Affairs is the designated Title IX Coordinator for The University and is responsible for coordinating the University's efforts to comply with its responsibilities under Title IX, including responding to reports of sex discrimination, monitoring for barriers to reporting, and overseeing training requirements.

The contact information for the University's Title IX Coordinator is:

Vice President for Student Affairs
Franklin Pierce University

The Title IX Coordinator is available to meet with students and employees as needed.

As appropriate, the University may delegate, or permit the Title IX Coordinator to delegate, specific duties to one or more designees. References throughout this policy to the Title IX Coordinator should be read as also including designees of the Title IX Coordinator.

General Definitions

Complainant: For the purposes of this policy, “complainant” means (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the University’s education program or activity at the time of the alleged sex discrimination.

Respondent - A person who is alleged to have violated the University’s prohibition on sex discrimination.

Party - A complainant or respondent.

Complaint: means an oral or written request to the University that objectively can be understood as a request for the University to investigate and make a determination about alleged discrimination under Title IX or its regulations.

Confidential employee: Either (1) an employee of the University whose communications are privileged or confidential under Federal or State law. The employee’s confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or (2) An employee of the University whom the University has designated as confidential for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee’s confidential status is only with respect to information received about sex discrimination in connection with providing those services; or (3) An employee of a postsecondary institution who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee’s confidential status is only with respect to information received while conducting the study.

Consent - Consent is the affirmative, unambiguous, and voluntary agreement to engage in specific sexual activity during a sexual encounter. Consent requires an outward demonstration through mutually understandable words or actions, indicating that an individual has freely chosen to engage in sexual activity.

Consent to one form of sexual activity does not constitute consent to all forms of sexual activity, and consent to sexual activity with one person does not equal consent to engage in sexual activity with anyone else. Each party must clearly consent to each act during the sexual encounter. Consent may be withdrawn at any time, and if it is, sexual activity of any kind must stop. Consent cannot be inferred from silence.

Consent is not voluntary if it is induced by force, threat, coercion, or deception. Consent cannot be obtained by taking advantage of the incapacitation of another, such as someone who is incapacitated by drugs or alcohol, who is asleep, unconscious, or otherwise physically or mentally incapacitated.

It is the responsibility of those who initiate and/or engage in sexual activity to be clear that consent as defined in this policy is given before proceeding with further sexual activity. It should be noted that ignorance of the policy noted above, or the intoxication of the respondent, will in no way be considered an excuse for violating the policy. Determinations regarding whether a person is responsible for violating this policy will be made by considering whether the person knew, or a reasonable, unimpaired person in their circumstances should have known, that the other person was not consenting to or was incapable of consenting to the sexual conduct at issue or was asleep, unconscious, or otherwise unaware that the sexual act was occurring.

Disciplinary sanctions - consequences imposed on a respondent following a determination under Title IX that the respondent violated the University's prohibition on sex discrimination.

Incapacitation: Incapacitation is a state beyond drunkenness or intoxication. Incapacitation is a state of intoxication or impairment that is so severe that it interferes with an individual's capacity to make informed and knowing decisions. Incapacitation means that a person lacks the ability to voluntarily consent to sexual activity because the person is asleep, unconscious, under the influence of a substance such that the person does not have control over their body, is otherwise unaware that sexual activity is occurring, or is unable to appreciate the nature and quality of the activity. In evaluating whether a party obtained consent for sexual activity in cases involving incapacitation, the University will consider the totality of the circumstances to determine: (1) did the Respondent know the Complainant was incapacitated; or, if not, (2) would a sober, reasonable person in a similar set of circumstances as the Respondent have known that Complainant was incapacitated?

Pregnancy or related conditions – Defined in this policy as (1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Relevant – Determined to be related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

Remedies - Measures provided, as appropriate, to a complainant or any other person the University identifies as having had their equal access to the University's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the University's education program or activity after the University determines that sex discrimination occurred.

Reporting Party - A student or employee who reports having experienced an incident of sexual misconduct to the University.

Retaliation - Intimidation, threats, coercion, or discrimination against any person by the University, a student, or an employee or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations. Peer retaliation means retaliation by a student against another student.

Sex Discrimination - Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Sex-Based Harassment is a form of sex discrimination (see above) and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that is: (1) Quid pro quo harassment; (2) Hostile environment harassment; (3) Sexual assault; (4) Domestic violence; (5) Dating violence; or (6) Stalking.

Students - All persons taking courses at the University, both full-time and part-time. Persons who are not officially enrolled for a particular term but who have a continuing relationship with the University are considered students.

Supportive measures - Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to (1) Restore or preserve that party's access to the University's education program or activity, including measures that are designed to protect the safety of the parties or the University's educational environment; or Provide support during the University's grievance procedures or during an informal resolution process. See more details about supportive measures later in this policy. Supportive

measures are available before or after the filing of a Formal Complaint or where no Formal Complaint has been filed.

Prohibited Conduct Under this Policy

Conduct that is the subject of this Policy (Sex Discrimination and Sex-Based Harassment) is prohibited. Prohibited conduct includes any conduct that satisfies one or more of the following:

Sex Discrimination

Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Sex-Based Harassment

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, and includes:

1. **Quid pro quo harassment** - An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
2. **Hostile environment harassment** - Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - a. The degree to which the conduct affected the complainant's ability to access the University's education program or activity;
 - b. The type, frequency, and duration of the conduct;
 - c. The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - d. The location of the conduct and the context in which the conduct occurred; and
 - e. Other sex-based harassment in the University's education program or activity
3. **Sexual assault** - Any sexual act directed against another person without consent of the victim, including instances where the victim is incapable of giving consent.
 - a. **Rape**: Penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - b. **Fondling**: Touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental capacity.
 - c. **Incest**: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - d. **Statutory Rape**: Sexual intercourse with a person who is under the age of consent (18 years old).

4. **Dating violence** – 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: (1) The length of the relationship; (2) The type of relationship; and (3) The frequency of interaction between the persons involved in the relationship;
5. **Domestic violence** - felony or misdemeanor crimes committed by a person who: (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the University, or a person similarly situated to a spouse of the victim; (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) Shares a child in common with the victim; or (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
6. **Stalking** - engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) Fear for the person’s safety or the safety of others; or (B) Suffer substantial emotional distress.

Coordination with Other Policies

Where alleged conduct by a student respondent that is reported in connection with a reported violation of this policy also involves potential violations of the University’s Student Code of Conduct that would not constitute sex discrimination or sex-based harassment covered by this policy, the University may, at its discretion, choose to investigate and resolve such other potential Student Code of Conduct violations through an investigation under the procedures set forth in this policy, rather than the procedures set forth in the Student Code of Conduct.

Where alleged conduct by an employee or covered third-party respondent that is reported in connection with a reported violation of this policy also potentially involves violations of Franklin Pierce University’s expectations for an employee or covered third-party behavior, the University may address such reported violations of other behavioral expectations within or outside the procedures provided below, as determined at the University’s discretion.

Amnesty

The University encourages the reporting of potential violations of this Policy. Sometimes, parties or witnesses are hesitant to report to University officials or participate in the process because they fear that they themselves may be in violation of certain policies (e.g., underage drinking or use of illicit drugs at the time of the incident).

To encourage reporting and full participation in the Process, the University maintains a policy of offering students amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident that is the subject of the report or matter being investigated.

Granting amnesty is a discretionary decision made by the University, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

Questions about the amnesty policy and its application can be directed to the Title IX Coordinator.

Retaliation

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations. Retaliation against anyone who in good faith makes a report or complaint about a violation of the policy or participates in an inquiry or investigation related to processes as outlined within this policy is strictly prohibited. A person engaging in retaliatory action may be subject to disciplinary action.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Policy. This includes any charges filed against an individual for Code of Conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts and circumstances as a report or complaint of Covered Sexual Harassment.

Complaints alleging retaliation may be filed using the procedures found in the Student Code of Conduct (for students) or with Human Resources (for employees).

Obligation to Provide Truthful Information

All individuals are expected to provide truthful information when participating in any aspect of this Policy or the related Process.

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under appropriate University policies.

Training

The Title IX Coordinator (and designees), investigators, decisionmakers, and other persons who are responsible for implementing the recipient's grievance procedures or have the authority to modify or terminate supportive measures, and Facilitators of the informal resolution process receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX and annually thereafter.

All employees are trained promptly upon hiring and annually thereafter on (1) The University's obligation to address sex discrimination in its education program or activity, (2) the scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment, and (3) all applicable notification and information requirements.

Reporting of Offenses

Duty by the University to Address Sex Discrimination

When the University has knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity, it must respond promptly and effectively.

This duty for a response by the University is triggered by notice to (1) the Title IX Coordinator, (2) non-confidential employees with authority to take corrective action or responsibility for administrative leadership, teaching, or advising, and (3) other non-confidential employees.

Confidential employees do not need to notify the Title IX Coordinator.

Making a Report

Any student, employee or other member of the University Community who has experienced or witnessed prohibited conduct under this Policy, including any form of sex discrimination, is encouraged to make a report to law enforcement and/or to any employee at the University. An employee who receives such a report is obligated to share this information with the Title IX Coordinator to ensure the affected party receives notification of available University resources and resolution options.

The University recognizes that not every individual is prepared to move forward with a Formal Complaint under this Policy. Supportive Measures are available for those who are seeking assistance but do not necessarily wish to make a report to the University.

Mandatory Reporting Requirements of Non-Confidential Employees

All University employees who are not designated as a confidential resource (see below) are required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX and its regulations. Employees may submit their report by completing the [Franklin Pierce University Sexual Misconduct Reporting Form \(maxient.com\)](https://maxient.com)

The University encourages all Community members to take action to prevent or stop an act of Prohibited Conduct, including direct intervention when safe to do so, requesting the assistance of friends or individuals of authority, contacting law enforcement, and/or reporting the incident to campus officials.

For employees who are obligated to report, the failure to report allegations of sex discrimination may result in disciplinary action up to and including termination and/or dismissal from the University.

Confidential Reporting Resources

While steps are taken to protect the privacy of all involved, individuals should understand that a report to any University employee will necessarily trigger this Policy's review process. If an individual would like the details of an incident to be kept confidential, they may choose to speak with the following resources or submit the report anonymously by completing the [Franklin Pierce University Sexual Misconduct Reporting Form \(maxient.com\)](https://maxient.com)

- Counseling and Outreach Staff;
- Health Services Staff; and
- Athletic Trainers.

The above on-campus confidential reporting resources are staffed by medical and psychological professionals who are bound by state confidentiality laws and will not share a report with other members of the University except in extreme cases of immediate threat or danger or where required by law. These employees may submit an anonymous report on behalf of the Complainant for aggregate statistical information for Clery Act reporting purposes.

Confidential Resource Advisor (CRA)

Nicole Newell, Director of Counseling and Outreach Education, University-designated Confidential Resource Advisor

Office Location: Granite Hall Phone: (603) 899-4135 Newelln@franklinperce.edu

The CRA will be made available to all students or employees who report a complaint related to Title IX or individuals looking for information regarding reporting or Supportive Measures. The CRA shall provide resources regarding the following:

1. Reporting options
2. Counseling Services and local rape crisis center information
3. Medical and health services available on and off campus
4. Available academic and co-curricular accommodations
5. Referral to Student Financial Services regarding loan counseling related to temporary leave of absence or withdrawal
6. Opportunities for campus security escorts
7. Overview of investigatory and adjudication process

8. Referral to local crisis center or local police contact regarding legal process

Off-Campus Resources

Individuals may also choose to contact off-campus support services and resources. More information regarding organizations that can provide crisis intervention services, counseling, medical attention and assistance in interfacing with the criminal justice system can be found here: <https://www.franklinpierce.edu/student-experience/student-affairs/conduct/sexual-misconduct.html>

Pregnancy and Related Conditions

Based on the 2024 Final Rule, The University must not discriminate in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions. The University does not engage in prohibited discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity, provided the University ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.

Pregnancy or related conditions are defined in this policy as:

1. Pregnancy, childbirth, termination of pregnancy, or lactation;
2. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
3. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Responsibilities to Students

When any employee learns of a student's pregnancy or related condition **from the student**, the employee must:

1. Provide the student with the contact information of the Title IX Coordinator; and
2. Inform the student that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access.

After receiving notice, the Title IX Coordinator must take specific actions under Title IX and its regulations to promptly and effectively prevent sex discrimination and ensure equal access to the recipient's education program or activity once the student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student's pregnancy or related conditions. These actions include:

Responsibility to provide information about the University's obligations.

The University must inform the student, and if applicable, the person who notified the Title IX Coordinator of the student's pregnancy or related conditions and has a legal right to act on behalf of the student, of the University's Notice of Nondiscrimination and obligations under Title IX (see below).

Reasonable modifications

The University must provide reasonable modifications to the University's policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the University's education program or activity. Each reasonable modification must be based on the student's individualized needs. In determining what modifications are required under this paragraph, the University must consult with the student. A modification that a University can demonstrate would fundamentally alter the nature of its education program or activity is not a reasonable modification. The student has the discretion to accept or decline each reasonable modification offered by the University. If a student accepts a recipient's offered reasonable modification, the University must implement it. Reasonable modifications may include, but are not limited to:

1. Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom;

2. Intermittent absences to attend medical appointments;
3. Access to online or homebound education;
4. Changes in schedule or course sequence;
5. Extensions of time for coursework and rescheduling of tests and examinations;
6. Allowing a student to sit or stand, or carry or keep water nearby;
7. Counseling;
8. Changes in physical space or supplies (for example, access to a larger desk or a footrest);
9. Elevator access;
10. Or other changes to policies, practices, or procedures.

Voluntary access to separate and comparable portions of the program or activity.

The University must allow the student to voluntarily access any separate and comparable portion of the University's education program or activity.

Voluntary leaves of absence

The University must allow the student to voluntarily take a leave of absence from the University's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider.

1. To the extent that a student qualifies for leave under a leave policy maintained by the University that allows a greater period of time than the medically necessary period, the recipient must permit the student to take voluntary leave under that policy instead if the student so chooses.
2. When the student returns to the University's education program or activity, the student must be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

Lactation space

The University must ensure that the student can access a lactation space, which must be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed. Lactation spaces must be accessible to students and employees (they can be in separate locations).

Limitation on supporting documentation

The University must not require supporting documentation to support the modifications above unless the documentation is necessary and reasonable for the University to determine the reasonable modifications to make or whether to take additional specific actions. Examples of situations when requiring supporting documentation is not necessary and reasonable include, but are not limited to;

1. when the student's need for a specific action is obvious, such as when a student who is pregnant needs a bigger uniform;
2. when the student has previously provided the University with sufficient supporting documentation;
3. when the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom;
4. when the student has lactation needs; or
5. when the specific actions above are available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

Comparable treatment to other temporary medical conditions

The University must treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy the recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's education program or activity.

Certification to participate

A recipient must not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the recipient's class, program, or extracurricular activity unless:

1. The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
2. The recipient requires such certification of all students participating in the class, program, or extracurricular activity; and
3. The information obtained is not used as a basis for discrimination prohibited by this part.

Responsibilities to Employees

In addition to the 2024 Final Rule for Title IX, the federal government has released regulations under the *Pregnant Workers Fairness Act (PWFA)* and the *Providing Urgent Material Protections (PUMP) Act*. These regulations provide similar rights to employees. The requirements under these regulations for employees are combined below:

The University must not adopt or implement any policy, practice, or procedure or take any employment action on the basis of sex:

1. Concerning the current, potential, or past parental, family, or marital status of an employee or applicant for employment, which treats persons differently; or
2. That is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

Pregnancy or related conditions

The University must not discriminate against any employee or applicant for employment on the basis of current, potential, or past pregnancy or related conditions.

Comparable treatment to other temporary medical conditions

The University must treat pregnancy or related conditions as any other temporary medical conditions for all job-related purposes, including: (1) commencement, duration and extensions of leave; (2) payment of disability income; (3) accrual of seniority and any other benefit or service; and (4) reinstatement; and (5) under any fringe benefit offered to employees by virtue of employment.

Voluntary leaves of absence

In the case of a recipient that does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, The University must treat pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

Lactation time and space

The University must (1) provide reasonable break time for an employee to express breast milk or breastfeed as needed for up to one year after the child's birth; and (2) ensure that an employee can access a lactation space, which must be a space other than a bathroom that is clean, shielded from view, free from intrusion from others, and may be used by an employee for expressing breast milk or breastfeeding as needed. Lactation spaces must be accessible to students and employees (they can be in separate locations).

Documentation cannot be required in the provision of these modifications.

Pregnant Worker's Fairness Act

The University must accommodate qualified applicants or employees with known limitations (pregnancy, childbirth, or related medical conditions e.g. breastfeeding, miscarriage, abortion, and (in)fertility treatments). Reasonable accommodations include suspending essential job function(s) if: (1) they are temporary; (2) essential job function(s) can be performed in the near future; (3) inability to perform the essential functions can be reasonably accommodated. Reasonable accommodations are not required if it would cause an undue hardship to the University.

The employer is not required to obtain medical documentation, but documentation can be requested when reasonable under the circumstances. Documentation requirements must be the minimum sufficient to confirm the limitation and needed modification.

The University cannot ask for supporting documentation when the limitation is obvious or when the request is for the following accommodation(s): (1) carrying water and drinking, as needed; (2) taking additional restroom breaks; (3) sitting or standing (4) breaks, as needed, to eat and drink. Instead, the employee's self-confirmation of their need for the reasonable accommodation(s) is sufficient.

Privacy and Confidentiality in Reporting

Consistent with the Policy, references made to **confidentiality** refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or University officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse.

References made to **privacy** mean University offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible. Information disclosed will be relayed only as necessary to report and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for coordinating the University's efforts to comply with its responsibilities under Title IX.

The University will not share the identity of any individual who has made a Complaint of sex discrimination or retaliation; any Complainant; any individual who has been reported to be the perpetrator of sex discrimination or retaliation; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures.

Initial Communication with a Complainant

If a report alleges conduct that would, if proved, constitute Prohibited Conduct, the Title IX Coordinator will, within five (5) business days:

1. promptly contact the complainant to discuss the availability of supportive measures as defined below;
2. consider the complainant's wishes with respect to supportive measures;
3. inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
4. explain to the complainant the process for filing a formal complaint.

Explanation of Rights and Options

When a student or employee reports to the University that the student or employee has been subjected to sex discrimination or sex-based harassment, whether the reported conduct occurred on or off campus, the University will provide the student or employee a written explanation of the student's or employee's rights and options, as described in this policy. This written explanation will include, but not be limited to:

1. How and to whom the alleged offense should be reported.
2. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or that may be helpful in obtaining a protective order.
3. Options about the involvement of law enforcement and campus authorities; to be assisted by campus authorities in notifying law enforcement authorities if a respondent so chooses. A complainant may also choose not to notify such authorities.
4. Where applicable, the rights of a complainant and the institution's responsibilities for orders of protection, "no-contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court, or by the institution.
5. The availability of counseling, health, mental health services, victim advocacy, legal assistance, visa and immigration assistance, and student financial aid assistance, and other services available for victims.
6. Options and assistance in the area of requesting alternative academic, transportation, working and/or living situations and other protective measures that are reasonably available, even if a complainant chooses not to file a formal complaint.
7. Confidentiality - Publicly available recordkeeping has no personally identifying information about the victim and accommodations and protective measures are confidential (to the extent they can be without impairing the ability to provide them).
8. The institution's procedures for disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking.

Contacting Law Enforcement and Orders of Protection

In addition to (or instead of) the University's processes, any student or employee who wishes to report a complaint of sexual misconduct, domestic violence, dating violence or stalking may and should also pursue criminal charges with local, state, or federal law enforcement agencies.

The Office of the Vice President for Student Affairs (Title IX Coordinator), Office of Campus Safety, Human Resources Office and Counseling /Health Services Office will offer to, and will upon request, assist students or employees in contacting law enforcement agencies. For their part, a complainant may choose to notify such agencies with or without assistance from the University, or may choose not to notify such authorities. The procedures for making a police report will vary depending upon the particular law enforcement agency involved, but in general, making a police report will involve meeting with law enforcement officers for an interview, the collection of evidence, and follow-up communications with law enforcement as their investigation proceeds. Individuals who are being or who may have been subjected to Prohibited Conduct may have the right to obtain orders of protection, restraining orders and/or relief from abuse orders from New Hampshire courts. The University will support complainants if they wish to have the University's assistance in making contact with law enforcement authorities and other external resources to seek such orders.

The University will respect such orders to the extent applicable. In addition, the University can also impose no-contact conditions on students, employees and third parties over which it has some measure of control. The University will inform complainants of their options in this regard.

Medical Care

Whether or not you decide to pursue criminal charges or a complaint at the University, you are encouraged to immediately seek any necessary medical care after an incident of Prohibited Conduct, and to seek help from appropriate law enforcement, medical or University personnel. Even if you are unsure initially whether you will want to pursue criminal charges or seek a protection order, it is important to preserve all possible evidence in case you decide at some point to do so.

Therefore, you should refrain from changing clothes, showering, or otherwise changing your physical state after an incident, until after you have consulted with medical personnel about how to best preserve evidence.

In cases that have involved sexual contact, a forensic examination by a Sexual Assault Nurse Examiner (“SANE”) is the best way to preserve potentially valuable evidence. S.A.N.E. examinations are available at local hospitals. The University will assist an individual who would like to be transported for a S.A.N.E. examination. Having a S.A.N.E. examination does not require an individual to file a police report or pursue criminal prosecution or a protection order, but having an examination can be very important if the individual decides at a later time to pursue any of those options.

You should also endeavor to preserve other evidence that may be relevant to a case of Prohibited Conduct, such as text messages, email messages, other electronically stored information, and other physical evidence. If you have questions about how to do this, you should consult with University officials.

Preserving any and all evidence may be important in any process that seeks to determine if an offense occurred and in the process of obtaining an order of protection.

Supportive Measures

If Prohibited Conduct is reported, the University will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person’s access to the University’s education program or activity or provide support during the University’s Title IX grievance procedures or during the informal resolution process.

For complaints of sex-based harassment, these supportive measures may vary depending on what the University deems to be reasonably available and may include but are not limited to:

1. access to counseling and medical services
2. assistance in obtaining a sexual assault nurse examination
3. academic accommodations, such as extensions of deadlines or other course-related adjustments, course changes or late drops, or other arrangements as appropriate;
4. modifications of work or class schedules;
5. assistance in requesting long-term academic accommodations through the Office of Student Accessibility Services, if the complainant or respondent qualifies as an individual with a disability
6. change in class schedules, including the ability to transfer course sections or withdraw from a course;
7. campus escort services and safety planning steps;
8. mutual restrictions on contact between parties and/or other individuals;
9. residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate;
10. assistance navigating off-campus housing concerns;
11. changes in work locations;
12. voluntary leaves of absence;
13. increased security and monitoring of certain areas of campus;
14. changing transportation or working arrangements or providing other employment accommodations, as appropriate;

15. assisting the individual in accessing support services, including, as available, victim advocacy, academic support, counseling, disability, health or mental health services, visa and immigration assistance, student financial aid services, and legal assistance both on and off campus, as applicable;
16. referral to resources that can assist in obtaining an order of protection and restraining orders under New Hampshire law;
17. referral to resources which can assist with financial aid, visa, or immigration concerns;
18. no trespass notices prohibiting the presence of an individual on University property; and
19. other similar measures.

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the University's educational environment, or to provide support during the University's grievance procedures or the informal resolution process. The University must not impose such measures for punitive or disciplinary reasons.

The University may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures or at the conclusion of the informal resolution process, or the University may continue them beyond that point.

The University will provide a complainant or respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the University's decision to provide, deny, modify, or terminate supportive measures applicable to them. The University will also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

The University will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity, or when an exception is allowed by applicable law.

Emergency Removal and Administrative Leave

Emergency Removal of Students or Employees in Sex Discrimination Cases

When the University determines that there is an immediate threat to the physical health or safety of any student or other individual arising from reported conduct that falls within the definition of Title IX sex discrimination stated in this policy, the University can remove a respondent from its education program or activity (which may include removing an employee respondent from their employment at the University, subject to any rights or procedures provided in any applicable collective bargaining agreement) and issue any necessary related no-trespass and no-contact orders. The University will make the decision to remove a respondent from its education program or activity based on an individualized assessment and risk analysis.

If the University makes such a decision, the respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal. Specifically, the respondent shall have forty-eight hours in which to submit a letter to or appear personally or virtually before an individual designated by the President to contest the emergency removal (though a meeting could be scheduled sooner if requested by the respondent, if practicable).

Administrative Leave in Title IX Sexual Harassment Cases

The University always maintains the discretion to place non-student employee respondents on paid administrative leave during the pendency of an investigation and resolution process as outlined below.

The University may also place a non-student employee respondent on unpaid administrative leave during the pendency of an investigation and resolution process.

The University may place student-employee respondents on administrative leave from their employment during the pendency of an investigation and resolution process where deemed appropriate as a supportive measure, under circumstances where it can do so without unreasonably burdening the student-employee respondent.

Use of Advisors

The University will provide the parties equal access to advisors and support persons throughout the resolution process; any restrictions on advisor participation will be equally applied.

Advisor of Choice

Complainants or Respondents in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an advocate and shall not participate directly in the process as per standard policy and practice of the University. The University may adopt further guidance regarding the appropriate participation of advisors.

The University will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for the Complainant or Respondent is not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

The University's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other University policies apply to matters governed under this Policy, and the University cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee.

An Advisor of Choice must be declared by a Complainant or Respondent in writing, accompanied by an active email address, phone number, and mailing address, to the Title IX Coordinator prior to any involvement by the advisor. Choosing an advisor who is also a witness in the process creates potential for bias and conflict-of-interest.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

Grievance Procedures for Complaints of Sex Discrimination

Sex Discrimination Definition

Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

The University has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

Complaints

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that The University investigate and make a determination about alleged discrimination under Title IX:

1. A "complainant," which includes:
 - a. a student or employee of the University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or

- b. a person other than a student or employee of the University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the University's education program or activity;
2. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
3. The University's Title IX Coordinator. Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

1. Any student or employee of the University; or
2. Any person other than a student or employee who was participating or attempting to participate in the University's education program or activity at the time of the alleged sex discrimination.

The University may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Title IX Coordinator Initiated Complaints

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the University's Title IX Coordinator may initiate a complaint of sex discrimination that complies with the grievance procedures after considering, at a minimum, the following factors:

1. The complainant's request not to proceed with initiation of a complaint;
2. The complainant's reasonable safety concerns regarding the initiation of a complaint;
3. The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
4. The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
5. The age and relationship of the parties, including whether the respondent is an employee of the University;
6. The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
7. The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
8. Whether the University could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

Basic Requirements of Title IX Grievance Procedures for Complaints of Sex Discrimination:

1. The University will treat complainants and respondents equitably.

2. The University requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.
3. The University presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.
4. The University has established the following timeframes that will ordinarily be used for the major stages of the grievance procedures unless the University determines there is reasonable and good cause to extend the timeframes:
 - a. **Initial Evaluation** (once a complaint has been filed, the University will decide whether to dismiss or investigate a complaint of sex discrimination within seven (7) business days.
 - b. **Appeal of Dismissal** – 3 (three) business days for the Complainant to submit the appeal; 3 (three) business days for the other party to respond to the appeal after it has been shared by the University; 7 (seven business days for the University to review and decide on the appeal.
 - c. **Investigation** – Typically will be completed within thirty five (35) business days, but will depend on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.
 - d. **Hearing** - Once the investigation is complete, a hearing will occur within 10 (business days)
 - e. **Determination** – The determination of responsibility will be delivered to all parties within five (5) business days after the conclusion of the hearing.
 - f. **Appeal of Determination** – Any party may submit a written request for appeal to the Title IX Coordinator within five (5) business days of the delivery of the determination; 5 (five) business days for the other party to respond to the appeal after the University has shared it; 10 (ten) business days for the University to review, decide, and communicate the decision of the appeal.
5. The University will make a good faith effort to complete the resolution process within the timeframes noted above, but the Title IX Coordinator can extend them as necessary for appropriate cause. Any party may request a reasonable extension to the timeframes from the Title IX Coordinator, who will determine the appropriateness of the request on a case-by-case basis. All parties will be informed of alterations to the timelines.
6. The University will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses, consulting with their family members, confidential resources, or advisors, or otherwise preparing for or participating in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.
7. The University will objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
8. The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by The University to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
 - a. Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the

party or witness, unless The University obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and

- c. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Notice of Allegations:

Upon initiation of The University's Title IX grievance procedures, The University will notify the parties of the following:

1. The University's Title IX grievance procedures, and any informal resolution process;
2. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
4. Notification that taking any retaliatory action (directly or through others) against any person involved in the investigation is prohibited and will be considered a separate violation of University policy.
5. The parties are entitled to an equal opportunity to access an accurate description of the relevant and not otherwise impermissible evidence. The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

If, in the course of an investigation, The University decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, The University will notify the parties of the additional allegations.

Dismissal of a Complaint:

The University may dismiss a complaint of sex discrimination if:

1. The University is unable to identify the respondent after taking reasonable steps to do so;
2. The respondent is not participating in the University's education program or activity and is not employed by the University;
3. The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the University determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
4. The University determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the University will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the University will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the University will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

Appeal of Complaint Dismissal

The University will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the University will also notify the respondent that the dismissal may be appealed.

All requests for an appeal must be submitted in writing to the Title IX Coordinator within 3 (three) business days of the delivery of the written findings of the University. Either party may appeal, but dismissals may be only be appealed on the following bases:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
3. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, the University will:

1. Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
2. Implement appeal procedures equally for the parties; A response from other parties must be received within 3 (three) business days after it has been shared by the University;
3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
4. Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. Notify the parties of the result of the appeal and the rationale for the result within 7 (seven) business days from all submissions by the parties.

When a complaint is dismissed, the University will, at a minimum:

1. Offer supportive measures to the complainant as appropriate;
2. If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
3. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex does not continue or recur within the University's education program or activity.

Investigation

The Title IX Coordinator will appoint an investigator/decisionmaker. The investigator/decisionmaker may be University employees or third party contractors, as determined at the University's discretion. The University will provide notice to the parties of the identities of the investigator/decisionmaker. If a party believes that an investigator/decisionmaker has a bias for or against complainants or respondents generally or for against a particular complainant or respondent, or has a conflict of interest, the party may within two (2) business days submit a written objection to the Title IX Coordinator that outlines the basis for their objection to the investigator/decisionmaker's service. The Title IX Coordinator will make a decision on such objections, and will appoint any alternate investigator/decisionmaker, and follow this process as necessary, until an investigator/decisionmaker is selected to conduct the investigation and make a determination.

If a respondent who has been notified of an investigation fails to cooperate with the investigator/decisionmaker, the investigation may proceed, a finding may be reached, and a sanction may be imposed based on the information available.

In a case where a criminal investigation or criminal proceeding is underway regarding the same incident(s), the University may choose to delay its investigation for a reasonably short period while law enforcement officials are gathering evidence. During this period, the University may implement supportive measures to promote the safety and well-being of the parties and the University community while the law enforcement agency's fact-gathering is in progress. The University, after a reasonable period and communication with law enforcement, will initiate or resume, and complete its own investigation.

The University will endeavor to complete the investigation portion of the process within 35 days of issuing a notice of investigation as described above, but this may be extended at the University's discretion due to factors such as the complexity of the matter, the availability of witnesses, requests by law enforcement agency for a temporary delay in the investigation process (see below), University breaks, and other legitimate reasons.

Deadlines for parties' review of information and submission of comments may be extended upon request for good cause, at the discretion of the Title IX Coordinator or their designee.

The investigator/decision maker will conduct an appropriate investigation which may include interviews with the complainant, the respondent, and other persons with information. These interviews may be audio-recorded. As required by the Clery Act, individuals conducting investigations and determination proceedings will receive training annually on the issues related to sexual assault, domestic violence, dating violence, and stalking, and how to conduct an investigation and/or determination process that protects the safety of complainants and promotes accountability.

To the extent permitted by law, the complainant and respondent will be afforded the same rights and opportunities throughout the investigation and adjudication process, including the opportunity to recommend witnesses and submit evidence. However, investigation logistics, including but not limited to the sequence of interviews, the decision to interview particular witnesses, and the decision to allow or consider evidence offered by the parties, are within the discretion of the investigator.

The complainant and respondent will be asked to identify, preserve, and submit all evidence pertaining to the matter under investigation, and to identify witnesses they believe may have relevant testimony to share. The investigator is not required to consider the evidence submitted or interview any particular witness, even if identified by one of the parties. However, in determining whether to interview witnesses or review evidence, the investigator should consider such factors as equity, fairness, thoroughness, and impartial treatment of both parties. All participants in the investigation are expected to cooperate fully by providing complete, accurate, and truthful information.

Complainants and respondents are entitled to the same opportunities to have an advisor of their choice present at any interviews, meetings, or proceedings that they are attending related to the investigation and adjudication process under this policy. The advisor may advise the complainant or respondent privately, but cannot act as a speaking advocate at a meeting. An investigator/decisionmaker or other University representative may terminate meetings, and/or proceed with the investigation or adjudication based on otherwise-available information, if an advisor is disruptive or otherwise refuses to comply with the requirements of this policy.

While each party may have an advisor of choice, they may not compel any specific person to serve as their advisor. The University's faculty and/or staff may be available to serve as advisors, but none are required to do so.

An individual designated by the Title IX Coordinator will facilitate communications between the parties and the investigator.

Further, the following provisions will apply to Investigations regarding Sex Discrimination:

1. The University will provide for adequate, reliable, and impartial investigation of complaints.

1. The burden is on the University —not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.
2. The University will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.
3. The University will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.
4. The University will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible in the following manner:
 - a. The University will provide an equal opportunity to access an accurate description of this evidence. The University will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.
 - b. The University will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
 - c. The University will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

Questioning the Parties and Witnesses:

The University's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

1. Allow the investigator or decisionmaker to ask such questions during individual meetings with a party or witness;
2. Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
3. Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

Determination Whether Sex Discrimination Occurred:

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, The University will:

1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. This means that the decisionmaker will evaluate relevant and not otherwise impermissible evidence available at the time of the decision to decide whether it is more likely than not that the Respondent is in violation of the alleged Policy violation(s). If the decisionmaker is not persuaded under the preponderance of the evidence standard that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
2. Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;
3. Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.

4. If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
 - a. Coordinate the provision and implementation of remedies to a complainant and other people The University identifies as having had equal access to the University's education program or activity limited or denied by sex discrimination;
 - b. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 - c. Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the University's education program or activity.
5. Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
6. Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Appeal of Determinations

The University offers all parties an appeal from a determination whether sex discrimination occurred. All requests for an appeal must be submitted in writing to the Title IX Coordinator within 3 (three) business days of the delivery of the written findings of the University. Either party may appeal, but dismissals may only be appealed on the following bases:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and
3. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the determination is appealed, the University will:

1. Notify the parties of any appeal;
2. Implement appeal procedures equally for the parties; A response from other parties must be received within 3 (three) business days after it has been shared by the University;
3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or determination of the complaint;
4. Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. Notify the parties of the result of the appeal and the rationale for the result within 7 (seven) business days from all submissions by the parties.

Informal Resolution:

In lieu of resolving a complaint through the University's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. The University will inform the parties in writing of any informal resolution process it offers and determines is appropriate, if any. The University will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, the University will explain in writing to the parties:

1. The allegations;
2. The requirements of the informal resolution process;
3. That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
4. That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
5. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
6. What information the University will maintain and whether and how the University could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

When an informal resolution process is provided, the Title IX coordinator, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the University's education program or activity.

Supportive Measures

The University will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the University's education program or activity or provide support during the University's Title IX grievance procedures or during the informal resolution process.

For a full description of Supportive Measures, please see the section earlier in this policy.

Disciplinary Sanctions and Remedies:

Following a determination that sex-based harassment occurred, the University may impose disciplinary sanctions, and/or other remedies.

Student sanctions may include, but are not limited to:

1. Written Warning consists of formal notification that the student has violated the Student Code and advises that repetition will result in a more severe sanction. A written record of the warning is made.
2. Educational Sanction is usually imposed in conjunction with another sanction. Educational sanctions may include, but are not limited to, evaluation/counseling, change in residence hall, participation in an educational program, writing a research paper, a supervised work project, etc. The educational sanction must be completed within the manner and time stated as part of the sanction. Participation in certain programs may be withheld or restricted until educational sanctions are completed (e.g. participation in room selection).
3. Restitution is full payment for the cost of damage(s), as determined by the University, of materials and labor for repair or replacement of damaged, destroyed, or stolen University property.
4. Fines may be assessed by the University for certain actions such as (but not limited to) false activation of a fire alarm.
5. Conduct Probation is a serious reprimand for a violation of a specific University policy. The loss of specified privileges may also be involved. Conduct Probation is for a specified period of time, and more severe disciplinary sanction(s) will be imposed should the student further violate any University policy.
6. Ban from a space on campus separates a student from the space they are restricted from for a certain time period.
7. Residence Hall Suspension separates a student from the residence halls for a specified period of time, or until specified conditions are met. A student suspended from the residence halls may continue to attend

classes and utilize the University's dining hall. However, the student shall not enter, nor be in the immediate vicinity of, any residence hall; this includes lawn areas, sidewalks, parking lots near the residence halls, etc.

8. Residence Hall Expulsion is a permanent separation of the student from the residence halls. A student expelled from the residence halls shall also lose all future visitation privileges and utilization of the University's dining hall; the rationale for this is that a student permanently separated from the residence halls and group activities shall also lose the privilege of gathering in the dining hall with other students. The student may not enter, nor be in the immediate vicinity of any residence halls.
9. Suspension from Non-Academic Activities is a separation of the student from all nonacademic activities and functions (e.g. visitation to the residence halls, student activities and programs, sport events, intramural/recreation programs, recreation facilities, athletics, etc.) for a specified period of time.
10. Expulsion from Non-Academic Activities is a permanent separation of the student from all nonacademic activities and functions (e.g. visitation to the residence halls, student activities and programs, sport events, intramural/recreation programs, recreation facilities, athletics, etc.).
11. University Suspension is a separation of the student from the University and all University premises, for a specified period of time and/or until certain predetermined conditions are met. Readmission after University suspension is not automatic and must have the approval of the Assistant Dean of Student Affairs.
12. University Expulsion is the permanent separation of the student from the University, and all University premises. The expulsion will be noted on the student's academic transcript as follows "Expelled per Student Code of Conduct," and the effective date of the expulsion will be noted. This notation will be a permanent part of the student's academic transcript.

Individuals who receive University Suspension or University Expulsion will be banned from returning to any University premise or participating in any University events, programs, or activities. If an individual is found on or within any University property they will be subject to arrest for criminal trespass. If a suspended student does not apply for or is not granted readmission, the stipulations of the University Suspension will stay in place permanently (e.g., ban).

Employee sanctions may include, but are not limited to:

1. Written warning consists of formal notification that the employee has violated the Title IX Policy and advises that repetition will result in a more severe sanction. A written record of the warning is made.
2. Change of job consists of removing an employee from being in a position to retaliate or further affect the Complainant.
3. Mandated Counseling
4. Mandatory attendance to appropriate educational workshop or training (this may be at the expense of the Respondent).
5. Relevant community service.
6. Suspension (with or without pay).
7. Termination of employment.

Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Complainants or Student Respondents (§ 106.46)

The University has adopted Title IX grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate

in its education program or activity, or by the Title IX Coordinator. These grievance procedures address complaints of sex-based harassment that involve a student party.

When a party is both a student and an employee of a postsecondary institution, the 2024 amendments require an institution to make a fact-specific inquiry to determine whether the requirements of this classification apply.

Sex-Based Harassment

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, and includes:

1. **Quid pro quo harassment** - An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
2. **Hostile environment harassment** - Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact specific inquiry that includes consideration of the following:
 - a. The degree to which the conduct affected the complainant's ability to access the University's education program or activity;
 - b. The type, frequency, and duration of the conduct;
 - c. The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - d. The location of the conduct and the context in which the conduct occurred; and
 - e. Other sex-based harassment in the University's education program or activity

Specific Offenses

1. **Sexual assault** - Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.
 - a. **Rape**: Penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - b. **Fondling**: Touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental capacity.
 - c. **Incest**: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - d. **Statutory Rape**: Sexual intercourse with a person who is under the age of consent (18 years old).
2. **Dating violence** – 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: (1) The length of the relationship; (2) The type of relationship; and (3) The frequency of interaction between the persons involved in the relationship;

3. **Domestic violence** - felony or misdemeanor crimes committed by a person who: (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the University, or a person similarly situated to a spouse of the victim; (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) Shares a child in common with the victim; or (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
4. **Stalking** - engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) Fear for the person's safety or the safety of others; or (B) Suffer substantial emotional distress.

Complaints:

The following people have a right to make a complaint of sex-based harassment, requesting that the University investigate and make a determination about alleged sex-based harassment under Title IX:

1. A "complainant," which includes:
 - a. a student or employee of the University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - b. a person other than a student or employee of the University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the University's education program or activity;
2. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
3. the University's Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements Title IX regulations.

the University may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances.¹⁹ When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Title IX Coordinator Initiated Complaints

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the University's Title IX Coordinator may initiate a complaint of sex discrimination that complies with the grievance procedures after considering, at a minimum, the following factors:

4. The complainant's request not to proceed with initiation of a complaint;
5. The complainant's reasonable safety concerns regarding the initiation of a complaint;
6. The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
7. The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;

8. The age and relationship of the parties, including whether the respondent is an employee of the University;
9. The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
10. The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
11. Whether the University could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

Basic Requirements of Title IX Grievance Procedures of Sex-Based Harassment Involving Student Complainants or Student Respondents:

1. The University will treat complainants and respondents equitably.
2. The University requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. As long as there is no conflict of interest or bias, a decisionmaker may be the same person as the Title IX Coordinator or investigator.
3. The University presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.
4. The University has established the following timeframes that will ordinarily be used for the major stages of the grievance procedures unless the University determines there is reasonable and good cause to extend the timeframes:
 - a. **Initial Evaluation** (once a complaint has been filed, the University will decide whether to dismiss or investigate a complaint of sex discrimination within seven (7) business days.
 - b. **Appeal of Dismissal** – 3 (three) business days for the Complainant to submit the appeal; 3 (three) business days for the other party to respond to the appeal after it has been shared by the University; 7 (seven business days for the University to review and decide on the appeal.
 - c. **Investigation** – Typically will be completed within thirty five (35) business days, but will depend on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.
 - d. **Hearing** - Once the investigation is complete, a hearing will occur within 15 (fifteen business days)
 - e. **Determination** – The determination of responsibility will be delivered to all parties within five (5) business days after the conclusion of the hearing.
 - f. **Appeal of Determination** – Any party may submit a written request for appeal to the Title IX Coordinator within five (5) business days of the delivery of the determination; 5 (five) business days for the other party to respond to the appeal after the University has shared it; 10 (ten) business days for the University to review, decide, and communicate the decision of the appeal.
5. The University will make a good faith effort to complete the resolution process within the timeframes noted above, but the Title IX Coordinator can extend them as necessary for appropriate cause. Any party may request a reasonable extension to the timeframes from the Title IX Coordinator, who will determine the appropriateness of the request on a case-by-case basis. All parties will be informed of alterations to the timelines.
6. The University will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present

evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

7. The University will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person’s status as a complainant, respondent, or witness.
8. The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by the University to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
 - a. Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - b. A party’s or witness’s records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party’s or witness’s voluntary, written consent for use in its grievance procedures; and
 - c. Evidence that relates to the complainant’s sexual interests or prior sexual conduct, unless evidence about the complainant’s prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant’s prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant’s consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Written Notice of Allegations:

Upon initiation of these Title IX grievance procedures, the University will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

1. the University’s Title IX grievance procedures and any informal resolution process;
2. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
3. Retaliation is prohibited;
4. The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
5. The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
6. The parties are entitled to an equal opportunity to access an investigative report that accurately summarizes the relevant and not otherwise impermissible evidence. The parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any party; and
7. The section in this policy titled “Obligation to Provide Truthful Information” prohibits knowingly making false statements or knowingly submitting false information during the grievance procedures. This does

not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

If, in the course of an investigation, the University decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

Dismissal of a Complaint:

The University may dismiss a complaint if:

1. The University is unable to identify the respondent after taking reasonable steps to do so;
2. The respondent is not participating in the University's education program or activity and is not employed by the University;
3. The University obtains the complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and the University determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
4. The University determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the University will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the University will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the University will notify the parties simultaneously in writing.

The University will notify the complainant that a dismissal may be appealed on the bases outlined in the *Appeals* section. If dismissal occurs after the respondent has been notified of the allegations, then the University will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, the University will follow the procedures outlined in the *Appeals* section.

Appeal of Complaint Dismissal

The University will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the University will also notify the respondent that the dismissal may be appealed.

All requests for an appeal must be submitted in writing to the Title IX Coordinator within 3 (three) business days of the delivery of the written findings of the University. Either party may appeal, but dismissals may be only be appealed on the following bases:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
3. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, the University will:

1. Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
2. Implement appeal procedures equally for the parties; A response from other parties must be received within 3 (three) business days after it has been shared by the University;

3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
4. Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. Notify the parties of the result of the appeal and the rationale for the result within 7 (seven) business days from all submissions by the parties.

When a complaint is dismissed, the University will, at a minimum:

1. Offer supportive measures to the complainant as appropriate;²⁰
2. If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
3. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the University's education program or activity.

Investigation:

1. The University will provide for adequate, reliable, and impartial investigation of complaints.
2. The burden is on the University—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.
3. The University will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.
4. The University will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.
 - a. The University will not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding.
 - b. The University may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.
5. The University will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties' choice present during any meeting or proceeding.
6. The University will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.²²
7. The University will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.
8. The University will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:
 - a. The University will provide an equal opportunity to access written investigative report that accurately summarizes the relevant and not otherwise impermissible evidence. The University will further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.
 - b. The University will provide a reasonable opportunity to review and respond to the evidence or the investigative report. If the University conducts a live hearing as part of its grievance

procedures, it will provide this opportunity to review the evidence in advance of the live hearing. [the University may decide whether to provide this opportunity to respond prior to the live hearing, during the live hearing, or both prior to and during the live hearing.]; and

- c. The University will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

Questioning the Parties and Witnesses:

The University will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

When the University conducts a live hearing: the University's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will allow the decisionmaker to ask such questions, and either:

1. Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the decisionmaker, subject to the procedures for evaluating and limiting questions discussed below; or
2. Allow each party's advisor to ask any party or witness such questions, subject to the procedures for evaluating and limiting questions discussed below. Such questioning will never be conducted by a party personally. [If the University permits advisor-conducted questioning and a party does not have an advisor to ask questions on their behalf, the University will provide the party with an advisor of the University's choice, without charge to the party, for the purpose of advisor-conducted questioning. In those instances, the University will not appoint a confidential employee and may appoint, but is not required to appoint, an attorney to serve as an advisor.]

Procedures for the decisionmaker to evaluate the questions and limitations on questions: The decisionmaker will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decisionmaker will give a party an opportunity to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

Refusal to respond to questions and inferences based on refusal to respond to questions: The decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

Procedures for a Live Hearing

The University will conduct the live hearing with the parties physically present in the same geographic location or, at the University's discretion or upon the request of either party, will conduct the live hearing with the parties physically present in separate locations with technology enabling the decisionmaker and parties to simultaneously see and hear the party or witness while that person is speaking.

The University will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

Determination Whether Sex-Based Harassment Occurred:

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the University will:

1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. This means that the decisionmaker will evaluate relevant and not otherwise impermissible evidence available at the time of the decision to decide whether it is more likely than not that the Respondent is in violation of the alleged Policy violation(s). If the decisionmaker is not persuaded under the preponderance of the evidence standard that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
2. Notify the parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:
 - a. A description of the alleged sex-based harassment;
 - b. Information about the policies and procedures that the University used to evaluate the allegations;
 - c. The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
 - d. When the decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions the University will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the University to the complainant, and, to the extent appropriate, other students identified by the University to be experiencing the effects of the sex-based harassment; and
 - e. the University's procedures and permissible bases for the complainant and respondent to appeal.
3. The University will not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the respondent engaged in prohibited sex discrimination.
4. If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will:
 - a. Coordinate the provision and implementation of remedies to a complainant and other people the University identifies as having had equal access to the University's education program or activity limited or denied by sex discrimination;
 - b. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 - c. Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the University's education program or activity.
5. Comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
6. Not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.^{26 26}

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

Appeals of Determination

The University will offer an appeal from a dismissal or determination of whether sex-based harassment occurred. All requests for an appeal must be submitted in writing to the Title IX Coordinator within 3 (three) business days

of the delivery of the written findings of the University. Either party may appeal, but dismissals may only be appealed on the following bases:

7. Procedural irregularity that would change the outcome;
8. New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and
9. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the determination is appealed, the University will:

10. Notify the parties of any appeal;
11. Implement appeal procedures equally for the parties; A response from other parties must be received within 3 (three) business days after it has been shared by the University;
12. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or determination of the complaint;
13. Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
14. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
15. Notify the parties of the result of the appeal and the rationale for the result within 7 (seven) business days from all submissions by the parties.

Informal Resolution:

In lieu of resolving a complaint through the University's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. The University will inform the parties in writing of any informal resolution process it offers and determines is appropriate, if any. The University will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, the University will explain in writing to the parties:

16. The allegations;
17. The requirements of the informal resolution process;
18. That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
19. That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
20. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
21. What information the University will maintain and whether and how the University could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

When an informal resolution process is provided, the Title IX coordinator, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the University's education program or activity.

Supportive Measures

The University will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the University's education program or activity or provide support during the University's Title IX grievance procedures or during the informal resolution process.

For a full description of Supportive Measures, please see the section earlier in this policy.

Disciplinary Sanctions and Remedies:

Following a determination that sex-based harassment occurred, the University may impose disciplinary sanctions, and/or other remedies.

Student sanctions may include, but are not limited to:

22. Written Warning consists of formal notification that the student has violated the Student Code and advises that repetition will result in a more severe sanction. A written record of the warning is made.
23. Educational Sanction is usually imposed in conjunction with another sanction. Educational sanctions may include, but are not limited to, evaluation/counseling, change in residence hall, participation in an educational program, writing a research paper, a supervised work project, etc. The educational sanction must be completed within the manner and time stated as part of the sanction. Participation in certain programs may be withheld or restricted until educational sanctions are completed (e.g. participation in room selection).
24. Restitution is full payment for the cost of damage(s), as determined by the University, of materials and labor for repair or replacement of damaged, destroyed, or stolen University property.
25. Fines may be assessed by the University for certain actions such as (but not limited to) false activation of a fire alarm.
26. Conduct Probation is a serious reprimand for a violation of a specific University policy. The loss of specified privileges may also be involved. Conduct Probation is for a specified period of time, and more severe disciplinary sanction(s) will be imposed should the student further violate any University policy.
27. Ban from a space on campus separates a student from the space they are restricted from for a certain time period.
28. Residence Hall Suspension separates a student from the residence halls for a specified period of time, or until specified conditions are met. A student suspended from the residence halls may continue to attend classes and utilize the University's dining hall. However, the student shall not enter, nor be in the immediate vicinity of, any residence hall; this includes lawn areas, sidewalks, parking lots near the residence halls, etc.
29. Residence Hall Expulsion is a permanent separation of the student from the residence halls. A student expelled from the residence halls shall also lose all future visitation privileges and utilization of the University's dining hall; the rationale for this is that a student permanently separated from the residence halls and group activities shall also lose the privilege of gathering in the dining hall with other students. The student may not enter, nor be in the immediate vicinity of any residence halls.
30. Suspension from Non-Academic Activities is a separation of the student from all nonacademic activities and functions (e.g. visitation to the residence halls, student activities and programs, sport events, intramural/recreation programs, recreation facilities, athletics, etc.) for a specified period of time.
31. ☒ Expulsion from Non-Academic Activities is a permanent separation of the student from all nonacademic activities and functions (e.g. visitation to the residence halls, student activities and programs, sport events, intramural/recreation programs, recreation facilities, athletics, etc.).
32. University Suspension is a separation of the student from the University and all University premises, for a specified period of time and/or until certain predetermined conditions are met. Readmission after

University suspension is not automatic and must have the approval of the Assistant Dean of Student Affairs.

33. University Expulsion is the permanent separation of the student from the University, and all University premises. The expulsion will be noted on the student's academic transcript as follows "Expelled per Student Code of Conduct," and the effective date of the expulsion will be noted. This notation will be a permanent part of the student's academic transcript.

Individuals who receive University Suspension or University Expulsion will be banned from returning to any University premise or participating in any University events, programs, or activities. If an individual is found on or within any University property they will be subject to arrest for criminal trespass. If a suspended student does not apply for or is not granted readmission, the stipulations of the University Suspension will stay in place permanently (e.g., ban).