

Title IX and Sex Discrimination Policy

2023 - 2024

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I. Introduction and The University's Commitment

The University of the South stands firmly for the principle that its employees, students, and participants of university-sponsored programs and activities have a right to be free from discrimination based on race, color, sex, religion, national origin, age, disability, sexual orientation, gender identity, veteran status, pregnancy and childbirth, and genetic information. As required by Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008, Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, the University does not discriminate on the basis of sex or other protected categories in the education programs or activities which it operates. This requirement of non-discrimination extends to admission to and employment in those programs or activities.¹ The University is committed to sustaining a community in which the dignity of every individual is respected. Key to this value are efforts to nurture an environment of civility and mutual respect and to foster a culture of reporting concerns so that the University can respond promptly and equitably whenever an incident occurs. All employees, students, and participants of university-sponsored programs and activities have the right to be free from harassment and retaliation.

Related Commitments

The University is also committed to free expression. Speech not specifically directed against individuals in a harassing way may be protected by traditional safeguards of free speech, even though the comments may cause considerable discomfort or concern to others in the community.

Scope

WHAT conduct is covered by this Policy?²

Title IX prohibits discrimination and crimes of discrimination on the basis of sex in any federally funded program or activity. This Policy addresses review and response of complaints of sexual harassment, a form of prohibited sex discrimination, and other prohibited forms of sex discrimination involving individual students,

and sex discrimination involving university organizations, rather than individuals, is typically handled under the Student Organization Handbook or under the appropriate advisor, dean, director, or designee for that university organization. Sex discrimination is a broad term that encompasses several forms of prohibited conduct under Title IX. Sexual harassment, a form of sex discrimination, includes such conduct as non-consensual sexual contact, non-consensual sexual intercourse, dating violence, domestic violence and stalking. Other forms of sex discrimination may include claims of sex based decisions related to terms and conditions for participation in University programs (i.e. admissions, employment, athletics and other terms and conditions of participation in University programs). Some conduct that appears to be sex based may not be a Title IX violation, but may still be prohibited conduct that may be addressed as a violation under this or other University policies.

Conduct prohibited by this Policy also includes retaliation and complicity to commit sexual harassment or sex discrimination. Each of these terms is defined below. Discrimination concerns based on categories other than sex are addressed using the Non-Discrimination, Anti-Harassment, Retaliation Policy (i.e. race, religion, etc.). Reports of discrimination that do not fall under this Policy may be reported using one of the reporting forms found on the Provost's website.

The Title IX Policy takes precedence over other University policies and procedures concerning Sexual Harassment or Sex Discrimination under Title IX or other conduct that is prohibited by this Policy in the event of a conflict.

WHO is subject to this Policy?

The University is prohibited by Title IX from discriminating on the basis of sex against any participant in the

may report a claim or bring a complaint of sexual harassment or sex discrimination under this Policy. This Policy addresses matters of sexual harassment and sex discrimination involving students, faculty, staff and other participants (i.e. visitors, guests, an

Conference), faculty and staff (i.e. invited speakers, lecturers, guests, visitors, contracted workers, etc.) or non-affiliates working on the University campus or in University programs are covered under this Policy.

Consistent with the undergraduate student Code of Conduct and other related policies, the University reserves the right to address student behavior, whether graduate or undergraduate, occurring from the time of admission until the actual awarding of a degree or other separation from the institution. More specifically, each student is responsible for their conduct from the time of their admission to the University through the actual awarding of a degree, even though the conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of the Code of Conduct or other university policies occurring prior to the opening of residence halls for the admitted semester may be addressed through re-evaluation of the offer of admission. After the opening of residence halls for the admitted semester, a student's conduct will be addressed through the EQB Guide for Living in Community and other related policies as appropriate. For graduating students, violations of policy just prior to, during or after final exams will likely result in the inability to

II. Definitions of Title IX Sexual Harassment, Discrimination, and Other Prohibited Conduct

Sex Discrimination is a broad term that encompasses several forms of prohibited conduct. Sex discrimination includes

giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.

- (4) **Forcible Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, forcibly

giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.

- 2. **Sex Offenses, Non Forcible.** Unlawful, non forcible sexual intercourse.

- a) Including the following specific offenses:

- (1) **Incest.** Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

- (2) **Statutory Rape.** Non-Forcible sexual intercourse with a person who is under the statutory age of consent.

II. **Dating Violence** means violence committed by a person:

- 1. who is or has been in a social relationship of a romantic or o355.11 Tm0 g0 G[()] T

Dean/Director of Graduate Programs, Human Resources Leadership, University President, Provost, and the Sewanee Police Department. Actual knowledge (or notice) results whenever the Title IX Coordinator or any OWA come into knowledge of and/or

1. Witnesses sexual harassment, sex discrimination, or prohibited conduct under this Policy;
2. Hears about allegations of sexual harassment, sex discrimination, or prohibited conduct of a sexual nature which may fall under this Policy;
3. Receives a written or verbal complaint about sexual harassment, sex discrimination, or prohibited conduct of a sexual nature which may fall under this Policy; or
4. Any other means.

Other responsible employees are mandated to report under the [University Mandated Reporter Policy](#). Please see the [Clery Act Website](#) for information on federal reporting obligations for certain employees who are Campus Security Authorities (CSAs) under the Clery Act.

Appeal is not a new hearing, but a review of a decision by an Appeals Officer. The right to file an appeal applies when there is a dismissal of a formal complaint or any allegations therein or after a determination regarding responsibility.

Bystander means individuals who witness emergencies, criminal events or situations that could lead to criminal events and by their presence may have the opportunity to provide assistance, do nothing, or contribute to the negative behavior. Pro-social Bystanders are individuals whose behaviors intervene in ways that may impact the outcome positively. **Active Bystander intervention**⁵ means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

Calendar Day means a timespan of 24 hours, measured from one midnight to the next (12 am - 12 pm). Note that all aspects of this policy occur in central standard time unless otherwise specified. .

Coercion is unreasonable pressure for sexual activity. When someone is clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure bey

Complicity means conduct that knowingly aids, facilitates, promotes or encourages the commission of an incident of prohibited conduct by another person (as established in this Policy and by the EQB Guide).

Communication means that electronic mail (email) is the official university method for purposes of communication and notification under this Policy. This Policy will be made available to all Sewanee administrators, faculty, staff, and students on an annual basis via email

The nature and scope of the alleged Sexual Harassment including whether the Sexual Harassment was perpetrated with a weapon;
The ages and roles of the Complainant and the Respondent;
Whether Sewanee can pursue the investigation without the participation of the Complainant (e.g., whether there are other available means to obtain relevant evidence of the alleged Sexual Harassment such as security cameras or physical evidence);
Whether the report reveals a pattern of perpetration (e.g., perpetration involving illicit use of drugs or alcohol) at a given location or by a particular group.

Sexual Abuse includes persistent patterns of sexual assault perpetrated by one person upon another.

Sexual Exploitation is when an individual takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to: causing or attempting to

Coordinator or by reporting online to [ReportSexualMisconduct.sewanee.edu](https://sewanee.edu/report-sexual-misconduct). Mandatory Reporters include but are not limited to faculty, staff, student life staff (excluding the University Wellness Center staff), residential life student staff members, orientation leaders, FYP mentors, SOP/PRE Mentors, SOP Ambassadors, Sewanee Police Department personnel, coaching staff, supervisors of student employees, domestic and international program leaders, any visiting faculty involved in a summer program, Title IX and deputy Title IX Coordinators, the Vice-Chancellor, and the University Cabinet (please see the mandatory reporter policy for more information). A mandatory reporter who receives a report must report all known details that are received about the alleged misconduct, including the date, time, and location of the alleged misconduct, and the names of the person(s) who provided the report, the individual who experienced the alleged misconduct, the individual(s) accused of committing the alleged

Reporting Options

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by filing a report. Such a report may be made at any time (including during non-business hours).

The Title IX Coordinator at the University of the South is Dr. Sylvia Gray. Dr. Gray is charged with monitoring compliance with this Policy according to the Title IX law and regulations. Dr. Gray is also responsible for oversight of Title IX investigations. Questions regarding Title IX, as well as concerns and reports of non-compliance, may be directed to the Title IX Coordinator using the information below:

Reporting Online. [ReportSexualMisconduct.sewanee.edu](https://reportsexualmisconduct.sewanee.edu)

Dr. Sylvia Gray	EQB Annex, Office 104-A
University of the South	P: 931-598-1420
735 University Avenue	E: titleix@sewanee.edu
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2. **Identifiable Reports.** The University preliminarily will gather and review information on all identifiable reports of sex discrimination, including sexual harassment. Representatives from the Dean of Students office, Title IX Office, and/or the Sewanee Police Department will promptly reach out to the reporter (or the person reporting on behalf of the individual involved, if the reporter is not the individual directly affected by the conduct) to advise them as to their options. The appropriate University official(s) will obtain additional information about the reported incident, if available, and offer support, assistance and, where appropriate, interim or emergency measures to address any immediate concerns for the safety of involved persons and/or the University community.

Where a complainant or respondent requests an investigation of a violation of this Policy, the investigation will

Requests for Confidentiality

If the reporter or other involved party requests confidentiality e.g., requests that the information contained in the report be maintained confidentially, that no investigation be conducted, and/or that no disciplinary action be taken the individual with whom this information has been shared will consult with the Title IX Coordinator for further evaluation as to whether that request can be honored.

1. The University will attempt to honor a request of confidentiality if it can do so without compromising the safety of the reporter, complainant, respondent, third parties identified in the report, or the broader University community. In order to make this determination, the University will weigh the request for confidentiality against the entire University community.
2. When evaluating a request for confidentiality, the University will consider a range of factors to determine whether the alleged respondent will commit additional acts of sexual harassment or other misconduct. The presence of one or more of these factors could lead the University to determine that it must investigate the incident and, if appropriate, pursue disciplinary action against the alleged respondent. Factors include but are not limited to:
 - whether there have been other sexual harassment reports about the same alleged respondent;
 - whether the alleged respondent has a history of arrests or prior records indicating a history of engaging in sexual misconduct;
 - whether the alleged respondent threatened further sexual harassment or other misconduct against the complainant or others;
 - whether the sexual harassment was committed by multiple respondents;
 - whether the sexual harassment was perpetrated with a weapon;
 - whether the complainant is a minor (under the age of legal consent);
 - whether the University possesses other means to obtain relevant evidence of the alleged sexual harassment (e.g., security cameras or personnel, physical evidence);
 - whether the report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group; and/or
 - whether there is any other evidence suggesting predatory behavior by the alleged respondent(s).
3. If the University honors a request for confidentiality, the University's ability to meaningfully investigate the incident and pursue disciplinary action may be severely compromised. The University may nevertheless take steps to limit the effects of the alleged sexual harassment and prevent its recurrence without undermining the request for confidentiality by, for example,

increasing monitoring, supervision and/or security at locations or activities where the sexual harassment was alleged to have occurred; and/or providing training and education for students and employees. Additionally the University can offer support measures as appropriate.

4. If the University cannot honor a request for confidentiality, the University will share the reported information on
 - (2) those individuals with whom the University must share information in order to conduct an effective investigation and/or implement an effective response so as to address any threat to the safety of the University community. In any case, the University will inform the requesting party in advance how the University intends to proceed, with whom the reported information will be shared, and whether and to what extent

Amnesty Policy for Reporting Incidents of Sexual Harassment to the University

Alcohol and other drug violations disclosed in a report of sexual harassment.

Receive information about your options and about the Title IX/Sex Discrimination process.
Have opportunities to ask questions pertaining to the Title IX/Sex Discrimination investigation and resolution process at any time.
Be informed of and have access to campus services, including confidential resources and support measures.
To know, and where applicable, challenge for good cause who will serve in any role of the investigative and resolution processes.
Have one advisor of your choice present during all investigative meetings and the hearing process under this Policy.
Choose not to actively participate in the investigation process or withdraw from participation in an investigation at any time with the understanding that the investigation and resolution process may or may not move forward to completion without your participation.
Have ten calendar days (10) to review and respond to investigative reports and appeal documents.
Have ten calendar days (10) prior to the start of a hearing to review the final investigative report and

VII. Grievance Process and Resolving Title IX Formal Complaints¹¹

The sections that follow outline the process for resolving a formal complaint of sexual harassment and sex discrimination under this Policy. The steps begin by describing who may file a report along with what occurs following the submission of a report and end with the Hearing Process and Procedures. Throughout these processes, any University official with responsibility under this Policy may delegate their responsibility to another University official. This act of delegation is done to avoid an actual or apparent conflict of interest, to ensure a fundamentally fair process, or to ensure that the process is completed in a timely manner. Any investigation may be delegated to an external investigator by the Title IX Coordinator in consultation with other appropriate University leadership when necessary to ensure an impartial and/or timely investigation. Submission of a formal written complaint may result in a resolution process which typically includes the following:

Submission of a report

- Who May File a Sexual Harassment Report

- Notice of options, resources, and individual or mutual support measures (where applicable)

- Multiple Reports Filed

- Multiple Respondents

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therein. When the Title IX Coordinator dismisses a complaint, the complainant or respondent may appeal the dismissal of the formal complaint (see next section on Appeal Process for Dismissal of a Formal Complaint). At the conclusion of an appeal time frame regardless of if an appeal is filed, the Title IX Coordinator will forward the formal complaint to the Dean of Students Office for students or the appropriate office for employee respondents¹²

Code of Conduct, the appropriate employee Handbook, or other impacted policies or processes at the University.

When, according to the reasons under this Policy, a formal complaint is withdrawn in writing by the complainant or dismissed during an investigation or hearing process, the Title IX Coordinator will provide written notice to the complainant and respondent. A withdrawal will result in dismissal of the formal complaint which will stop the investigative or hearing process unless the complainant requests to move to an informal resolution process. Once the process is stopped due to the withdrawal of a formal complaint, the complaint is deemed closed which means that no further action shall be taken. If an informal resolution process is requested, the Title IX Coordinator will follow the process for informal resolution. If an informal resolution process is not requested, the formal complaint will be dismissed and the matter is deemed closed and precludes the parties from resuming a formal complaint arising from the same allegations. The complainant and respondent will receive notices to that effect and there will not be an opportunity for appeal or further review when a formal complaint is withdrawn by the complainant.

Appeal Process for Dismissal of a Formal Complaint and Emergency Removal. In the event of an emergency removal (see below) or dismissal of a formal complaint, either party may appeal. See the section on Appeals at the end of this policy for those procedures.

Emergency Removal and Administrative Leave. The University may initiate removal of a respondent from the education program or activity on an emergency basis. Where the respondent is a student, this process is an Emergency Removal. Where the respondent is a faculty or staff member, this process is an emergency administrative leave. In doing so, the University

provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Initiation of the Investigative Process

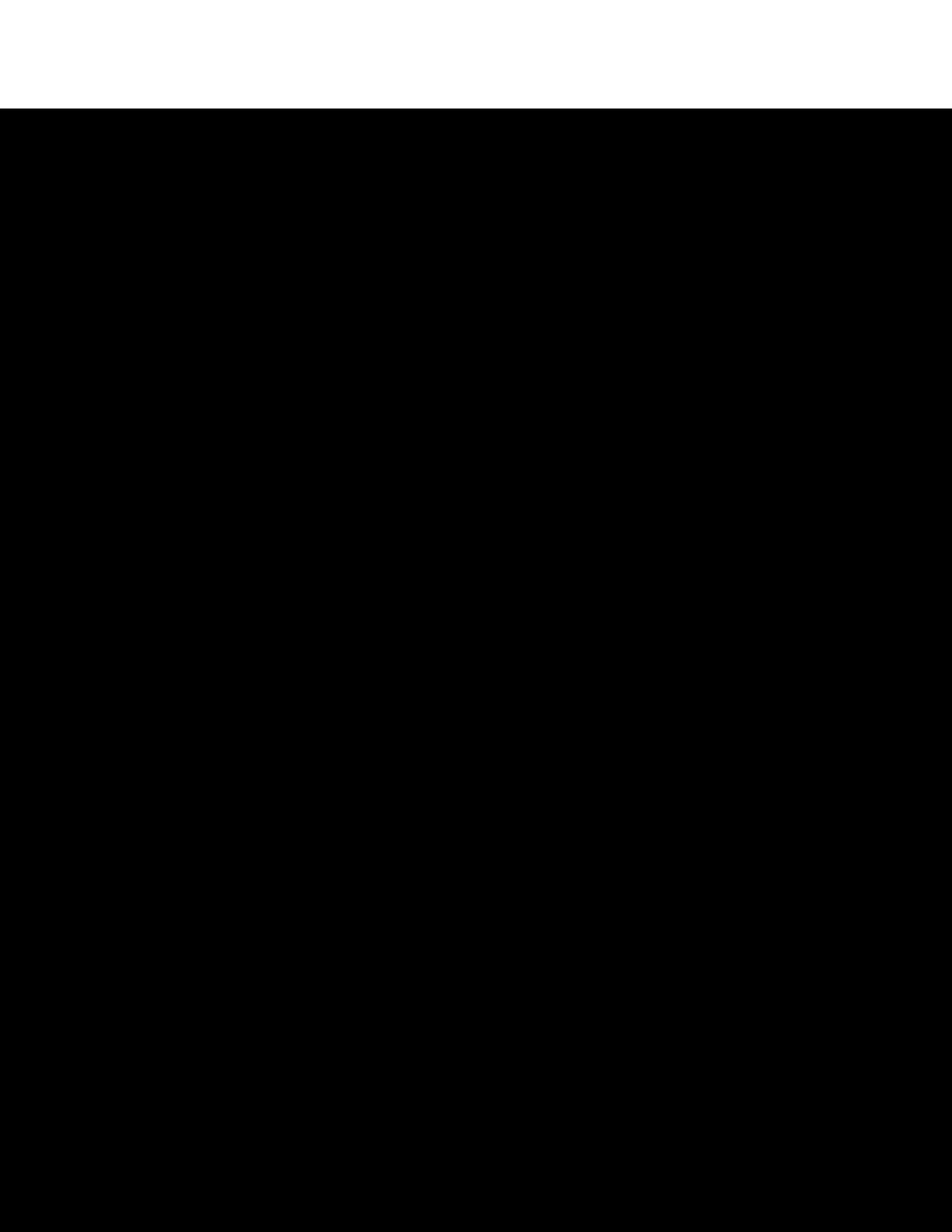
Confidentiality within Investigations. Throughout the process of investigation and resolution of a report of the University. At different times in the process, however, it may be important to discuss the alleged incident with witnesses and/or others who have information that is pertinent to the case, or on a need-to-know basis. While the University recognizes that involved parties need to seek support and talk to potential witnesses about the incident in order to gather evidence, it is also important to use discretion in discussing the incident or the identities of others involved in the process. In a small community, public discussion of incidents can be very hurtful and deter others from reporting. Additionally, sharing information about the conduct of involved parties with others who are not necessary to the investigation or resolution may form the basis for a finding of retaliation. Complainants and Respondents have the right to discuss their experiences with others while seeking support. However, all parties throughout the investigative process and after the resolution of a grievance process that was subject to this Policy.

Timeframe for resolving a Grievance. The University will promptly respond to any complaint under this Policy with the intent to complete the grievance process within three months of the filing of a formal complaint; however, temporary delays may extend the resolution of the process. The Title IX Coordinator may determine the need for an extension or delay or the parties may request extensions or delays, in writing, to the Title IX Coordinator, stating with specificity the reason for the request. The Title IX Coordinator and/or their designee, at their discretion, may grant limited extension of timeframes for good cause by providing written notice to the complainant and respondent of the delay or extension and the reason for the action. Good cause may include, but is not limited to, such considerations as the unavailability of a party, advisor or witness, certain concurrent law enforcement investigations, or the need for language assistance or accommodation for disabilities¹⁴, or other reasonable good causes determined by the Title IX Coordinator and/or their designee.

Notice of Allegation and Investigation. Once a formal complaint is filed the complainant and respondent will be notified of the allegations and that an investigation will commence. The University does not compel any party to participate in an investigation or hearing process. However, the University may continue with an investigation or hearing even where a party decides not to participate or where a complaint has not been dismissed. Once TETQ5000912 0

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Hearing Panel Process and Procedures

The Day Prior to the Hearing

Pre-Hearing Intake: The pre-hearing intake is only for the complainant, respondent and their respective advisors. During the pre-hearing intake, parties and their Advisors may meet with the Title IX Coordinator and support staff separately to review the expectations of the hearing process. The pre-hearing intake is also an opportunity to review written questions previously submitted and/or to submit, in writing, any questions involved parties wish to ask during the live hearing so that the decision-maker chair can be prepared to respond to the relevancy of said questions during the live hearing. This intake does not preclude the advisor from asking additional questions live during the hearing.

Pre-Hearing Submission of Questions: The decision maker chair may request that the parties submit questions, in writing, prior to the hearing. This submission does not preclude the advisor from asking additional quission -4(ona)9(Tm7)-4(h)11(at)-5()] TETQq0.001

The decision maker chair makes the final decision about responsibility and sanctions, if applicable, and notifies the Title IX Coordinator of the outcome and rationale of the Hearing Panel. The Title IX Coordinator will notify both parties of the decision and sanctions, including the rationale for the outcome and any associated sanctions. Where credibility of the parties is an issue in determining preponderance of the evidence, the rationale will include an explanation of how the panel resolved questions of credibility.

Outcomes: Proceedings and decisions will not be disclosed to those outside of the hearing except on a need to know basis or where a release of information waiver has been signed by a student or written consent is provided by an employee. The complainant has a right to be informed in writing of the outcome, any sanctions that directly relate to them, and any essential findings supporting the outcome. Outcome letters to involved parties will include, but are not limited to:

Identification of the allegations potentially constituting sexual harassment under Title IX (see definition of sexual harassment) or any other form of sex discrimination;

A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, methods used to gather other evidence, and hearings held;

Findings of fact supporting the determination;

A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the respondent,

program or activity will be provided by the University to the complainant; and

VIII. Sanctions for Title IX Sexual Harassment Including Sex Discrimination

The range of sanctions under this Policy includes but is not limited to educational sanctions, probation, suspension, expulsion, termination, or a combination of sanctions proportionate to the violation. Determinations of responsibility will be maintained in the student conduct record for students and with the personnel record for employees. All records submitted to the Title IX Office, including but not limited to formal complaints, grievance processes, sex discrimination, sexual misconduct, or other prohibited behavior of a sexual nature are maintained with the Title IX office for a minimum period of seven years. The documentation of all records are private and confidential to the extent possible under law. Student records of the grievance process are disciplinary records under the Family Education Rights and Privacy Act (FERPA)¹⁸. Employee records of the grievance process will be the applicable Program, School, or College.

¹⁸ Under the NCAA Board of Governors Policy on Campus Sexual Violence [Policy Here], student athletes must complete an annual disclosure related to their conduct that resulted in discipline through a Title IX proceeding or in a criminal conviction for sexual, interpersonal or other acts of violence.

appoint a board to assist in the review of the appeal. The appellate officer or chair of the appeal board shall notify the parties, in writing, of the final action on the appeal within five (5) calendar days of receipt of the appeal materials. Where there is a need to extend the 5-day review period of the appeal, the parties will be notified in writing. A five day (5) appeal period will occur regardless of if there is a submission of an appeal from the involved party.

Appeal from a Determination Regarding Responsibility

An appeal will be decided by an appellate board of trained faculty and staff. Either party may appeal a decision and/or sanction. Appeals in cases regarding a finding of responsibility of the Title IX Policy are limited to one or more of the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator(s), or decision maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

If an individual wishes to appeal a decision, such an appeal must be submitted in writing to the Title IX Coordinator or designee within five (5) calendar days of the date of the outcome letter. A five day (5) appeal period will occur regardless of if there is a submission of an appeal from either involved party. If there is an appeal, it will be shared with the other party. The other party will have five (5) calendar days to submit their response in writing to the Title IX Coordinator. The Title IX Coordinator or designee will collect all appeal documents and forward the appeal, any response from the other party, and the hearing record to the chair of the appellate board¹⁹. The Title IX Coordinator will notify the involved parties in writing as to the name

Non-Discrimination, Anti-