

UWest Sexual Misconduct/Title IX Policy¹ (excerpted from the *Student Conduct Handbook*)

1. University Commitment

UWest does not tolerate sexual misconduct and is committed to educating the community in ways to prevent its occurrence. Sexual misconduct constituting sexual violence is a form of sex discrimination and is prohibited by Title IX of the Education Code and other federal and state laws.

All forms of sexual violence are considered to be serious offenses. This policy includes sexual assault, non-consensual sexual contact, sexual exploitation, sexual harassment, stalking, relationship abuse, dating violence, domestic violence, and intimidation.

Sexual violence can be committed by individuals of any gender, regardless of an individual's sexual orientation, gender identity, or gender expression, and can occur between individuals of the same gender or different genders, strangers or acquaintances, as well as people involved in intimate or sexual relationships.

Individuals alleged to have committed rape, sexual assault, and/or relationship violence may face criminal prosecution by law enforcement and may incur penalties as a result of civil litigation. In addition, students and employees may face disciplinary action at the university.

In addition to any criminal prosecution, students charged with sexual discrimination, harassment, or violence will be subject to the university conduct process and will be subject to appropriate university sanctions. In addition, during any investigation, UWest may implement interim measures to maintain a safe and non-discriminatory educational environment. Such measures may include immediate interim suspension from the university, required move from residence halls or other university-owned housing, adjustment to course schedule, or prohibition from contact with parties involved in the alleged incident (No Contact Order). In all such proceedings, the university is committed to maintaining confidentiality, providing a trauma-informed response, and pursuing a fundamentally fair process for all parties involved.

2. Scope

This policy applies to all students, faculty, supervisory and nonsupervisory staff, volunteers, interns, vendors, independent contractors, persons performing services under contract with the university, visitors, and any other individuals regularly or temporarily employed, studying, living, visiting, or otherwise participating in UWest's educational programs and activities.

This policy applies to conduct occurring on UWest property, at university-sponsored events, in university programs, and off-campus where the conduct has continuing adverse effects on any member of the UWest community in any UWest employment or education program or activity.

Members of the UWest community are encouraged to immediately report sexual violence to the university as well as to local law enforcement, regardless of where the incident occurred, or who committed it (a stranger or non-stranger). Reports to UWest and law enforcement may be pursued

¹ UWest has modeled this policy on similar policies published by the California Institute of Technology and by Boston University. Version 2016.

simultaneously. An individual who has experienced sexual violence is encouraged to immediately seek assistance from a medical provider.

Even if UWest does not have jurisdiction over the person accused of sexual violence, the university will still take prompt action to provide for the safety and well-being of the individual reporting and the campus community. UWest will take prompt action to determine what occurred and take reasonable steps to remedy the effects of the sexual violence and prevent recurrence of the behavior.

3. Definitions

- 3.1. **Sexual assault** is defined as engaging or attempting to engage in sexual intercourse or other sexual behaviors with another person by force or threat of force, without consent, or where the person is incapacitated. Sexual intercourse includes vaginal or anal intercourse, digital penetration, oral copulation, or penetration with a foreign object. Sexual assault can range from sexual groping or assault/battery to rape. Sexual assault may or may not involve force and include such things as grabbing or fondling. Sexual assault also includes verbal threats.
- 3.2. **Non-consensual sexual contact** is intentional contact with the intimate body parts of another (whether directly or through clothing), or disrobing or exposure of another without permission, by force or threat of force, without consent, or where the person is incapacitated. Intimate body part means sexual organ, anus, groin, breast or buttocks.
- 3.3. **Sexual exploitation** occurs when an individual takes non-consensual or abusive sexual advantage of another for their own or another's benefit or advantage. Examples of sexual exploitation include, but are not limited to, prostituting another student; non-consensual video or audio-taping of sexual activity or distribution of such; going beyond the boundaries of consent (such as letting your friends surreptitiously watch you having consensual sex); engaging in sexual activity in the presence of a third party; engaging in voyeurism; exhibitionism; and knowingly transmitting an STI/STD or HIV to another student.
- 3.4. **Sexual Harassment** refers to events or actions (verbal, visual, or physical in nature) that are continued and unwelcome (neither solicited nor incited and it is regarded by the recipient as undesirable or offensive) conduct of a sexual nature that would be offensive to a reasonable person; which could interfere with an individual's academic pursuits or create or substantially contribute to an intimidating or hostile work, academic, or student living environment.
- 3.5. **Stalking** is a course of conduct directed at an individual that would cause a reasonable person to fear for his or safety or the safety of others, or suffer substantial emotional distress.
- 3.6. **Relationship abuse** refers to a pattern of abusive and coercive behaviors used to maintain power and control over a former or current intimate partner. Abuse can be emotional, financial, sexual, or physical and can include threats, isolation, and intimidation. While not all types of relationship abuse are sexual in nature, the university investigates all reports of such abuse as potential offenses of UWest values and conduct standards.

- 3.7. **Dating violence** is any act of violence, or threatened act of violence, against a person who is (or has been) in a romantic or intimate relationship with the person accused of sexual violence.
- 3.8. **Domestic violence** is violence committed by a current or former spouse, by a person with whom the victim shares a child, who is or has cohabitated with the victim, or by person similarly situated to a spouse, and by any other person against someone who is protected from that person's acts under domestic or family violence laws.
- 3.9. **Intimidation** is the use of implied threats to overcome an individual's freedom of will to choose whether or not to participate in sexual activity or provide consent. Consent obtained by intimidation is not valid.

3.10. **Consent**

- 3.10.1. Consent is a crucial component of the sexual misconduct policy. Consent is the affirmative, conscious, voluntary, informed, and uncoerced agreement through words and/or actions, which a reasonable person would interpret as a willingness to participate in mutually agreed-upon sexual activity. Sexual activity should occur only when all participants willingly and affirmatively choose to engage in particular acts. It is the responsibility of the initiator of the sexual activity, at each stage, to obtain effective consent. The use of intimidation, coercion, threats, force, or violence negates any consent obtained. Indications that consent is not present include, but are not limited to:
- 3.10.1.1. A verbal "no" (no matter how indecisive) or resistance (no matter how passive);
 - 3.10.1.2. When physical force is used, or when there is a reasonable belief of the threat of physical force;
 - 3.10.1.3. When any kind of coercion is present.
- 3.10.2. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relationship between them, should never by itself be assumed to be an indicator of consent. Consent cannot be inferred from silence, passivity or lack of active resistance. Consent cannot be inferred from consent to a prior or different activity. If consent is revoked, the other party must immediately stop whatever sexual activity is occurring.
- 3.10.3. A person will not be considered to have given consent if the individual is incapable of making an intentional decision to participate in a sexual activity, including being unconscious or asleep; incapacitated by drugs, alcohol, or medication so that the complainant could not understand the fact, nature or extent of the sexual activity; or if they are unable to communicate due to a mental or physical condition. A person is considered to be incapacitated when that person lacks the ability to make informed, rational judgments and decisions to engage in sexual activity. Where alcohol or drugs are involved, incapacitation is defined with respect to how the alcohol or other drugs

consumed affects a person's decision-making capacity, awareness of consequences, and ability to make fully informed judgments.

- 3.10.4. Being intoxicated or otherwise impaired does not diminish one's responsibility to obtain consent. The question is whether or not the person who initiated the sexual activity knew, or whether a sober and reasonable person in the same position should have known, whether the other person gave effective consent.

4. Prohibition Against Retaliation

No member of the UWest community will be retaliated against for making a good-faith report of sexual violence or for participating in an investigation, proceeding, or hearing conducted by UWest, or by a state or federal agency. Overt or covert acts of retaliation, reprisal, interference, discrimination, intimidation, or harassment against an individual or group for exercising their rights under Title IX or other federal and state laws is unlawful.

UWest will take steps to prevent retaliation and will take prompt and appropriate corrective action if retaliation occurs. Individuals who violate this policy may be subject to disciplinary action up to and including expulsion, termination of employment, or permanent separation from UWest.

5. Title IX Coordinator & Deputy Coordinator

- 5.1. The Title IX Coordinator is responsible for coordinating UWest's compliance with Title IX and for the university's overall response to conduct falling under Title IX. The Title IX Coordinator oversees all Title IX complaints, monitors outcomes, identifies and addresses any patterns of systemic problems that arise, and assesses effects on the campus climate. The Title IX Coordinator also oversees the implementation and application of UWest's Title IX related policies within the scope of Title IX and coordinates the university's response to all complaints of sexual violence under Title IX to ensure consistent treatment of parties involved, and prompt and equitable resolution of complaints. Students who have complaints, questions, or concerns regarding sexual discrimination, harassment or violence should contact UWest's Campus Title IX Coordinator.
- 5.2. The Deputy Title IX Coordinator supports the Title IX Coordinator, is able to answer questions regarding Title IX, and serves as the Title IX Investigator.

6. Rights of the Complainant & Respondent in a Sexual Misconduct/Title IX Complaint

University of the West's procedures for the investigation, adjudication, and resolution of sexual misconduct complaints brought against students are designed to be accessible, prompt, equitable, and impartial. Throughout this process, both the complainant and respondent have the following rights:

- 6.1. To be treated with respect, dignity, and sensitivity;
- 6.2. To receive from the university appropriate support, including referral to on- and off-campus resources;
- 6.3. Privacy to the extent possible, consistent with applicable law and university policy;

- 6.4. Information about the university's Sexual Misconduct/Title IX Policy;
- 6.5. The presence of a Support Person throughout the process;
- 6.6. To participate or to decline to participate in the investigation or complaint resolution process. However, a decision not to participate in the process either in whole or in part will not prevent the university from proceeding with the information available.
- 6.7. A fundamentally fair, prompt, and thorough investigation of the allegations;
- 6.8. Adequate time to review documents in the Conduct Office at arranged times during the investigation;
- 6.9. To appeal the decision made or any sanctions imposed by the Title IX Investigator or Hearing Review Panel;
- 6.10. To refrain from making self-incriminating statements;
- 6.11. To appeal the decision made by the Hearing Review Panel to the Dean of Student Affairs;
- 6.12. Notification, in writing, of the case resolution, including the outcome of any appeals;
- 6.13. For the complainant, to report the incident to law enforcement at any time.

7. **Sexual Misconduct/Title IX Procedure: Preliminary Matters**

- 7.1. **Timing of complaints** - If the respondent is a current UWest student (undergraduate or graduate, full-time or part-time), there is no time limit for filing a complaint to initiate these procedures. However, students are strongly encouraged to report sexual misconduct in a timely manner to maximize the university's ability to gather evidence, and conduct a thorough, impartial, and reliable investigation. If the respondent is a second semester senior (or in the final semester of a graduate program), the university may withhold that student's UWest degree pending conclusion of the complaint resolution procedures.
- 7.2. **Effect of criminal proceedings** - The filing and processing of a complaint of sexual misconduct is separate from and independent of any criminal investigation or proceeding. Neither law enforcement's determination as to whether or not to prosecute a respondent nor the outcome of any criminal prosecution is determinative of whether sexual misconduct occurred under the university's Sexual Misconduct/Title IX Policy.
- 7.3. **Effect of a pending complaint on the respondent** - If the respondent is a current UWest student, no notation will be placed on the respondent's transcript of a complaint or pending disciplinary action prior to the conclusion of the complaint resolution process. If the respondent withdraws from UWest while a sexual misconduct complaint is pending, the respondent's transcript will reflect a withdrawal and a notation of pending disciplinary action subject to modification to reflect the outcome of the disciplinary action.
- 7.4. **Amnesty** - A student who files a sexual misconduct complaint, or who serves as a third party witness during the complaint resolution process, will not be subject to disciplinary action by the university for his or her own personal consumption of alcohol or other drugs at or near the time

of the alleged sexual misconduct, provided that such violations did not and do not place the health or safety of any other person at risk. However, the use of alcohol or drugs does not excuse sexual misconduct and a person who has been incapacitated through the use of alcohol and drugs (or by any other means) cannot give effective consent to sexual activity. The university may initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

- 7.5. **Support person** - The complainant and respondent may each choose and be accompanied to any meeting or hearing related to these procedures by a Support Person, who may provide support during such meeting or hearing. During meetings and interviews, the Support Person may quietly confer or pass notes with the party in a non-disruptive manner. The Support Person may not intervene in a meeting or interview, or address the Investigator. Consistent with the university's obligation to promptly resolve sexual misconduct complaints, the university reserves the right to proceed with any meeting or interview, regardless of the availability of the party's selected Support Person.
- 7.6. **Declining to participate** - A complainant and/or respondent may decline to participate in the investigative or complaint resolution process. The university may continue the process without the complainant's and/or respondent's participation. In most cases, a refusal to participate in the investigative process will preclude a complainant or respondent from appealing any determination. The Dean of Student Affairs/Title IX Coordinator will make this determination.
- 7.7. **Time frame for complaint resolution** - The university will seek to resolve every report of sexual misconduct within sixty (60) calendar days of the start of an investigation, not counting any appeals. Time frames may vary depending on the complexity of a case, the availability of witnesses, and at certain times of the academic year (for example, during breaks, study periods or final exams). The university may extend any time frame for good cause, with a written explanation to the complainant and respondent.
- 7.8. **Prohibition on retaliation** - It is illegal and a violation of the university's Sexual Misconduct/Title IX Policy to retaliate against a person for filing a complaint of sexual misconduct or for cooperating in a sexual misconduct investigation. Any person who retaliates against a person for reporting sexual misconduct, filing a sexual misconduct complaint, or participating in a sexual misconduct investigation is subject to disciplinary action up to and including expulsion from the university.
- 7.9. **Notice** - The Title IX coordinators will give the complainant and respondent, respectively, a written explanation of their rights and options, and any available accommodations, as soon as possible after a complaint is reported. The Title IX coordinators will also ensure that both the complainant and respondent are updated throughout the investigative process, including with timely notice of meetings where either the complainant's or the respondent's presence may be required.

8. Sexual Misconduct/Title IX Procedure: Complaints

8.1. **Procedure** - The procedure for sexual misconduct complaints is similar to the general Student Conduct Code Procedure, with the following specifications:

8.1.1. The complaint resolution process is overseen by the Dean of Student Affairs/Title IX Coordinator.

8.1.2. The Title IX Coordinator refers sexual misconduct complaints to the Title IX Investigator.

8.1.3. The Title IX Investigator serves as the Conduct/Hearing Officer.

8.1.4. The findings and recommendations of the Title IX Investigator are in all cases referred to a Hearing Review Panel for final approval.

8.2. **Initiating a Complaint**

8.2.1. **Individual** - Any person believing to have experienced sexual misconduct as defined in this policy may file a complaint against the UWest student responsible for that conduct (the person filing a complaint is referred to as a “complainant”). A person having information that sexual misconduct may have been committed by a UWest student or a participant in a university program may also file a complaint (the person with such information is referred to as a “reporter”). A complainant or reporter may include any member of the UWest community, including students, faculty, administrators, and staff members, visitors, applicants for employment or admission, participants in a UWest program or activity, or a non-affiliate with knowledge of an incident of sexual misconduct.

8.2.2. **Administrative** - In extraordinary cases, such as situations that threaten the safety of members of the UWest community, the university may initiate a complaint through the Dean of Student Affairs against a UWest student.

8.3. **Filing a Complaint**

8.3.1. A complainant or reporter may submit a written complaint to the one of the university’s Title IX coordinators. The complaint should contain sufficient information to permit the respondent to understand and respond adequately to the charges being brought; however, the complaint may not reflect every detail related to the allegations, as additional information may be discovered during the investigation.

8.3.2. A complainant or reporter may also call or meet with one of the Title IX coordinators to initiate a complaint. Notes are taken during all meetings and may be used in full or in part as the complaint statement, with the review and written agreement of the complainant or reporter.

8.4. **Information for Complainants**

8.4.1. After receiving a report of sexual misconduct, the Title IX Investigator will notify the complainant of the option to have a Support Person accompany them to any meeting or interview related to the complaint resolution process.

8.4.2. The Investigator will also:

- 8.4.2.1. Provide the complainant with information regarding the Rights of the Complainant and Respondent;
- 8.4.2.2. Explain the prohibition against retaliation;
- 8.4.2.3. Explain the process for investigating and resolving a sexual misconduct complaint (including the available appeal procedures);
- 8.4.2.4. Instruct the complainant not to destroy any potentially relevant documentation in any format;
- 8.4.2.5. Explain the availability of interim measures;
- 8.4.2.6. Provide the complainant with a list of on-campus and off-campus support resources.

8.5. Reporting Employees (Non-Confidential Resource)

The university recognizes that student complainants may be most comfortable disclosing sexual misconduct to a university employee they know well, such as a faculty member, work study supervisor, or resident adviser (“RA”). Students are welcome to speak with them, but should understand that these individuals are considered “responsible employees” of the university, and if they receive a report of sexual misconduct are required to inform the Title IX Coordinator about the incident. The university defines a “responsible employee” to include supervisors and officials with significant responsibility for student and campus activities including, but not limited to, academics, student residences, discipline, and campus safety. Employees whose positions legally require confidentiality (e.g., counseling staff and clergy/chaplains) are not “responsible employees.” Before a student discloses an incident of sexual misconduct, university faculty and staff will try to ensure that the student understands the employee’s reporting obligations. If the student wishes to maintain confidentiality, they will direct the student to confidential resources.

8.6. Reports to a Non-Confidential Resource: Requests for Confidentiality

- 8.6.1. In cases where the complainant has disclosed an incident of sexual misconduct to a “responsible employee” (who must report the incident to the Title IX Coordinator) and also requested that their identity not be disclosed or that no action be taken, the Title IX Coordinator, in consultation with a small number of key university administrators, will weigh the request for confidentiality against the university’s obligation to provide a safe, non-discriminatory environment for all students, including the complainant.
- 8.6.2. When weighing a request that no investigation be pursued or the complainant’s identity not be disclosed, the Title IX Coordinator and the appropriate university administrators will consider a range of factors, including whether:
 - 8.6.2.1. The respondent is likely to commit additional acts of sexual or other violence, such as:

- 8.6.2.1.1. There have been other sexual misconduct complaints about the same respondent;
- 8.6.2.1.2. The respondent has a history of arrests or records from a prior school indicating a history of violence;
- 8.6.2.1.3. The respondent threatened further sexual misconduct or other violence against the complainant or others;
- 8.6.2.2. The sexual misconduct was committed by multiple respondents;
- 8.6.2.3. The sexual misconduct was perpetrated with a weapon;
- 8.6.2.4. The complainant is a minor;
- 8.6.2.5. The respondent is a UWest employee;
- 8.6.2.6. The university possesses other means to investigate the sexual misconduct (e.g., security cameras or personnel, physical evidence).
- 8.6.2.7. The complainant has made the respondent aware of their intent to report the alleged misconduct.
- 8.6.2.8. The presence of one or more of these factors could lead the university to investigate and, if appropriate, pursue conduct action against the respondent. If none of these factors are present, the university will likely respect the complainant's request.

8.6.3. If the university honors a request for confidentiality or decision not to participate in an investigation, the university's ability to meaningfully investigate the incident or pursue conduct action against the respondent(s) may be limited.

8.6.4. In some cases the university may not be able to honor a confidentiality request in order to adhere to its obligation to provide a safe, non-discriminatory environment for the UWest community. If the Title IX Coordinator determines that the university cannot maintain a complainant's confidentiality, the Title IX Coordinator will inform the complainant prior to starting an investigation and will only share information with those university officials responsible for handling the university's response.

8.7. Confidential Resources

UWest employees whose positions legally require confidentiality are counseling staff in the Wellness Center (mental health therapists & mental health therapist interns) and campus chaplains.

8.8. Interim Measures

8.8.1. Upon the receipt of a sexual misconduct complaint, the Dean of Student Affairs/Title IX Coordinator will review the allegations and determine the necessity and scope of any interim measures to prevent further acts of harassment, misconduct, or retaliation and to

provide a safe educational and work environment. The range of interim measures may include, but not be limited to:

- 8.8.1.1. Issuing an administrative No Contact Order;
- 8.8.1.2. Moving the complainant's or respondent's residence;
- 8.8.1.3. Adjusting the complainant's or respondent's work schedule, assignment, or location for university employment;
- 8.8.1.4. Changing the complainant's academic schedule, allowing the complainant to take an incomplete in one or more courses, allowing the complainant to drop (or retake) a course without penalty, or attend class via web conference;
- 8.8.1.5. Allowing the complainant to withdraw from or retake a class without penalty, or extending deadlines for examinations or other assignments;
- 8.8.1.6. Reassigning the respondent to another section or, when no other section is available, independent study if the complainant and respondent are enrolled in the same class or lab. Independent study is at the discretion of the Dean of Student Affairs in consultation with the Chief Academic Officer and department chair, and may include such measures as providing class recordings or tutoring sessions in the Student Success Center;
- 8.8.1.7. Providing access to tutoring or other academic support;
- 8.8.1.8. Interim suspension of the respondent.

8.8.2. An individual's failure to comply with restrictions imposed by interim measures is a violation of university policy and a basis for disciplinary action up to and including expulsion from the university.

8.9. **Withdrawal of a Complaint**

Prior to the conclusion of a sexual misconduct investigation, the complainant may withdraw their complaint by giving written notice. Withdrawal of the complaint will ordinarily end the complaint investigation and resolution process. However, the university reserves the right to proceed with the complaint, even after the complainant withdraws it, in order to protect the interests and safety of the UWest community. Further, while the university may discontinue the investigation and resolution process, it may initiate a relevant educational discussion or pursue other educational remedies with one or more involved parties.

8.9.1. **False statements** – While the university will respect a complainant's right to withdraw a complaint, complainants and reporters found to have made false statements to the Title IX investigator may be held responsible under the Student Code of Conduct regulations on dishonesty.

8.10. **Responding to a Complaint**

8.10.1. **Notification of respondent** - The person alleged to have committed sexual misconduct is called the “respondent.” Unless the complainant requests and is granted confidentiality, the respondent will be notified in writing that a complaint alleging sexual misconduct has been filed against them. The respondent will be advised that they may have a Support Person accompany them to any meeting or interview related to the investigation and complaint resolution process.

8.10.2. **Information for respondent** - Within five (5) business days of receiving notice of the complaint, the respondent must arrange to meet with the Title IX Investigator. At that meeting, the Investigator will:

8.10.2.1. Provide the respondent with information regarding the Rights of the Complainant and Respondent;

8.10.2.2. Allow the respondent to review the written complaint.

8.10.2.3. Explain the prohibition against retaliation;

8.10.2.4. Discuss the nature of the complaint;

8.10.2.5. Explain the rights and responsibilities of the complainant and respondent;

8.10.2.6. Explain the process for investigating and resolving the complaint (including the available appeal procedures);

8.10.2.7. Instruct the respondent not to destroy any potentially relevant documentation in any format;

8.10.2.8. Provide the respondent with a list of on-campus and off-campus support resources.

8.10.3. **Failure to respond** - If the respondent fails to meet or cooperate with the Investigator, the investigation and resolution of the complaint will proceed without input from the respondent. If interim measures have been imposed, the Investigator will explain the scope of those measures and the respondent’s duty to comply with the interim measures.

8.10.4. **Acceptance of responsibility**

8.10.4.1. After reviewing the complaint and meeting with the Investigator, the respondent may choose to end the complaint resolution process by accepting responsibility for the conduct alleged in the complaint. If the respondent accepts responsibility for the conduct alleged in the complaint, the Title IX Investigator will recommend an appropriate sanction for the respondent to the Dean of Student Affairs/Title IX Coordinator, who will make the final determination. If the respondent disputes the allegations of the complaint, the matter will proceed to an investigation.

8.10.4.2. At any point in the process, the respondent may accept responsibility for the conduct alleged in the complaint. In such cases, the Title IX Investigator in consultation with the Dean of Student Affairs/Title IX Coordinator may impose sanctions for violations of the Sexual Misconduct/Title IX Policy.

8.11. **Complaint Resolution**

8.11.1. Voluntary Resolution

8.11.1.1. A complainant and a respondent may choose to resolve a complaint through voluntary resolution. Voluntary resolution may include conflict mediation or a restorative conference with a university community member. However, voluntary resolution may only be used:

8.11.1.1.1. Prior to a decision by the Title IX Investigator being issued;

8.11.1.1.2. When the Dean of Student Affairs/Title IX Coordinator determines this is a suitable option for resolving the complaint, and both the complainant and respondent agree to use the process; and

8.11.1.1.3. When the complaint does not involve sexual assault, as defined in this policy, or other forms of violence.

8.11.1.2. Either the complainant or respondent may choose to end the voluntary resolution process at any time and commence or resume the formal complaint resolution process.

8.11.1.3. Because the outcome of voluntary resolution process is mutually developed and agreed upon by the parties, an appeal of the process and its result is not permitted. If the parties are unable to agree on a voluntary resolution, the matter will be referred back to the Dean of Student Affairs/Title IX Coordinator for formal investigation.

8.12. **Investigation Process**

8.12.1. **General** - The investigation will include one or more interviews with the complainant, the respondent, and any witnesses. The investigation will include the gathering of physical, documentary, or other relevant and available evidence, including law enforcement reports. As part of the investigation, the university will provide an opportunity for all parties to present written statements, identify witnesses, and submit other evidence. The Title IX coordinators may require student-witnesses to cooperate with the investigation regardless of the parties' selection of witnesses. Notes will be taken at all meetings. The Title IX Coordinator may attend all meetings to monitor compliance, assist in note-taking, and ask questions or provide information as needed.

8.12.2. **Standard of proof** - In resolving complaints pursuant to the Sexual Misconduct/Title IX Policy, the university will use a "preponderance of the evidence," standard, which is whether the evidence gathered and information provided during the investigation supports a finding that it is more likely than not that the respondent violated the Sexual Misconduct/Title IX Policy.

8.12.3. **Investigation Finding**

8.12.3.1. **Report of Findings & Recommendations**

8.12.3.1.1. At the conclusion of the investigation, the Investigator will prepare a Report of Findings & Recommendations summarizing and analyzing the relevant facts determined through the investigation, with reference to any supporting documentation or statements. The report will provide a summary of the Investigators' impressions, including context for the evidence and a finding as to whether a violation of the Sexual Misconduct/Title IX Policy occurred as well as the recommended sanctions/remedies in the event of a finding of responsibility.

8.12.3.2. The Title IX Investigator will provide the Dean of Student Affairs/Title IX Coordinator with a copy of the Report of Findings & Recommendations within five (5) business days of its completion, which the dean will forward to the Hearing Review Panel.

8.12.4. Hearing Review Panel

8.12.4.1. The Report of Findings & Recommendations is submitted to the Hearing Review Panel along with all relevant documentation. The panel is made up of at least three members, with at least one faculty member and one staff/administrative member. The Dean of Student Affairs/Title IX Coordinator contacts the Faculty Senate Chair to recommend faculty member/s for the panel and the Dean of Enrollment to recommend staff/administrative member/s.

8.12.4.2. The Hearing Review Panel meets to review the report and all pertinent documents. The Title IX Coordinator facilitates the review meetings but does not participate in the deliberations.

8.12.4.3. Within ten (10) business days after beginning the review, the panel will make a determination whether to uphold or modify the findings and any recommended sanctions in the Report of Findings & Recommendations. In making this determination, the panel may choose to interview one or both parties to the complaint as well as any witnesses. The Review Panel may also call on the Title IX Investigator for clarification of any points in the findings. The panel provides their decision to the Dean of Student Affairs in writing. The Hearing Review Panel's decision is final.

8.12.5. **Determination & Notice of the Outcome** - The Dean of Student Affairs/Title IX Coordinator will provide the complainant and respondent with simultaneous, written notice of the outcome (Outcome Letter) of the university's resolution of the sexual misconduct complaint, the sanction/s, if any, that has been imposed on the respondent, and any additional steps that the university has taken to eliminate the hostile environment and prevent any recurrence of any sexual misconduct. The Outcome Letter will include a description of the right to appeal for both the complainant and the respondent.

8.12.6. **Sanctions for Sexual Misconduct/Title IX Policy Violations** - The following, individually or in combination, are potential sanctions for violations of the Sexual Misconduct/Title IX

Policy. Where appropriate, the statement of the sanction includes the duration, any conditions to be observed during that period, and the conditions for termination of the sanction.

8.12.6.1. Major sanctions

- 8.12.6.1.1. Expulsion from the university;
- 8.12.6.1.2. Suspension from the university for a specific period of time;
- 8.12.6.1.3. Denial of graduation, diploma, or degree;
- 8.12.6.1.4. Deferral of graduation, diploma, or degree for a specific period of time;
- 8.12.6.1.5. Revocation or withdrawal of diploma or degree previously credited, awarded, or conferred;

8.12.6.2. Other available sanctions

- 8.12.6.2.1. Expulsion from university housing;
- 8.12.6.2.2. Suspension from university housing for a specific period of time;
- 8.12.6.2.3. Probation: Disciplinary probation may involve counseling with faculty or administrative staff; restriction of student privileges; prohibitions against participation in university activities or events, including athletic or non-athletic activities; and prohibitions against holding office or participating in student organizations, including student government, or residence, school, or university organizations or activities.
- 8.12.6.2.4. Residence probation: Residence probation may involve periodic meetings with a member of the residence staff and/or restriction of specific residence privileges.
- 8.12.6.2.5. Disciplinary warning
- 8.12.6.2.6. Restitution: The student will reimburse the university and/or other appropriate party for damage to or loss of property or for costs or expenses incurred by the university or other party. Restitution will be made at full cost of replacement or repair, and other expenses.
- 8.12.6.2.7. If the respondent is a graduate student who also serves as a teaching assistant, sanctioning decisions related to the respondent's teaching responsibilities will be made by the Chief Academic Officer.

8.13. Remedies for Complainants - As part of the sanctioning process, the Dean of Student Affairs, or designee, may require that existing interim remedies stay in place for a prescribed period of time. The Dean of Student Affairs may also impose new remedies or administrative actions such as No Contact Orders, housing placement, or academic accommodations based upon the investigation and resolution of the case.

8.14. **Appeal Process**

8.14.1. The respondent or complainant may request an appeal of a sexual misconduct hearing outcome. Appeals are not granted automatically as they must be thoughtful, well-reasoned, substantive, and must demonstrate that at least one of the following criteria exists:

8.14.1.1. There was a substantive procedural error that may have prohibited the hearing from being conducted fairly in light of the charges. Deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results.

8.14.1.2. The sanction(s) imposed was not appropriate for the violation of the Standards of Conduct for which the student was found to be responsible.

8.14.1.3. New evidence that was not available at the time of the hearing has become available, and is potentially sufficient to alter a decision.

8.14.2. A request for appeal shall be submitted in writing within 10 business days of the decision issue dated by the Dean of Affairs/Title IX Coordinator (date listed on the Outcome Letter), must clearly demonstrate the grounds for appeal, and is not to exceed 12 font, 5 double-spaced pages in length. All appeals requests, regardless of the hearing body, should be submitted to the Dean of Student Affairs via email.

8.14.3. The Dean of Student Affairs appoints an appeals person or body. The appeal body reviews the request for appeal to determine if the appeal has merit. A request for appeal shall be limited to review of the documentation associated with the initial hearing, supporting documents, and testimony.

8.14.3.1. If none of the criteria for appeal is determined to have been met, the appeals body shall sustain the decision of the Hearing Review Panel.

8.14.3.2. If, however, any of the conditions for appeal is found to exist, the appeals body may:

8.14.3.2.1. Hear the full appeal;

8.14.3.2.2. Hear only a circumscribed portion of the appeal;

8.14.3.2.3. Render a decision without a hearing involving the parties.

8.14.3.3. In determining whether to modify any given sanction(s), the appeals body has the option to take any of the following actions:

8.14.3.3.1. Elect not to change any of the sanctions imposed by the original hearing body;

8.14.3.3.2. Reduce or increase the severity of the conduct status;

8.14.3.3.3. Adjust educational sanctions.

8.14.4. The complainant shall be notified of the outcome of the respondent's appeal of the case and vice versa.

8.14.5. All appeal decisions are final and binding on all parties and shall be given to the party requesting the appeal in written form.