

University of the West Gender-Based Discrimination/ Sexual Misconduct/Title IX Policy

1. University Commitment

UWest does not tolerate gender-based/sexual discrimination and 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 harassment, sexual assault & non-consensual sexual contact, dating violence, domestic violence, and stalking.**

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 and employees 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 anywhere off campus in the United States in locations over which the university exercised substantial control over both the Respondent and the context in which the sexual misconduct occurred, and 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.

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. Non-Discrimination Policy & Title IX

UWest does not discriminate on the basis of sex, race, color, religion, national origin, citizenship, ancestry, age, marital status, physical or mental disability, medical condition, genetic information, pregnancy or perceived pregnancy, gender, gender identity, gender expression, sexual orientation, protected military or veteran status or any other characteristic or condition protected by the state and federal law. The university respects the rights of each person as a valued individual.

Title IX of the Education Act requires gender equity for students of all genders in every educational program that receives federal funding. Specifically, the law states: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

4. Definitions

4.1. 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.

Further, Title IX identifies sexual harassment, including sexual assault, as unlawful sex discrimination and designates any of the following conduct on the basis of sex as constituting sexual harassment:

- A school employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct (often called “quid pro quo” harassment);

- Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Sexual assault, dating violence, domestic violence, or stalking (as defined in the Clery Act, 20 U.S.C. § 1092(f), and the Violence Against Women Act, 34 U.S.C. § 12291(a) (see below).

Title IX and sexual misconduct policies also prohibit remote and online sexual harassment occurring, for example, over a telephone, in writing, and/or over Internet platforms and social media. This type of misconduct includes materials received by a victim and materials posted about a victim. Examples of online sexual harassment include cyberstalking (e.g., catfishing, monitoring location check-ins, virtual visiting via Google Maps Street View, hijacking of webcam, installing stalkerware, tracking a person's location via geotags, etc.)

4.2. Sexual assault is an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation (FBI) and includes

- any sexual act directed against another person;
- forcibly and/or against that person's will; OR
- not forcibly or against that person's will where the victim is incapable of giving consent.

Sexual offenses of this type include forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling.

Under this category of misconduct, **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.

4.3. 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.

4.4. Domestic violence includes felony and misdemeanor crimes of 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 a person similarly situated to a spouse (common law marriage), or by any other person against an adult or youth victim.

4.5. Stalking is a course of conduct directed at an individual that would cause a reasonable person to fear for their or safety or the safety of others, or suffer substantial emotional distress. (See also cyberstalking under 4.1).

5. Consent

5.1. 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:

5.1.1. A verbal “no” (no matter how indecisive) or resistance (no matter how passive);

5.1.2. When physical force is used, or when there is a reasonable belief of the threat of physical force;

5.1.3. When the recipient of the sexual conduct is incapacitated due to alcohol or drugs.

5.1.4. When any kind of coercion is present.

5.2. 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.

5.3. 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.

5.4. 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.

6. 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.

7. Title IX Coordinator

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, maintains records, 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.

8. Rights of the Complainant & Respondent in a Gender-Based Discrimination/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:

- To be treated with respect, dignity, and sensitivity;
- To receive from the university appropriate support and remedies, including referral to on- and off-campus resources;
- Privacy and confidentiality to the extent possible, including keeping confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out the Title IX proceeding;
- The presence of an Advisor throughout the process;
- 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.

- A fundamentally fair, prompt, objective, and thorough investigation of the allegations;
- Adequate time to review documents;
- To appeal the decision made or any sanctions imposed by the Title IX Hearing Panel;
- To refrain from making self-incriminating statements;
- Notification, in writing, of all meetings, evidence, and the case resolution, including the outcome of any appeals;
- For the Complainant, to report the incident to law enforcement at any time.
- The presumption that the Respondent is not responsible until proven so in the determination of the Hearing Panel.

9. Sexual Misconduct/Title IX Procedure: Preliminary Matters

9.1. 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.

9.2. 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 Gender-Based Discrimination/Sexual Misconduct/Title IX Policy.

9.3. 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.

9.4. 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.

- 9.5.** 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 or Hearing Panel. 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.
- 9.6.** 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 Title IX Coordinator will make this determination.
- 9.7.** 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.
- 9.8.** Prohibition on retaliation - It is illegal and a violation of the university's Gender-Based Discrimination/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. The exercise of rights protected under the First Amendment does not constitute retaliation.

The school must

- Complaints alleging retaliation may be filed according to a school's prompt and equitable grievance procedures.

-

- 9.9.** Notice - The Title IX Coordinator will provide the Complainant and Respondent, respectively, with 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.

10. Sexual Misconduct/Title IX Procedure: Complaints

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

- 10.1.1.** The complaint resolution process is overseen by the Title IX Coordinator.
- 10.1.2.** The Title IX Coordinator refers sexual misconduct complaints to the Title IX Investigator/s.
- 10.1.3.** The Title IX Investigator is a university conduct officer trained to investigate Title IX complaints. The Investigator's role is to gather all evidence, including statements by Complainant, Respondent, witnesses, and other relevant parties, conduct interviews, and prepare a written report of the findings from the investigation.
- 10.1.4.** The findings of the Title IX Investigator are referred to a Hearing Panel.

10.2. Initiating a Complaint

10.2.1 Individual

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 e-mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address, listed for the Title IX Coordinator.

10.2.2 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 Title IX Coordinator against a UWest student, employee, contractor, etc.

10.3. Filing a Complaint

- 10.3.1.** After receiving a report of sexual misconduct, the Title IX Coordinator will promptly contact the Complainant confidentially to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint.
- 10.3.2.** A Complainant or Reporter may submit a written complaint to the Campus Title IX Coordinator. The complaint is a manually or electronically signed statement containing 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.

- 10.3.3.** A Complainant or Reporter may also call or meet with the Title IX Coordinator to initiate a formal 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 and signed agreement of the Complainant or Reporter.
- 10.3.4.** If the allegations in a formal complaint do not meet the definition of sexual harassment the university must dismiss such allegations for purposes of Title IX but may still address the allegations as appropriate under the UWest Student Conduct Code.
- 10.3.5.** At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed.

10.4. Information for Complainant

- 10.4.1.** After receiving a formal complaint, the Title IX Coordinator will initiate a formal investigation, led by the Title IX Investigator. The 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.
- 10.4.2.** The Investigator will also:
 - 10.4.2.1.** Provide the Complainant with information regarding the Rights of the Complainant and Respondent;
 - 10.4.2.2.** Explain the prohibition against retaliation;
 - 10.4.2.3.** Provide a copy of this policy and explain the process for investigating and resolving a sexual misconduct complaint (including the available appeal procedures);
 - 10.4.2.4.** Instruct the Complainant not to destroy any potentially relevant documentation in any format;
 - 10.4.2.5.** Explain the availability of interim measures;
 - 10.4.2.6.** Provide the Complainant with a list of on-campus and off-campus support resources.

10.5. 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.

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

- 10.6.1.** 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.
- 10.6.2.** When weighing a Complainant's request that no investigation be pursued or the Complainant's identity not be disclosed, the Title IX Coordinator will respect the Complainants' wishes unless the Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the Complainant is not clearly unreasonable in light of the known circumstances. Such circumstance will include whether:
- 10.6.2.1.** The Respondent is likely to commit additional acts of sexual or other violence, such as:
 - 10.6.2.1.1.** There have been other sexual misconduct complaints about the same Respondent;
 - 10.6.2.1.2.** The Respondent has a history of arrests or records from a prior school indicating a history of violence;
 - 10.6.2.1.3.** The Respondent threatened further sexual misconduct or other violence against the Complainant or others;
 - 10.6.2.2.** The sexual misconduct was committed by multiple Respondents;
 - 10.6.2.3.** The sexual misconduct was perpetrated with a weapon;
 - 10.6.2.4.** The Complainant is a minor;
 - 10.6.2.5.** The Respondent is a UWest employee, contractor, etc.;
 - 10.6.2.6.** The university possesses other means to investigate the sexual misconduct (e.g., security cameras or personnel, physical evidence).
 - 10.6.2.7.** The Complainant has made the Respondent aware of their intent to report the alleged misconduct.
 - 10.6.2.8.** 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 not to proceed with an investigation.
- 10.6.3.** 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.
- 10.6.4.** 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.

10.7. 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.

10.8. Interim Measures

10.8.1. Upon the receipt of a sexual misconduct complaint, the 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:

10.8.1.1. Issuing an administrative No Contact Order;

10.8.1.2. Moving the Complainant's and/or Respondent's campus residence;

10.8.1.3. Adjusting the Complainant's and/or Respondent's work schedule, assignment, or location for university employment;

10.8.1.4. Changing the Complainant and/or Respondent's academic schedule, allowing the Complainant and/or Respondent to take an Incomplete in one or more courses, allowing the Complainant and/or Respondent to drop (or retake) a course without penalty, or attend class via web conference;

10.8.1.5. Allowing the Complainant and/or Respondent to withdraw from or retake a class without penalty, or extending deadlines for examinations or other assignments;

10.8.1.6. 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 Title IX Coordinator 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;

10.8.1.7. Providing access to tutoring or other academic support;

10.8.1.8. Interim suspension of the Respondent.

10.8.2. 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.

10.9. 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.

10.9.1. False Statements While the university will respect a Complainant's right to withdraw a complaint, Complainants and Reporters found to have made untrue statements in bad faith to the Title IX Coordinator and/or Title IX Investigator may be held responsible under the Student Code of Conduct regulations on dishonesty.

10.10. Responding to a Complaint

10.10.1. 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.

10.10.2. 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:

10.10.2.1. Provide the Respondent with a copy of this policy and review the policy and procedures including the investigation and adjudication processes.

10.10.2.2. Provide the Respondent with information regarding the Rights of the Complainant and Respondent and explain these rights and responsibilities to the Respondent;

10.10.2.3. Allow the Respondent to review the written complaint. Explain the prohibition against retaliation;

10.10.2.4. Discuss the nature of the complaint;

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

10.10.2.6. Instruct the Respondent not to destroy any potentially relevant documentation in any format;

10.10.2.7. Provide the Respondent with a list of on-campus and off-campus support resources.

10.10.3. 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.

10.10.4. Acceptance of Responsibility

10.10.4.1. 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 Coordinator will refer the complaint to the Hearing Panel, who will determine the appropriate sanctions and educational measures, if any.

10.10.4.2. If the Respondent disputes the allegations of the complaint, the matter will proceed to an investigation.

10.10.4.3. At any point in the process, the Respondent may accept responsibility for the conduct alleged in the complaint. In such cases, the Title IX Coordinator will refer the complaint to the Hearing Panel, who will determine the appropriate sanctions and educational measures.

10.11. Complaint Resolution

10.11.1. Voluntary Resolution

10.11.1.1. 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 or professional mediator. However, voluntary resolution may only be used:

10.11.1.1.1. Prior to a decision by the Hearing Panel being issued;

10.11.1.1.2. When the 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

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

10.11.1.1.4. A voluntary resolution process is not available to resolve allegations that an employee sexually harassed a student.

10.11.1.2. 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.

10.11.1.3. 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 Title IX Coordinator for formal investigation.

10.12. Investigation Process

10.12.1. 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 Coordinator and/or Title IX Investigator may require student-witnesses and employee-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 meetings to monitor

compliance with the policy. A notetaker may also be assigned to take notes in meetings, which participants will have the opportunity to review.

10.12.2. Standard of Proof As in all other types of student and employee conduct procedures, also in resolving complaints pursuant to the Gender-Based Discrimination/Sexual Misconduct/Title IX Policy, the university will use a “preponderance of the evidence,” standard, which determines 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 policy.

10.12.3. The Investigator will send the parties, and their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least ten (10) days for the parties to inspect, review, and respond to the evidence.

10.12.4. Investigation Finding

10.12.4.1. Report of Findings At the conclusion of the investigation, the Investigator will prepare a Report of Findings summarizing and analyzing the relevant facts determined through the investigation, with reference to any supporting documentation or statements.

10.12.4.2. The Title IX Investigator will provide the Title IX Coordinator with a copy of the Report of Findings within five (5) business days of its completion, which the Title IX Coordinator will forward to the Hearing Panel.

10.12.4.3. Notification of Parties The Title IX Coordinator will send the parties to the complaint and their Advisors a copy of the Report of Findings in electronic format or hard copy, with at least 10 days for the parties to respond.

10.12.5. Hearing Panel

10.12.5.1. The Report of Findings is submitted to the Hearing Panel along with all relevant documentation, including any response by the parties. The panel is made up of at least three members, including a trained Hearing Panel Chair and at least one faculty member and one staff/administrative member. The Title IX Coordinator contacts the Chief Academic Officer to recommend faculty member/s for the panel and the senior enrollment administrator to recommend staff/administrative member/s. In cases where the Respondent is an employee or contractor of the university, the senior Human Resources administrator serves as a Hearing Panel member but cannot serve as panel chair.

10.12.5.2. The Hearing Panel meets to review the report and all pertinent documents and to adjudicate the outcome of the alleged sexual misconduct process. The Title IX Coordinator facilitates the review meetings and provides general information but does not attend nor participate in the deliberations nor the decision

making. The Hearing Panel may also request to meet with the Title IX Investigator to clarify points in the Report of Findings.

10.12.5.3 Live Hearing & Cross-Examination The Hearing Panel is required to conduct live hearings, which may be held remotely, and during which the parties will be located in separate rooms while being able to see and hear anyone testifying. The live hearings shall include questioning by the Hearing Panel of both parties to the complaint as well as all witnesses.

10.12.5.3.1. Advisors Both the Complainant and the Respondent shall have an Advisor of the party's choice present during the hearing, who may be, but need not be, an attorney. If either or both parties do not bring an advisor, the university will provide one. The Advisors must adhere to the Hearing Guidelines.

10.12.5.3.2. Cross-examination The Advisors are permitted to question the other party and all witnesses directly, orally, and in real time, asking relevant questions and follow-up questions, including those challenging credibility. The questions must be posed by the Advisors and never the parties, must be relevant, and are subject to approval by the Hearing Panel Chair before they can be answered by the other party or witness. The Chair must explain to the party's Advisor asking cross-examination questions any decision to exclude a question as not relevant.

10.12.5.3.3. Any parties to the live hearing who do not conduct themselves according to the Hearing Guidelines may be excluded from the hearing as determined by the Hearing Panel Chair.

10.12.5.3.4. If a party or witness does not submit to cross-examination at the live hearing, the Hearing Panel must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Hearing Panel cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

10.12.5.4. Within ten (10) business days of concluding all steps in the review and adjudication, the Hearing Panel will make a determination whether the Gender-Based Discrimination/Sexual Misconduct/Title IX Policy was violated and, if so, what sanctions and/or educational measures

are imposed. The panel provides their decision to the Title IX Coordinator in a written decision. The Title IX Coordinator may respond to the decision in order to request additional clarifications or request corrections to errors of fact or typographical errors. The Hearing Panel decision is otherwise final.

10.12.6. Determination & Notice of the Outcome The 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 have been imposed on the Respondent, and any additional steps that the university has taken to eliminate a hostile environment and prevent any recurrence of any sexual misconduct. The Outcome Letter will include the allegations, procedural steps, factual findings, policy findings, analysis for each of the preceding, the sanctions, and a description of appeal process for both the Complainant and the Respondent.

10.12.7. 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.

10.12.7.1. Major sanctions

10.12.7.1.1. Expulsion from the university;

10.12.7.1.2. Suspension from the university for a specific period of time;

10.12.7.1.3. Denial of graduation, diploma, or degree;

10.12.7.1.4. Deferral of graduation, diploma, or degree for a specific period of time;

10.12.7.1.5. Revocation or withdrawal of diploma or degree previously credited, awarded, or conferred;

10.12.7.2. Other available sanctions

10.12.7.2.1. Expulsion from university housing;

10.12.7.2.2. Suspension from university housing for a specific period of time;

10.12.7.2.3. 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.

10.12.7.2.4. Residence probation: Residence probation may involve periodic meetings with a member of the

residence staff and/or restriction of specific residence privileges.

10.12.7.2.5. Disciplinary warning

10.12.7.2.6. 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.

10.12.7.2.7. 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.

10.12.7.3 Sanctions for Employees are based on the provisions of the Employee Handbook or Faculty Handbook and may include but are not limited to one or more of the following: dismissal, suspension with or without pay, reassignment of responsibilities, reassignment of workspace, disciplinary warning, referral for sensitivity counseling and training.

10.13. Remedies for Complainants As part of the sanctioning process, the Title IX Coordinator may require that existing interim remedies stay in place for a prescribed period of time. The Title IX Coordinator 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.

10.14. Appeal Process

10.14.1. 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:

10.14.1.1. 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;

10.14.1.2. The outcome was influenced by bias or conflict of interest;

10.14.1.3. There is new evidence not reasonably available at the time of the determination that is potentially sufficient to alter a decision.

10.14.1.4. For an appeal to be sustained, one or more of the above criteria must both be present and have impacted the final outcome of the complaint.

- 10.14.2.** A request for appeal shall be submitted in writing within 10 business days of the decision 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 appeal requests, regardless of the hearing body, should be submitted to the Title IX Coordinator via email.
- 10.14.3.** The Title IX Coordinator appoints an appeal person or persons, hereafter “appeal body,” that does not include members of the Hearing Panel. 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. The Title IX Coordinator also informs the other party to the complaint, i.e. Complainant or Respondent, of the appeal.
- 10.14.3.1.** If none of the criteria for appeal is determined to have been met, the appeal body shall sustain the decision of the Hearing Panel.
- 10.14.3.2.** If, however, any of the conditions for appeal is found to exist, the appeals body may:
- 10.14.3.2.1.** Hear the full appeal;
- 10.14.3.2.2.** Hear only a circumscribed portion of the appeal;
- 10.14.3.2.3.** Render a decision without a hearing involving the parties.
- 10.14.3.3.** In determining whether to modify any given sanction(s), the appeals body has the option to take any of the following actions:
- 10.14.3.3.1.** Elect not to change any of the sanctions imposed by the original hearing body;
- 10.14.3.3.2.** Reduce or increase the severity of the conduct status;
- 10.14.3.3.3.** Adjust educational sanctions.
- 10.14.4.** The Complainant shall be notified of the outcome of the Respondent’s appeal of the case and vice versa.
- 10.14.5.** Within ten (10) business days of reviewing the appeal, the appeal body renders a decision in writing to the Title IX Coordinator and includes a description of the review process undertaken by the appeal body, a list of documentation and other evidence taken into consideration, and the reasoning for the appeal decision.
- 10.14.6.** All appeal decisions are final and binding on all parties and shall be given to the party requesting the appeal in written form.