



**I. Policy on Title IX Harassment**

**A. Policy Statement & Scope**

University of Western States has established two policies to address allegations of harassment and discrimination. This policy applies only to conduct meeting the definitions and jurisdictional elements set forth in the Department of Education’s Title IX Regulations, published May 19, 2020. Conduct that does not meet the definitions and jurisdictional elements set forth in this policy is addressed in accordance with [Policy 1004 Nondiscrimination and Anti-harassment](#) or [Policy 9001 Student Conduct](#).

*For more information, individuals may contact any of the following employees on a non-confidential basis.*

<b>Title IX Coordinator</b>	<b>Elena Howells</b> Associate Vice President of Student and University Affairs Title IX Coordinator 503-847-2599 <a href="mailto:ehowells@uws.edu">ehowells@uws.edu</a> Office 248
<b>Student Service</b>	<b>Jenna Geracitano</b> Director of Student Services, On-Campus Students 503-847-2584 <a href="mailto:jgeracitano@uws.edu">jgeracitano@uws.edu</a> Office 218  <b>Rachel Hasse</b> Director of Student Services, Online Students 503-251-5738 <a href="mailto:rhasse@uws.edu">rhasse@uws.edu</a> Office 218
<b>Campus Safety and Security</b>	<b>Sean Spellecy</b> Executive Director of Emergency Management, Safety, Security, and Campus Operations 503-251-5727 <a href="mailto:sspellecy@uws.edu">sspellecy@uws.edu</a> Office 264

Throughout this policy, named officials may delegate where appropriate and may consult with appropriate university officials, non-university consultants and subject matter experts in making determinations.

Depending on the circumstances, the Title IX Coordinator may delegate all or part of their coordinator responsibilities to avoid bias and/or conflicts of interest.



## B. Effective Date of Title IX Policy

The effective date of this policy is August 14, 2020. This policy applies to prohibited conduct that occurred on or after August 14, 2020 and where a formal complaint is made on or after August 14, 2020.

## C. Title IX Policy Jurisdiction

The definitions and procedures in this policy are in accordance with the Department of Education's Title IX Regulations, published May 19, 2020. They apply only to complaints of sexual harassment, sexual assault, dating violence, domestic violence and stalking on the basis of sex as defined by this policy.

The university has the discretion to refer complaints of misconduct not covered by this policy to any other appropriate office for handling and to resolve complaints of misconduct under any other applicable university policy or code.

University contracts may allow certain employees to exercise grievance or appeal procedures in addition to the processes set forth in this policy. When a person covered by such contract has allegedly engaged in conduct prohibited under this policy, the investigation and disciplinary process proceeds in accordance with this policy. Once all processes set forth in this policy have been completed (including any appeals), the employee may then, to the extent permissible under applicable law, exercise such additional grievance or appeal procedures.

This policy applies to prohibited conduct that occurs within the United States to a complainant who is actively participating or seeking to participate in a university program.

## D. Prohibited Conduct Definitions

***Terms specific to this policy are defined in the [Other Definitions section](#). This includes defining 'days' as business days unless otherwise specified.***

If there is a conflict between any definition in this procedure and the definition-assigned terms in other university policies, the specific definitions in this policy control.

The following conduct is prohibited under this policy:

### 1. Sexual Harassment:

Conduct on the basis of sex committed by any person upon any other person, regardless of the sex, sexual orientation, or gender identity of those involved which is one of the following:

- a. When a university employee conditions the provision of an aid, educational benefit or service on an individual's participation in unwelcome sexual conduct (quid pro quo); and/or



- b. Unwelcome conduct<sup>1</sup> determined by a reasonable person to be so severe, and pervasive, and objectively offensive, that it effectively denies a person equal access to an educational program or activity of the university; and/or
- c. Sexual assault as defined below.

## 2. Sexual Assault:

- a. **Sexual Offenses, Forcible:** Any sexual act directed against another person/Complainant without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent, and includes:
  - i. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
  - ii. Oral or anal sexual intercourse with another person, forcibly, or against that person's will (non-consensual), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - iii. The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, or against that person's will (non-consensually) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - iv. The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- b. **Sex Offenses, Non-forcible, Includes Any of the Following:**
  - i. **Incest:** Non-forcible sexual intercourse between persons who are related to each other, within the degrees wherein marriage is prohibited by Oregon law.
  - ii. **Statutory Rape:** Non-forcible sexual intercourse, with a person who is under the statutory age of consent.

## 3. Dating Violence:

Violence committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship is determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

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<sup>1</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and offensiveness are evaluated objectively based on the totality of the circumstances by a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.



**4. Domestic Violence:**

Violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Oregon, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence law of Oregon.

**5. Sex-Based Stalking:**

Engaging in a course of conduct on the basis of sex directed at a specific person, that would cause a reasonable person to fear for the person's safety, or the safety of others, or suffer substantial emotional distress. This policy covers instances of stalking based on sex, including stalking that occurs online or through messaging platforms, commonly known as cyber-stalking, when it occurs in the school's education program or activity.

**E. Other Definitions**

All terms not defined in this section have their meaning derived from [Policy 1004 Nondiscrimination and Anti-harassment](#).

**1. Advisor:**

All persons who are a Complainant or a Respondent are permitted to bring an advisor of their own choosing to any meeting or interview to provide support. The advisor may be any person, including a family member or an attorney. The advisor may accompany the party to any and all portions of the grievance process. Other than asking questions of the other party, or of witnesses, at the hearing, the advisor may not participate directly in, or interfere with, the proceedings. Although reasonable attempts are made to schedule proceedings consistent with an advisor's availability, the process is not delayed to schedule the proceedings at the convenience of the advisor. The Title IX Coordinator has the discretion to remove the advisor from the proceedings if the advisor interferes with the proceedings. For any Complainant or Respondent who does not have an advisor at the hearing, a hearing advisor is provided, at no charge, for purposes of cross-examination of the other party or witnesses.

**2. Hearing Advisor:**

Each party is entitled to one hearing advisor at the hearing. The hearing advisor may be the same person who serves as the advisor during the investigation process. The role of the hearing advisor is to ask questions of the other party and of witnesses, but not to advocate for, or otherwise speak on behalf of, the advisee during the hearing. No party is permitted to ask questions of the other party, or of a witness. An hearing advisor of the university's choosing is provided for any party who does not have an advisor for the purpose of asking questions of the other party and witnesses at the hearing. The hearing advisor attends the hearing even if the party chooses not to be present at the hearing.



**3. Alternative Resolution:**

An [informal resolution](#) of the Complaint that does not necessitate a full investigation or adjudication, where both parties wish to resolve the case without a completed investigation or adjudication, and where the Respondent has admitted or wishes to admit responsibility.

**4. Coercion or Force:**

Coercion is verbal and/or physical conduct, including manipulation, intimidation, unwanted contact, and express or implied threats of physical, emotional, or other harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to compel someone to engage in sexual contact.

**5. Complainant:**

An individual who is actively participating or seeking to participate in a university program who reports they have experienced, or is reported by another person to have experienced, a violation of this policy. The Complainant is the person who had experienced the prohibited behavior, regardless of who makes the report of an alleged policy violation.

**6. Consent:**

A free and willing agreement to engage in a sexual act, provided without force or coercion, between individuals who are of sufficient age and are not mentally incapable, mentally disabled, mentally incapacitated or physically helpless, or incapacitated by drugs or alcohol.

Consent is a clear and unambiguous agreement, expressed outwardly through mutually understandable words or actions, to engage in a particular activity. Consent must be voluntarily given and cannot be obtained through coercion or force, and the person initiating a specific sexual activity is responsible for obtaining consent for that activity. Consent is not to be inferred from silence, or a lack of resistance. Consent is not to be inferred from an existing or previous dating or sexual relationship. Consent to engage in one sexual activity at one time is not consent to engage in a different sexual activity or to engage in the same sexual activity on a later occasion. Consent can be withdrawn by any party at any point. Once consent is withdrawn, the sexual activity must cease immediately.

For purposes of this policy, in evaluating whether consent was freely sought and given, the issue is whether the Respondent knew, or reasonably should have known, that the activity in question was not consensual or that the Complainant was unable to consent due to incapacitation.

**7. Days:**

Any reference to days within this policy are counted as the university business days unless otherwise specified.

**8. Formal Complaint:**

The term "Formal Complaint" has a very specific definition within this policy, as further defined below at [Section IV](#). Whether a formal complaint is filed does not depend on the label applied, but



instead on whether the specific elements listed are met. A Formal Complaint is the act that initiates an investigation or resolution. Individuals who would like more information about filing a formal complaint may contact the Title IX Coordinator for additional information.

**9. Hearing Administrator:**

A trained and impartial person or persons designated by the university to conduct the live hearing or panel review, make a decision regarding the alleged violations based upon a preponderance of the evidence, and impose sanctions, if applicable. Also called a hearing officer and/or decision-maker.

**10. Investigator:**

A trained and impartial person designated by the university to investigate allegations of prohibited conduct.

**11. Incapacitation:**

A state where an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act (e.g., to understand the who, what, when, where, why, or how of the sexual interaction) or is physically helpless. An individual asleep or unconscious is considered to be incapacitated and unable to consent to sexual activity. An individual is considered incapacitated if the person cannot understand the nature of the activity or communicate due to a mental or physical condition. Incapacitation may result from the use of alcohol, drugs, or other medication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation.

The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol or drugs impacts an individual's: (a) decision-making ability; (b) awareness of consequences; (c) ability to make informed judgments; or (d) capacity to appreciate the nature and the quality of the act.

It is not a valid excuse that the Respondent believed that the Complainant consented to the sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances: (a) the Complainant was asleep or unconscious; (b) the Complainant was incapacitated due to the influence of alcohol or drugs, including medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity; or (c) the Complainant was unable to communicate due to a mental or physical condition.

Whether the Respondent reasonably should have known that the Complainant was incapacitated is evaluated using an objective reasonable person standard. The fact that the Respondent was actually unaware of the Complainant's incapacity is irrelevant to this analysis, particularly where the Respondent's failure to appreciate the Complainant's incapacitation resulted from the Respondent's failure to take reasonable steps to



determine the Complainant's capacity or where the Respondent's own capacity was impaired (from alcohol or drugs) and caused the Respondent to misjudge the Complainant's capacity.

It is the responsibility of the individual initiating the sexual activity to be aware of the intoxication level of the other party before engaging in sexual activity. In general, sexual activity while under the influence of alcohol or other drugs poses a risk to all parties. If there is any doubt as to the level or extent of the other individual's intoxication, it is safest to forgo or cease any sexual contact or activity.

**12. Party:**

A Complainant or Respondent in a case.

**13. Protected Activity:**

Exercising any right or privilege under this policy. Examples of protected activities include reporting (internally or externally) a complaint of prohibited conduct in good faith, assisting others in making such a report, participating in a grievance process, acting in good faith to oppose conduct that constitutes a violation of this policy, honestly participating as an investigator, witness, decision-maker (such as the hearing administrator), or otherwise assisting in, an investigation or proceeding related to an alleged violation of this policy.

**14. Respondent:**

An individual against whom a complaint is filed.

**15. Responsible Employee:**

An employee who has been designated by the university as required to report all information relating to reports of prohibited conduct to the Title IX Coordinator.

**16. Standard of Evidence:**

The decision regarding a Respondent's responsibility will be determined by a preponderance of the evidence, meaning "more likely than not."

**17. Third-Party Reporter:**

A person other than the Complainant who reports an incident or allegation of prohibited conduct.

**18. Title IX Coordinator/Deputy Title IX Coordinator:**

The university officials or designees charged with ensuring the university's overall compliance with Title IX and related university policies and procedures.



## II. Seeking Support or Assistance

### A. Supportive Measures

Supportive Measures are non-disciplinary, non-punitive, free of charge individualized services offered to a Complainant or a Respondent by the university as appropriate and reasonably available. Such measures are designed to restore or preserve equal access to the university's education program or activity without unreasonably burdening the other party. Supportive measures are available whether or not a formal complaint has been filed.

Supportive measures may include, but are not limited to:

- Mutual no contact/restricted contact order.
- Assistance with arrangements with faculty for academic work (extended deadlines, rescheduled exams, etc.).
- Taking an "incomplete" in a course.
- Increased safety or escorts on campus.
- Work schedule changes.
- Other measures on a case-by-case basis.

Note: Any supportive measures put in place are kept confidential, except to the extent that doing so impairs the ability of the university to provide the supportive measures.

To receive supportive measures, a person must contact a non-confidential university resource as listed above in [Section I](#).

### B. Confidential Resources

Individuals who have not yet decided to report to the university may first consult with a confidential resource. The university is unable to provide supportive measures unless notified.

Confidential resources are not obligated to disclose reports of Title IX Sexual Harassment to UWS (under any circumstance) or to law enforcement (except in very limited situations, such as when failure to disclose the information would result in imminent danger to the individual or to others or as otherwise required by law). Making a report to a confidential resource is not a report to the university.

<b>For students</b>	Visit: <a href="http://WellConnectForYou.com">WellConnectForYou.com</a> (code: UWS) Call: 866-640-4777
<b>For employees</b>	Call: 800-433-2320





### III. Initial Assessment and Initiation of an Investigation

#### A. Reporting Misconduct and Initial Assessment

The university encourages individuals who believe they are experiencing prohibited conduct to report the misconduct to the university. Those who are aware or reasonably believe that another person is experiencing prohibited conduct may also make a report through this process or seek support from confidential resources.

Reports of potential violations of this policy may be made by:

- Filing an electronic report using the [online reporting tool](#).
- Filing a written or verbal report with the Title IX Coordinator or designee.

<b>Title IX Coordinator</b>	<b>Elena Howells</b> Associate Vice President of Student and University Affairs Title IX Coordinator 503-847-2599 <a href="mailto:ehowells@uws.edu">ehowells@uws.edu</a> Office 248
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In addition to, or instead of, filling out an [online report](#), individuals may choose to speak with any non-confidential university employee they trust to initiate a report of prohibited conduct, or may submit a written statement by email or regular mail. However, such a report is not considered a formal complaint unless it meets the criteria stated below (see information in [Section IV](#) on filing a formal complaint).

Individuals may also notify the university if they believe someone else may have experienced conduct that may be a violation of this policy.

Upon being notified of a report, the Title IX Coordinator or designee contacts the individual who experienced the alleged misconduct to schedule an intake meeting to learn more about the alleged conduct and provide the individual information regarding their rights, reporting options, supportive measures (including that supportive measures are available without filing a formal complaint), available resources, and information on how to file a formal complaint. (See [Section III, H](#)).

#### B. Reporting Obligations (Responsible Employees)

Any university employee (including student employees) who observes conduct prohibited by this policy, or who know of, or is informed of alleged prohibited conduct must promptly notify the Title IX Coordinator of the allegation.

University employees should not attempt to resolve an incident or complaint without assistance from the Title IX Coordinator. Employees must comply with their obligations to report any child abuse or neglect consistent with state law, in addition to campus security reporting obligations.



### C. Timely Warning

If a report of prohibited conduct presents a serious and continuing threat to the community, the university may issue a campus-wide timely warning to protect the health and safety of community members. The timely warning does not include any identifying information about the person who experienced the unwanted behavior.

### D. Timeline for Reporting

The university does not limit the timeframe for reporting an incident regardless of when the incident occurred. However, individuals are encouraged to make a report as close in time to the alleged incident as practical.

### E. Retaliation Prohibited

Retaliation is prohibited by university policy. Retaliation is any materially adverse action against a person who reports, complains about, or who otherwise participates in good faith in any manner related to this policy. Retaliation includes, but is not limited to, confirmed or implied behaviors or actions (including electronic or on-line activity) that intimidate, threaten, harass, or result in other adverse actions threatened or taken. An individual reporting prohibited conduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not substantiated based on the available evidence. Retaliation does not include good faith actions pursued in response to a report of prohibited conduct. Any person who believes they have experienced retaliation under this policy should contact the Title IX Coordinator. The Title IX Coordinator may forward any complaint of retaliation to the appropriate office for handling. Retaliation may subject the person who retaliates to disciplinary action up to and including expulsion or termination.

It is critical that a person responding to a claim of prohibited conduct (the Respondent), and those who may be supportive of the Respondent, recognize that many behaviors may be perceived as retaliatory. When in doubt about whether a certain action, communication, or behavior might be in violation of this policy, consult with the Title IX Coordinator.

### F. No Conflict of Interest or Bias

Any individual administering this policy must be free from any actual conflict of interest or demonstrated bias that would impact the handling of this matter. Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator is to immediately notify the Executive Vice President who will designate the role of Acting Title IX Coordinator for purposes of administering the handling and finalization of the matter at issue. Should any investigator, hearing administrator, or appeals officer have a conflict of interest, the individual is to notify the Title IX Coordinator upon discovery of the conflict.

Parties also have the opportunity to object to individuals involved in the implementation of this process for bias or conflict of interest, as described below in [Section V, B, 6](#).



### G. Provision of False Information

It is a violation of this policy to intentionally provide false information to the university. Any employee or student who is found to have done so may be subject to appropriate disciplinary or corrective action.

### H. Intake Interview with Complainant

Upon receipt of information alleging a potential violation of this policy, the Title IX Coordinator or designee contacts the individual who experienced the misconduct to schedule an intake or informational interview. The Title IX Coordinator or designee also provides a copy of this policy and the following information:

- Availability of supportive measures with or without filing a formal complaint;
- How to file a [formal complaint](#);
- Right to notify law enforcement, the right to decline to do so, and, when applicable, information about seeking a personal protection order from the local courts;
- Importance of preserving evidence;
- Resources for counseling, health care, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other available services; and,
- Right to an advisor of their choice.

An individual who makes a report of prohibited conduct they experienced, may choose to receive supportive measures only and not proceed with the filing of a formal complaint, or any other resolution process. However, to pursue a resolution process under this policy including an alternative resolution, investigation, or hearing, a formal complaint is required (see [Section IV](#)). The Title IX Coordinator explains the process for filing a formal complaint.

### I. Emergency Removal and Interim Measures

If at any time the university determines that conduct arising from the alleged prohibited conduct poses a risk of immediate physical harm to one or more members of the university community or to the university's educational environment, the Title IX Coordinator conducts a risk assessment in consultation with appropriate university officials to determine whether interim measures including a leave from specific programs or activities or emergency removal from the physical or virtual campus may be required. Such a determination includes a consideration of applicable disability procedures, as well as less restrictive alternatives and supportive measures. Decisions regarding emergency removal and interim measures are communicated in writing to the Respondent, and as appropriate to the Complainant, along with a rationale for the action taken.

#### 1. Opportunity to Respond:

- a. For Student Respondents: Students may contact the Executive Vice President within 3 business days of the interim suspension, to discuss the university's process for challenging the emergency removal.
- b. For Employee Respondents: Employees may contact the Director of Human Resources to discuss the university's process for challenging the emergency removal.



2. **Administrative Leave:** The university has the authority to place any employee Respondent on an administrative leave of absence pending the outcome of an investigation and hearing.

The decision to place any Respondent on an interim suspension or administrative leave is not considered as evidence that any determination has been made regarding potential responsibility for violating this policy.

#### IV. Filing a Formal Complaint

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To proceed to a resolution process, a formal complaint must be filed and signed by either a Complainant or the Title IX Coordinator. A formal complaint has a very specific definition under this policy and differs from solely making a report to the Title IX Coordinator.

For those who intend to proceed with a resolution process, the Title IX Coordinator assesses the facts as presented to determine whether the information provided suggests a potential violation of this policy. If the report does not meet the required definitions of this policy, the Title IX Coordinator does not initiate a formal complaint under this process and instead considers the report for resolution under other UWS policies.

##### A. Elements of a Formal Complaint

A formal complaint is a complaint in writing made by the Complainant who at the time of filing the complaint is participating in or attempting to participate in a university program or activity. The formal complaint must contain the following information.

##### A Formal Complaint must include all of the following components:

- a. The identity of the Complainant.
- b. The Complainant's digital or physical signature, or an indication that the Complainant is the person filing the formal complaint.
- c. An allegation of prohibited conduct as defined under this policy. This may include the following, if known:
  - i. Where the incident(s) occurred;
  - ii. What incident(s) occurred; and
  - iii. When the incident(s) occurred
- d. Identity of respondent, if known.
- e. A request for an investigation.

Formal Complaints may be made to the Title IX Coordinator by US Mail, email, or in person:

Elena Howells  
Associate Vice President of Student and University Affairs  
Title IX Coordinator  
8000 NE Tillamook  
Portland, OR 97213



Office: 248  
503-847-2599  
[ehowells@uws.edu](mailto:ehowells@uws.edu)

If a complaint is submitted in a form that does not meet this standard, the Title IX Coordinator contacts the Complainant to confirm a Complainant's intent to file a formal complaint. Further, if the formal complaint does not have sufficient information to determine whether the conduct as alleged falls under this policy, the Title IX Coordinator contacts the Complainant to schedule an intake interview.

### **B. Mandatory Dismissal of a Formal Complaint**

See also [Section V, C](#) below. Following the filing of a formal complaint, the Title IX Coordinator reviews the complaint to determine whether the alleged conduct meets the jurisdictional scope and the definitions of prohibited conduct under this policy, and satisfies the elements of a formal complaint outlined in [Section IV, A](#). The Title IX Coordinator must dismiss the complaint if the complaint does not meet the jurisdictional requirements of this policy, does not allege prohibited conduct under this policy, and/or does not satisfy the elements of a formal complaint. Notification regarding the filing of the formal complaint and the decision to dismiss the complaint, along with the rationale for the dismissal decision, is sent in writing to the Complainant and Respondent (if applicable). The decision to dismiss is subject to appeal as described in [Section VI Appeal](#). Both parties are notified in writing of any determination made following the appeal.

If the alleged conduct would, if true, support a finding that another university policy or procedure has been violated, the university may transfer the case for further handling under the appropriate policy or procedure. The university may use evidence already gathered during this process for the further handling of the allegations.

### **C. Title IX Coordinator - Initiated Complaint**

In the event that a Complainant chooses to not move forward with a resolution process, and the Title IX Coordinator determines that an investigation is necessary, the Title IX Coordinator has the discretion to sign the Formal Complaint and initiate an investigation. The Title IX Coordinator considers the following factors when making such a determination: the seriousness of the alleged harassment, whether there have been other complaints or reports of harassment against the alleged harasser, and the nature of the allegations, such as use of weapons, drugs or intoxicants, serial violations or other potential threats to the Complainant or risk to the community. When the Title IX Coordinator signs a formal complaint, the Title IX Coordinator does not become the "Complainant" for purposes of this policy.

***If the above elements of a formal complaint are met, written notification is sent to the Respondent and to the Complainant regarding the commencement of a resolution process, as described below in [Section V](#).***



#### **D. Non-Participating Complainant**

In the event the Complainant declines to participate in the investigation and resolution process following the filing of a Formal Complaint, the Complainant may request in writing that they receive no further communications. Otherwise, the Complainant continues to receive updates.

#### **E. Consolidation of Cases**

In the event that the allegations under this policy also involve allegations of a violation of a separate policy, the Title IX Coordinator, in consultation with the Executive Vice President, have discretion to consolidate those other allegations within one investigation or hearing. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this policy.

#### **V. Resolution Processes**

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If the Title IX Coordinator receives or initiates a formal complaint as described above, the Title IX Coordinator provides written notification to the Complainant and Respondent of the filing of the complaint and the resolution method to be used to resolve the complaint: A) informal resolution; or B) investigation and hearing.

##### **A. Informal Resolutions**

The Complainant may request that the complaint be resolved through informal resolution. Participation in the informal resolution process is voluntary for both Complainant and Respondent, and the Title IX Coordinator must agree to the use of informal resolution to resolve the complaint. If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution and determines if the other party is also willing to engage in informal resolution. Both parties must agree, in writing, to an informal resolution. (*Exception: Allegations that an employee has engaged in prohibited conduct toward a student may not be handled through an informal resolution process, and must instead be resolved only through an investigation and hearing process.*)

When the Complainant requests an informal resolution, the Title IX Coordinator provides the Complainant and Respondent written notice that includes:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
- The right of either party to end the informal resolution process at any time and resume the formal investigation and hearing process;
- Any consequences resulting from participating in the informal resolution process, including the records that are maintained or information that could be shared;
- A statement indicating that the decision to accept an informal resolution process does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the formal investigation and adjudication processes, there is a determination of responsibility;



- An explanation that each party may be accompanied by an advisor of their choice;
- The date and time of the initial meeting with the Title IX Coordinator, with a minimum of two (2) business days' notice; and
- Information regarding supportive measures that are available equally to the Respondent and to the Complainant.

If either party does not voluntarily agree in writing to pursue an informal resolution, the complaint is resolved through investigation and hearing. If the Title IX Coordinator, at any time, determines that informal resolution is no longer appropriate, the Title IX Coordinator promptly informs the Complainant and Respondent in writing that the complaint will proceed through the investigation and hearing process.

Once the final terms of an informal resolution have been agreed upon by both parties, in writing, the matter is considered closed, not subject to investigation and hearing, and no further action will be taken. This agreement is not subject to appeal.

The informal resolution process is generally expected to be completed within thirty (30) business days and may be extended for good cause by the Title IX Coordinator. Both parties are notified, in writing, of any extension and the reason for the extension.

Records of any informal resolution are maintained by the Title IX Coordinator and may be shared with other offices as appropriate.

## **B. Title IX Investigation and Hearing Process**

### **1. Timeline of the Title IX Investigation**

The fact gathering portion of the formal investigation is normally completed within sixty (60) business days of the date of the notice of an allegation of prohibited conduct (this timeline does not include time for the live hearing or appeal). The Title IX Coordinator or designee may extend this time frame for good cause, including university breaks, circumstances in which critical witnesses are unavailable, requests by law enforcement that the university temporarily halt its investigation for a brief period of time, complexity and volume of material and/or witnesses, and unforeseen circumstances. Both parties are notified, in writing, of the need for any extension to the investigation timeline, along with the reason for the extension and the new anticipated date of conclusion of the investigation.

A summary of the specific steps and timeline associated with a Title IX investigation are outlined in [Appendix A](#).

### **2. Respecting Privacy**

In accordance with applicable state and federal law, the university takes steps to protect the privacy of individuals who make a report or participate in the resolution of a complaint under this policy while balancing the need to gather information to take prompt and reasonable steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects.



### **3. Presumption of Non-Responsibility**

The decision to proceed with an investigation and hearing is not in and of itself a determination that the Respondent has engaged in the conduct as alleged. Any Respondent is presumed not responsible for the conduct that is the subject of the investigation, unless and until a decision of responsibility has been made upon the completion of the process.

### **4. Assignment of Title IX Investigator(s)**

Once a determination is made to proceed with a Title IX investigation, the Title IX Coordinator assigns a trained investigator or, in some cases, investigators, who are impartial and free from bias or conflict of interest. The investigator may be a third-party not directly affiliated with the university.

Depending on the circumstances, the Title IX Coordinator may delegate all or part of their coordinator responsibilities to avoid bias and/or conflicts of interest.

### **5. Notice of Investigation, and Investigation Process**

Within a reasonable period of time from the filing of a formal complaint and prior to the start of an investigation, the Respondent and Complainant are provided, in writing, with a notice of investigation. Such notice includes:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The identities of the Complainant and Respondent;
- The date and location (if known) of the conduct that is alleged to have occurred;
- A copy of this policy, which contains the process that will be followed, including an explanation that each party has the right to inspect and review all evidence prior to the completion of the investigation;
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible unless and until, at the conclusion of the process below, there is a determination of responsibility;
- An explanation that each party may be accompanied by an advisor of their choice;
- The date and time of the initial interview with the investigator, with a minimum of five (5) days' notice;
- Information regarding applicable amnesty granted during this process;
- The name and contact information for the assigned investigator;
- Information regarding supportive measures and appropriate resources.

Should additional allegations be brought forward following the notice of investigation, a revised notice of investigation is provided in writing to both parties that communicates any additional allegations or changes to the allegations contained in the original notice.

### **6. Challenging for Conflict of Interest or Bias**

After a formal notice of investigation is issued to Complainant and Respondent, each party may object to the Title IX Coordinator or designated investigator on the grounds of a demonstrated bias or actual conflict of interest.





Both parties have three (3) business days from the date of the notice of investigation to object to the selection of the investigator or the Title IX Coordinator. Objections to the Title IX Coordinator are made, in writing, to the Executive Vice President. Objections to the appointed investigator are made, in writing, to the Title IX Coordinator. If the objection is substantiated as to either the Title IX Coordinator or the investigator, the responsibilities of those positions are assigned to a different individual(s).

A conflict of interest may include, for example, situations where an assigned official is a party's family member, close friend, current or former faculty member, or advisor, or has other similar relationships with a party. The fact that an individual is the same or different gender, race, etc., of a party or individual involved in the process, or regarding someone's professional experience (e.g. former prosecutor or defense attorney) is not considered a conflict or bias and requests for changes in staffing on this basis are not considered.

### **7. Evidentiary Standard**

The preponderance of the evidence standard is used in determining whether or not a Respondent alleged to have engaged in prohibited conduct is responsible for a violation of this policy. The Respondent is presumed not responsible for any violation of this policy unless responsibility is established by a preponderance of evidence indicating it is more likely than not the alleged behavior occurred.

### **8. Informational Pre-Investigation Meeting**

Following the issuance of the notice of investigation, the Title IX Coordinator, or a designee, meets separately with the Complainant and the Respondent, and their advisors if selected. During the informational pre-investigation meeting, the Complainant and the Respondent are informed of the name(s) of the investigators (if available), timeline of the investigation process, their rights during the investigation process, hearing logistics, and potential outcomes and sanctions.

### **9. Prohibition on False Evidence Provided During Process**

Each party and every witness are expected to provide truthful information to the investigator, hearing administrator, and the appeals officer. Intentionally providing false or misleading information may result in charges for possible violations of university policy.

### **10. Witnesses**

Both the Complainant and Respondent are permitted to provide names of potential witnesses to the investigator. The investigator determines which of those potential witnesses, or other persons, may have information directly related to the alleged conduct and may request statements, either orally or in writing. Witnesses may include individuals outside the UWS community. Interviews may be conducted in person, or via video conference. The investigator prepares a summary of each interview.

Each party is provided with an opportunity to offer relevant witnesses and evidence. Information or evidence that is not provided to the investigator is not generally allowed during the hearing, unless it



can be clearly demonstrated that such information was not reasonably known or available to the parties at the time of the investigation.

### 11. Additional Evidence

Complainants, Respondents, and witnesses are permitted to provide other relevant evidence to the investigator. Evidence includes any facts or information presented in support of an assertion or that disproves an assertion, and may include text messages, email exchanges, timelines, receipts, photographs, etc. The investigator may also consider additional witnesses, documents, items, or other relevant information that the investigator discovers during the investigation.

**Pattern Evidence:** Evidence of an occurrence or occurrences of prohibited conduct so distinctive and so closely resembling either party's version of the alleged encounter as to tend to prove a material fact may be considered. Where there is evidence of a pattern of similar prohibited conduct, either before or after the conduct in question, regardless of whether there has been a prior finding of a policy violation, this information may be deemed relevant to the determination of policy violation or assigning of a sanction. Instances are rare and the determination of relevance is based on an assessment of whether the previous or subsequent incident was substantially similar to the conduct cited in the report or indicates a pattern of behavior and substantial conformity with that pattern.

**Prior Sexual History of the Complainant:** Evidence about a Complainant's sexual predisposition or prior sexual behavior are not relevant and are not permitted, unless such questions and evidence about the Complainant's prior sexual behavior are offered: (a) to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or (b) if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

**Prior Sexual History Between the Parties:** Even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act, and consent on one occasion does not, by itself, constitute consent on a subsequent occasion. Where the parties have a prior sexual relationship, and the existence of consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether consent was sought and given during the incident in question. However, this does not assume that the prior sexual history was consensual, and whether a prior sexual history between the parties was consensual is a factor in considering relevance.

### 12. Evidence Review

The investigator provides the parties and their advisors, if any, equal opportunity to review any evidence obtained during the investigation that is directly related to the allegations in the complaint at least ten (10) days prior to completion of the investigative report. This review includes both inculpatory and exculpatory evidence, meaning evidence both supporting or not supporting the allegations at issue.



Given the sensitive nature of the information provided, the information is provided in a secure manner (for example, by providing digital copies of the materials through a protected, “read-only” web portal or utilizing other safeguards). Neither the Complainant nor the Respondent (nor their advisors) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided, nor share beyond their designated advisor/representative/parent/guardian. Any student or employee who fails to abide by this policy may be subject to discipline. Any advisor who fails to abide by this policy may be subject to discipline and/or may be excluded from further participation in the process.

**Response to Evidence:** Each party has ten (10) days to respond to the evidence, in writing, and submit it to the investigator. The written response may not be longer than ten (10) pages, unless an exception is provided for good cause. The investigator incorporates any response provided by the parties into the final investigation report. Along with their response to the evidence, each party may also submit a written request for additional investigation, such as a request for a follow-up interview(s) with existing witnesses to clarify or provide additional information, including offering questions to the investigator to pose to witnesses or to the other party.

**Additional Submissions After Evidence Review:** Upon receipt of each party’s response to the evidence reviewed, the investigator determines if any additional investigation is needed. The final opportunity for parties to offer evidence is at this time, during the response to evidence review.

If new relevant evidence is provided by either party, or gathered by the investigator at this time, the new evidence (including answers to clarifying questions) is made available to each party. Each party has ten (10) days to respond to the new evidence. Each party may provide a response in writing to the investigator, and the investigator incorporates any written response provided by the parties into the final investigation report.

Information that was available during the investigation but not provided to the investigator is not allowed during the hearing, unless it is clearly demonstrated that such information was not reasonably known to, or available to, the parties at the time of the investigation. Should new evidence be presented at the hearing, the hearing administrator has the authority to delay the hearing and send the matter back for further investigation limited to the new information.

### 13. Investigation Report

The investigator prepares a written report summarizing all the relevant evidence gathered and all investigative steps taken to date.

The investigator may suggest preliminary factual findings based on relevant evidence. However, the investigator does not make any findings regarding credibility or any determination regarding policy violations for any Title IX Policy allegations.



In instances when there are also allegations of violations of other non-Title IX policies, the investigator makes preliminary factual findings of applicable policies if requested to do so by the Title IX Coordinator.

The investigator attaches to the final investigation report any responses provided by the parties to the investigator in response to evidence review and includes as an attachment all relevant evidence gathered during the investigation, as well as any interview transcripts or notes and interview summaries.

The investigator provides a copy of the investigation report to the parties and their advisors, if any, at least ten (10) days before the scheduled hearing.

#### **14. Threshold Review of the Report and Post-Investigation Resolution Options**

Prior to issuing the final investigative report to the parties, the Title IX Coordinator, in consultation with the investigator and appropriate university designee, review the draft final investigation report and make a threshold determination either to dismiss the formal complaint or certain allegations within the formal complaint, or to proceed to a Hearing.

Dismissal is appropriate only when required or permitted (as described in [Section V, C](#)). A dismissal decision under this provision may not be based on an assessment of the credibility of a party or witness, nor on the strength of or lack of evidence, and may be appealed within 5 business days. See [Section VI Appeal](#).

Within five (5) business days of receiving the final investigative report, the Title IX Coordinator issues the parties the final investigative report, a notice of hearing, and information regarding informal resolution.

At this time, both parties may choose to engage in an informal resolution process consistent with [Section V, A](#) above. Informal resolution may include an acceptance of responsibility or acknowledgment of policy violation by the Respondent and acceptance of any proposed sanction or disciplinary actions by both parties.

If either party declines to explore an informal resolution, the process proceeds to a live hearing. Specific deadlines and dates set according to these procedures are outlined in communications from the university.

#### **15. Notice of Hearing**

Each party is provided with a notice of hearing, which includes information regarding the date of the hearing, the names of the assigned hearing administrator(s), and any deadlines for submission of evidence, names of witnesses, or questions to be reviewed by the hearing administrator(s) to ensure relevance. The hearing is scheduled no fewer than ten (10) business days from the date of the notice of hearing.



Within three (3) days of receipt of the notice of hearing, either party may object to a hearing administrator on the basis of a demonstrated bias or actual conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator removes the hearing administrator and appoints another.

### **16. Live Hearing Process**

The hearing administrator receives the investigation report at least five (5) days in advance of the hearing.

### **17. Hearing Advisor**

Each party is entitled to one advisor at the hearing, who is referred to as the hearing advisor. The role of the hearing advisor is to ask questions of the other party and of witnesses, but not to advocate for, or otherwise speak on behalf of, the advisee during the hearing. If the party does not appear, the hearing advisor still appears to ask questions of the other party and any witnesses. No party is permitted to directly ask questions of the other party, or of a witness. A hearing advisor of the university's choosing is provided for any party who does not have a hearing advisor.

### **18. Administrative Hearing**

Hearings are scheduled with as much notice as possible, and in no case fewer than ten (10) days after issuing the investigation report. The hearing administrator provides three possible hearing dates to the parties and their advisors; one of those dates must be chosen. Exceptions may be granted for good cause.

### **19. Pre-Hearing Conference**

There is a pre-hearing meeting with each party at which time, should the Complainant or Respondent not have an advisor, one is assigned for the purpose of cross-examination at the hearing. At the meeting, each party may submit to the hearing administrator a preliminary list of witnesses and questions they wish to pose to the other party or to a witness.

### **20. General Structure of the Hearing**

Hearings may be conducted in person or via videoconferencing. If by videoconference, prior to the hearing, the hearing administrator will have received instruction regarding the operation of any audio-visual equipment for the hearing. The hearing administrator also provides the participants instructions on how to participate in the video-conference hearing.

- a) No Complainant or Respondent or witness will be compelled to participate in the hearing. However, the Title IX Coordinator may choose to continue with the hearing in the absence of the Complainant, Respondent or any witness.
- b) The hearing administrator provides information about the process and addresses, with the parties, any issues that need to be resolved prior to the hearing (such as evidentiary questions or requests for exceptions to the rules).
- c) The hearing administrator provides the parties with an opportunity to respond to information in



the final investigation report.

- d) The parties answer questions from the hearing administrator.
- e) An opportunity is provided for each party's hearing advisor to ask questions of (cross-examine) the other party and any witnesses.
- f) The hearing administrator may question witnesses, follow up with further questioning for the parties based on any statements at the hearing, or provide the parties' advisors with limited opportunities to ask further questions.
- g) The hearing administrator ensures that each party is provided with equitable opportunities to respond and question during the hearing.

## 21. Rules of Decorum

The hearing administrator has the authority to maintain order and decorum at the hearing. Rules of decorum are shared with the parties and their advisors with the notice of hearing and discussed during the pre-hearing conference. In addition to the rules that specifically apply during the hearing listed in these procedures, parties and advisors are expected to adhere to all other expectations outlined in the rules of decorum.

The hearing administrator has the authority to determine whether any questions are not relevant, abusive, intimidating, or disrespectful, and does not permit such questions. Any party or witness who is disruptive may, in the discretion of the hearing administrator, be removed and directed to continue their participation via video conferencing. Any advisor who is disruptive may be removed, and the hearing administrator will allow another advisor for the remainder of the hearing.

## 22. General Rules of the Hearing

### a. Hearing Set-Up, Location, and Recording:

Live hearings may be conducted with all parties physically present in the same geographic location or, at the university's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. At the request of either party, the university will set-up the entire live hearing (including cross-examination) to occur with the parties located in separate locations on-campus with technology enabling the parties to see and hear each other.

All live hearings are audio or audiovisual recorded by the hearing administrator. This recording is considered the only official recording of the hearing. No other individual is permitted to record while the hearing is taking place. The recording is the property of the university but will be made available to the Complainant or Respondent for listening by contacting Title IX Coordinator.

### b. Witnesses:

The Complainant, Respondent, and the hearing administrator all have the right to call witnesses. No party is permitted to call as a witness anyone who was not interviewed by the investigator as part of the university's investigation, unless good cause can be demonstrated. Each party submits to the hearing administrator the names of witnesses they would like to call no less than five (5) days in advance of the hearing.



**c. Question Submission:**

The hearing administrator strongly encourages parties to submit to them a preliminary list of questions for the other party and witnesses at least three days prior to the hearing. Question submission is not required, but it leads to far greater efficiency and a smoother hearing experience. If the hearing administrator determines that any submitted questions are not relevant, the hearing administrator explains the reason for the exclusion of the question at the hearing. Each party, through their advisor, is permitted to ask additional questions at the hearing. If a party does not appear for the hearing, the advisor for that party appears and questions the other party and witnesses.

**d. Questioning Parties and Witnesses:**

At the live hearing, the hearing administrator permits each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including questions challenging credibility. Such cross-examination is conducted after the hearing administrator asks introductory questions of the party or witness. Cross-examination at the live hearing is conducted directly, orally, and in real-time by the party's advisor.

The parties themselves are not permitted to conduct cross-examination. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the hearing administrator first determines whether the question is relevant and explains to the parties any decision to exclude a question as not relevant. Parties and witnesses only answer questions allowed by the hearing administrator. Questions may be limited by the hearing administrator if they are irrelevant, including if they are repetitive, harassing or abusive. Questions proposed by the parties but not asked become part of the file available during an appeal.

**e. Non-Participation:**

The hearing administrator may not take into consideration in either the hearing or in their final determination the statements made during the investigation of any individual who does not participate in the hearing and submit to questioning. The hearing administrator does not draw any inference regarding responsibility based solely on a party's non-appearance at the hearing or refusal to answer questions.

**f. Time for Hearing:**

The hearing administrator has the authority to limit the time allotted to any phase of the hearing or to limit the time allotted to the full hearing. Any such limitation is communicated to the parties no later than three (3) days before the hearing, and exceptions can be made for good cause.

**g. Evidence at the Hearing:**

The hearing administrator determines which evidence is admitted, including information from witnesses and documentary evidence. Evidence is relevant if it has any tendency to make a fact that is of consequence more or less probable than it would be without the evidence.



- a. If a party or witness does not submit to cross-examination by a hearing advisor at the hearing, the hearing administrator must not rely on any statement of that party or witness (including statements relayed through third parties or in writing) in reaching a determination regarding responsibility. This exclusion rule does not apply where a party or witness refuses to answer questions posed by the hearing administrator. The rule also does not apply regarding statements or evidence that are the subject of the allegation, such as where the words themselves are the misconduct (for example, if a Respondent requested sexual favors from a Complainant in order to receive a higher grade in the class).
- b. The hearing administrator may consider all statements from witnesses obtained during the investigation, even if those statements are not directly discussed at the administrative hearing, as long as the witness did not refuse to respond to questioning.

**h. Non-Title IX Allegations:**

Where there are non-Title IX allegations addressed at the same hearing, the hearing administrator may consider all information they deem relevant for the non-Title IX allegations; however, in all other regards, when Title IX and non-Title IX allegations are addressed together at a hearing, the procedures applicable to Title IX allegations are used for all allegations (except for the exclusion of evidence that is not subject to cross-examination).

**i. Further Investigation:**

If the hearing administrator determines that unresolved issues exist that would be clarified by the presentation of additional information, they may, at their discretion, suspend the hearing to obtain such information. The hearing administrator may ask the investigator to conduct further investigation. The hearing administrator reconvenes the hearing in a timely manner.

**23. Decision Following a Live Hearing: Final Determination**

Following the hearing, the hearing administrator prepares a final determination. To the extent credibility determination needs to be made for the final determination, it is not based on a person's status as Complainant, Respondent, or witness. The final determination includes:

- The allegations;
- Description of all procedural steps;
- Findings of fact;
- Explanation of how the findings of fact apply this policy; and
- Rationale for each allegation.

The final determination is provided to the Title IX Coordinator, and as appropriate to the Director of Human Resources or the Executive Vice President.

If there is no finding of responsibility, the hearing administrator communicates the findings, along with a copy of the final determination, to the parties, together with procedures for appeal ([Section VI](#)).





If there is a finding of responsibility, the hearing administrator contacts the appropriate sanctioning officer (Director of Human Resources, Provost, or Executive Vice President) who determines the sanction and notifies the hearing administrator of the sanctioning determination. The hearing administrator then provides each party with the final determination, including the determination of the appropriate sanction, informs the Complainant of any appropriate remedies, and informs both parties of the procedure for appeal ([Section VI](#)).

### C. Dismissal of a Formal Complaint

The university also has the discretion to dismiss a formal complaint, and in some cases an obligation to dismiss, as follows. Dismissals are subject to appeal as described in [Section VI](#).

**Mandatory Dismissal of a Formal Complaint:** At any time prior to the commencement of a hearing, any case proceeding under this policy is dismissed if it is determined that the conduct at issue does not meet the definitional or jurisdictional requirements of this policy. If the alleged conduct would, if true, support a finding that another university policy or procedure has been violated, the university may, in its sole authority, transfer the case for further handling under the appropriate policy or procedure. The university may use evidence already gathered during this process for the further handling of the allegations. Upon dismissal of a formal complaint, both parties are notified in writing of the decision and the rationale for the decision. The decision to dismiss a formal complaint is subject to appeal. Both parties are notified in writing of any determination made following the appeal.

**Discretionary Dismissal of a Formal Complaint:** At any time during an investigation or prior to the commencement of a hearing, dismissal may be appropriate in any case when:

- a. Complainant notifies the Title IX Coordinator, in writing, that the Complainant would like to withdraw the formal complaint or any allegations within the formal complaint;
- b. The Respondent is no longer enrolled or employed at the university; or
- c. Circumstances prevent the university from gathering evidence sufficient to reach a determination.

If the alleged conduct would, if true, support a finding that another university policy or code has been violated, the university may, in its sole authority, transfer the case for further handling under the appropriate policy or code. The university may use evidence already gathered during this process for the further handling of the allegations. Upon dismissal, both parties are notified in writing of the decision and the rationale for the decision. The decision to dismiss is subject to appeal. Both parties are notified in writing of any determination made following the appeal.

### D. Sanctions and Remedies

Upon conclusion of the hearing process, when there is a finding of responsibility, the Complainant is offered such remedies designed to restore or preserve equal access to the institution's education program or activity. The Title IX Coordinator is responsible for ensuring overall implementation of remedies. Sanctions for students found responsible of policy violations follow the process outlined in [Policy 9001 Student Conduct](#).



Sanctions are determined on a case-by-case basis, intended to preserve equal access for the Complainant and in the best interest of the university's educational environment.

Discipline for employees follows the employee corrective action process outlined in the [UWS employee handbook](#).

## **VI. Appeal**

### **A. Filing an Appeal**

Both the Complainant and the Respondent have the right to appeal the determination of responsibility and/or the sanctions under certain conditions. A written request for an appeal may be filed by either party:

- within five (5) days of dismissal of a formal complaint; OR
- within five (5) days of a decision that the investigation does not meet requirements for moving forward with a hearing; OR
- within five (5) days of receipt of the final determination.

Appeals must be submitted, in writing, to the designated Title IX appeals officer within five (5) business days of the receipt determination of responsibility.

The purpose of the appeal is to identify if (a) a procedural irregularity affected the outcome of the matter, (b) there is newly discovered evidence that could affect the outcome of the matter, and/or (c) a Title IX Coordinator, investigator, or hearing administrator had a conflict of interest or bias that affected the outcome of the matter, or d) the sanction or discipline imposed was disproportionate to the violation.

Both parties are notified of the outcome of the appeal in writing within ten (10) business of the appeal submission.

### **B. Appeals Officer**

The designated appeals officer is communicated to the Complainant and the Respondent in the written determination following the live hearing. The appeals officer is appointed by the Title IX Coordinator and may include an administrator and/or a neutral third party hired by the university to serve as an appeals officer in accordance with university policies and procedures.

The appeals officer may not have any actual conflict of interest or bias. Within three (3) days of assigning the appeals officer, either party may object to the appeals officer on the basis of an actual bias or conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator will remove the appeals officer and appoint another. While an appeal process is pending, a student or employee found responsible for violating the policy or other standards of conduct must comply with the sanctions previously imposed and deemed necessary. A party may request a stay of the sanction during the appeal process and should direct that request to the Title IX Coordinator.



If either party submits an appeal request, that appeal request is shared with the other party who will then have five (5) business days to submit a response if they so choose. Appeal requests and responses to appeal requests are shared with the Complainant and the Respondent.

The hearing record, which includes all hearing documents, the investigation report, the hearing recording, and appeal materials from both parties, is submitted by the Title IX Coordinator to the appeals officer for review.

The appeal process is a closed process, limited to the review of the hearing record and appeal materials. There are no additional meetings with the involved parties unless there are exceptional circumstances as determined by the Executive Vice President or the Director of Human Resources, in consultation with the Title IX Coordinator.

If a party appeals the discipline or sanction, both parties may provide to the appeals officer a mitigation or impact statement to explain the appeal of the discipline or sanction. Any such statements submitted to the appeals officer are shared with the other party.

The written appeals decision is sent simultaneously to both parties and describes the result of the appeal, including the rationale. The decision of the appeals officer is final.

## VII. Record Retention

The office of the Title IX Coordinator maintains all records relating to complaints and resolutions under this policy for a minimum of seven (7) years.

## VIII. Prevention and Awareness Programs

The university offers education and primary prevention, risk reduction, and awareness programs for students and employees concerning the prohibited conduct outlined in this policy.

**Related Policies:** [Policy 1004 Nondiscrimination and Anti-Harassment](#)  
[Policy 1239 Continuous Enrollment, Approved Leave, Involuntary Leave, Withdrawal, Dismissal and Expulsion](#)  
[Policy 3019 Timely Warning Notification](#)  
[Policy 3414 \(B\) Whistleblower Protection](#)  
[Policy 9001 Student Conduct](#)  
[Policy 9002 Title IX Pregnancy and Pregnancy-Related Conditions](#)  
[Policy 9009 Student Appeal](#)

**Key Words:** gender, sexual harassment, sexual misconduct, Title IX, VAWA



**Appendix A: Summary of Title IX Investigation Process following a Formal Complaint**

A Title IX fact-gathering investigation is generally completed within 60 business days after UWS has received a report of an allegation of prohibited conduct. The 60-day timeframe does not include processes associated with a live hearing or an appeal of a decision following a hearing. The Title IX Coordinator, or designee, may extend this time frame for good cause, including university holidays and breaks.

1. **After receiving a formal complaint alleging a Title IX violation**, the Title IX Coordinator reviews the formal complaint and determines if a Title IX investigation is warranted. If an investigation will proceed, the Title IX Coordinator assigns an investigator or, in some cases, investigators. The Title IX Coordinator then sends a written notice of investigation to both parties.
2. Following the notice of investigation, the Title IX Coordinator, or a designee, meets separately with the Complainant and the Respondent, and their advisors if selected. During the pre-investigation informational meeting, the Complainant and the Respondent are informed of timeline of the investigation process, their rights during the investigation process, hearing logistics, and potential outcomes and sanctions.
3. **Typically within 60 days of receiving the formal complaint**, the assigned investigator(s) will have completed interviews with the Complainant, the Respondent, and any relevant witnesses.
4. The investigator provides the Complainant, the Respondent, and their advisors (if applicable), **at least ten (10) days to review any evidence** obtained during the investigation and respond in writing.
5. The investigator compiles an investigation report. The investigator provides a copy of the report to the Complainant, the Respondent, and their advisors (if applicable), **at least 10 days before the scheduled hearing**. The Title IX Coordinator or designee provides the hearing administrator a copy of the investigation report **at least five (5) days** before the scheduled hearing.
6. **After issuing the notice of hearing**, a live hearing takes place in which a hearing adjudicator presides over the hearing process. At the live hearing, the hearing adjudicator permits each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging witness credibility.
7. **Following the live hearing**, the hearing administrator deliberates and renders a decision regarding whether the respondent has violated university policy. The hearing administrator prepares a written determination regarding responsibility, which includes the allegations, a description of procedural steps, findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the Respondent, and whether remedies will be provided to the Complainant. The written determination is shared simultaneously with the Complainant and the Respondent either in-person or via email.
8. Appeals may be submitted to the designated appeals officer, in writing, **within five (5) business days of the determination of responsibility or other determination being appealed**.
9. **Within thirty (30) business days of receiving of the appeal**, the designated appeals officer renders a decision on the appeal and provides written notice of the decision to both parties.