


New Policy

Rescinds and Replaces Sexual Misconduct: Discrimination, Harassment and Sexual Assault Policy (Faculty and Staff)

Rescinds and Replaces: Student on Student Sexual Misconduct Policy (Students)

	<p style="text-align: center;">NORTH CAROLINA A&T STATE UNIVERSITY</p> <p style="text-align: center;">CHAPTER 200 - EQUAL OPPORTUNITY AND NONDISCRIMINATION</p> <p style="text-align: center;">INTERIM UNIVERSITY POLICY 207, SEXUAL HARASSMENT, DISCRIMINATION, AND MISCONDUCT</p>
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SECTION 207.1 PURPOSE

North Carolina Agricultural and Technical State University (“N.C. A&T” or “University”) is committed to providing a learning, teaching, and working environment free from sex discrimination, sexual harassment, sexual misconduct, and one that is safe for all members of the campus community. The University prohibits discrimination on the basis of sex, including sex assigned at birth, or gender, including gender identity and gender expression, in any of its education programs and activities. This policy prohibits specific forms of discriminatory behavior (“Prohibited Conduct”) that violate Title IX of the Education Amendments of 1972 and its implementing regulation (“Title IX”).

SECTION 207.2 SCOPE

This Policy applies to all allegations of Title IX Sexual Harassment by students, visitors, or employees within any educational program or activity. An education program or activity includes locations, events, or circumstances over which N.C. A&T exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

SECTION 207.3 POLICY STATEMENT

The University prohibits Sex and Gender- Based Harassment and Discrimination, including, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, collectively, “Sexual Harassment or “Prohibited Conduct” The University will take prompt and equitable action to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. The University conducts ongoing prevention, awareness, and training programs for Employees and Students to facilitate the goals of this policy. Further, the University is committed to: (1) fostering a community in which Prohibited Conduct is not tolerated; (2) cultivating a climate where all individuals are well-informed and supported in reporting Prohibited Conduct; (3) providing a fair and impartial process for all parties; and (4) identifying the standards by which violations of this

policy will be evaluated and disciplinary action may be imposed. Employees or Students who violate this policy may face disciplinary referral to the Dean of Students or Office of Human Resources.

Specific procedures relating to Title IX complaint intake, investigation, and grievance resolution are contained in Title IX Reporting, Intake, and Investigation Process-Appendix A to University Policy 207, Sexual Harassment, Discrimination and Misconduct.

SECTION 207.4 PROHIBITED CONDUCT

Regardless of the sex, sexual orientation, and/or gender identity/expression of the complainant or respondent, Sexual Harassment is prohibited under this policy.

Sexual Harassment, as defined by 34 CFR 106.30, is: conduct on the basis of sex that satisfies one or more of the following:

- 1) An employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- 2) 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 recipient's education program or activity; or
- 3) "Sexual assault" as defined in 20 U.S.C. 1092 (f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

SECTION 207.5 RELATIONSHIP TO OTHER POLICIES

Allegations of misconduct that do not meet the definition of Prohibited Conduct under this Policy may be subject to other University policies including but not limited to the Student Conduct Regulations, the [Unlawful Harassment and Discrimination Policy](#), or the [Campus Violence Policy](#). Members of the N.C. A&T community with questions about whether alleged misconduct falls under this or another policy should contact the Title IX Coordinator by phone at 336-285-3770 or email at TitleIX@ncat.edu.

Nothing in this policy is intended to (1) restrict any rights that would otherwise be protected from government action by the First Amendment of the United States Constitution; or (2) deprive a person of any rights that would otherwise be protected from government action under the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States Constitution; or (3) restrict any other rights guaranteed against government action by the United States Constitution; or (4) may be read in derogation of any person's rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq* or any regulations promulgated thereunder.

SECTION 207.6 DEFINITIONS

For purposes of this policy, the following definitions shall apply:

- (1) “Complainant” means a person to whom the alleged Prohibited Conduct was directed. At the time of filing a Formal Complaint, a Complainant must be participating in, or attempting to participate in, an N.C. A&T Education Program or Activity.
- (2) “Consent” means an informed, affirmative, voluntary, and mutual agreement to engage in sexual activity.
- (3) “Formal Complaint” means a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the University investigate the allegation of Title IX Sexual Harassment
- (4) “Prohibited Conduct” for purposes of Title IX and this policy means conduct on the basis of sex that satisfies one or more of the following:
 - A University employee conditioning the provision of an aid, benefit, or service on another employee’s or student’s participation in unwelcome sexual conduct (“quid pro quo” sexual harassment by an employee);
 - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an Education Program or Activity at N.C. A&T;
 - Sexual assault as defined in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act,” specifically 20 U.S.C. 1092(f)(6)(A)(v));
 - Dating violence as defined in Violence Against Women Act (“VAWA,” specifically 34 U.S.C. 12291(a)(10));
 - Domestic Violence as defined in VAWA (34 U.S.C. 12291(a)(8));
 - Stalking as defined in VAWA (34 U.S.C. 12291(a)(30); or
 - Other sexual misconduct defined below.
- (5) “Respondent” means a person who has been reported to have engaged in conduct that could constitute Title IX Sexual Harassment.
- (6) “Retaliation” is intimidating, threatening, coercing, or discriminating against any person for the purpose of interfering with any right or privilege secured by Title IX or this policy because the person made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this policy or the companion regulations.

- (7) “Title IX Coordinator” means the University official who is primarily responsible for coordinating the University’s responses to complaints involving sexual harassment or sex discrimination. The Title IX Coordinator will be informed of all reports of sexual or gender-based harassment and violence, stalking, and intimate partner violence, and will oversee the University’s review, investigation, and resolution of those reports.

SECTION 207.6 REPORTING TITLE IX PROHIBITED CONDUCT

Any person may report Prohibited Conduct (whether or not the person reporting is the person impacted by the alleged conduct), in person, by mail, by telephone, or by electronic 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. The University encourages anyone who becomes aware of an indicated of Prohibited Conduct to report the incident immediately. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

While anyone may report incidents of prohibited conduct to the University, only a Complainant may submit a Formal Complaint to the Title IX Coordinator. Formal Complaints may be made in person, by mail, or by electronic mail by using the contact information available at <https://www.ncat.edu/legal/title-ix/>. If a Formal Complaint is a hard copy, the complainant must sign the complaint.

There is no time limit for reporting Prohibited Conduct to the University under this Policy; there is no time limit for making a report or filing a complaint. The University encourages reporting of an incident as soon as possible to maximize the University’s ability to respond to the situation. If the Respondent is no longer a student or employee at the University when a complaint is filed, the University may not be able to take action against the Respondent. However, the University will investigate the complaint to the best of its ability and take steps to comply with its obligations under Title IX and to provide a safe environment for the University community.

If Complainants would rather not formally report incidents of Prohibited Conduct to the University, they may still meet with the offices mentioned above to receive supportive measures or speak confidentially with the Employee Assistance Program, Student Health Center, and Counseling Center. Information on accessing University and community resources, including emergency and ongoing assistance; physical health, mental health, and victim-advocacy services; options for reporting Prohibited Conduct to the University and/or law enforcement; and available support with academics, housing, and employment is available in Title IX Reporting, Intake, and Investigation Process-Appendix A to University Policy 207, Sexual Harassment, Discrimination and Misconduct.

SECTION 207.8 SUPPORTIVE MEASURES

When a report of alleged sexual harassment is received, the University may provide both the Complainant and the Respondent with Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge, to either party. They can be provided both before and after a formal complaint is filed. They are also available and can be provided if a formal complaint is not filed. Supportive Measures are intended to ensure a safe and stable environment pending the final outcome of the formal grievance process, allow the parties involved to have equal access to educational programs and activities, and deter sexual harassment.

Supportive Measures may include, but are not limited to, counseling; a change in work schedules; a change in or to work assignments; a change in work locations; a change in or to housing or dining facilities; altering academic schedules; withdrawing from/retaking a class without penalty; access to academic support, such as tutoring; issuing mutual no contact orders; giving special consideration for absences related to the incident(s) (e.g. medical appointments, mental health appointments, police interviews, legal proceedings, campus judicial proceedings, grievance and appeals procedures for employees); campus escort services; and a change in living arrangements or course schedule. Supportive Measures may be adjusted at any time based on an assessment of the evolving needs of the parties.

SECTION 207.9 RETALIATION

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured under this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing under this Policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, or a report or formal complaint of sexual harassment for the purpose of interfering with any right or privilege secured by Title IX or this Policy, constitutes retaliation.

SECTION 207.10 ENFORCEMENT

Any violation of this Policy by a University student, staff, or faculty member will be governed by this Policy and may be subject to additional disciplinary action in accordance with either the Student Code of Conduct; SHRA disciplinary action policy; the EHRA employment policies or the N.C. A&T Academic Freedom, Tenure and Due Process Regulations. For a description of the University's procedures, see Appendix A.

POLICY HISTORY

Interim Policy Effective, August 14, 2020

AUTHORITY: Board of Trustees

POLICY OWNER: Office of Legal Affairs

RESPONSIBLE OFFICE: Title IX Office

RESOURCES:

Title IX Reporting, Intake, and Investigation Process-Appendix A to University Policy 207,
Sexual Harassment, Discrimination, and Misconduct

Campus Violence Policy

Unlawful Harassment and Discrimination Policy

Student Handbook

SHRA Grievance Policy

SHRA Grievance Procedures

EHRA Non-Faculty Grievance Procedure

Faculty Grievance Procedure

[Title IX Regulations \(May 19, 2020\)](#)

UNC Policy Manual (“Section 1300.11[R]”)

[U.S. Department of Education, Office of Civil Rights](#)

[Equal Employment Opportunity Commission](#)



NORTH CAROLINA A&T STATE UNIVERSITY

TITLE IX REPORTING, INTAKE, AND INVESTIGATION PROCESS

Appendix A to University Policy 207, Sexual Harassment, Discrimination, and Misconduct

I. INITIAL REPORT OF PROHIBITED CONDUCT

A. Reporting

The University urges anyone who becomes aware of an incident of Prohibited Conduct to report the incident immediately. The University offers a wide range of resources and reporting options for all students and employees to provide support and guidance in response to any incident of Prohibited Conduct.

B. Mandatory Reporting by University Employees

- (1) Certain University individuals and offices are “Designated Officials” for Title IX purposes. Designated Officials include those University employees who have the authority to redress harassment or the duty to report harassment. All other employees are encouraged, but not required, to share information with the Title IX Coordinator.
- (2) Designated Officials are required to promptly report any information they learn about suspected Prohibited Conduct or potential violations of this policy to the Title IX Coordinator. Designated Officials must report all known information, including the identities of the parties, the date, time, and location, and any details about the reported incident to the Title IX Coordinator.
- (3) The Title IX Coordinator may share reports with other University employees on a need-to-know basis to ensure a coordinated institutional response.
- (4) Designated Officials may provide support and assistance to a Complainant, Respondent, or witness, but cannot promise confidentiality or withhold information about Prohibited Conduct.
- (5) Failure of a Designated Official to promptly report suspected Prohibited Conduct may subject them to discipline, including removal from a position or termination of employment.
- (6) Designated Officials are not required to report information disclosed at public awareness events (e.g., “Take Back the Night,” candlelight vigils, protests, “survivor speak-outs” or other public forums in which students may disclose prohibited conduct (collectively, public awareness events)); or during an

individual's participation as a subject in an Institutional Review Board-approved human subjects research protocol (IRB research).

- (7) Designated Officials include:
- (a) Chancellor, Vice Chancellors, Provosts, Deans, and Department Chairs (and their direct reports)
 - (b) All Division of Human Resources employees
 - (c) All Division of Student Affairs employees
 - (d) N.C. A&T State University Police Department staff
 - (e) Office of Affirmative Action
 - (f) Office of Student Conduct
 - (g) Office of Housing and Residential Life
 - (h) Athletic Director, Coaches, Assistant Coaches,
 - (i) Individuals who directly supervise student workers, faculty, or other staff
 - (j) Academic Advisors
 - (k) Campus Security Authorities under the Clery Act

C. Amnesty

- (1) N.C. A&T encourages reporting of Prohibited Conduct, even when the Complainant and/or witnesses may have violated policies themselves.
- (2) Witnesses or Complainants are sometimes hesitant to make reports because they fear that they may be charged with violations of the Student Code of Conduct or other policy violations, such as underage drinking at the time of the incident.
- (3) In general, the University will not pursue disciplinary action against an individual who makes a good faith report about Prohibited Conduct as a Complainant or witness for personal consumption of alcohol or other drugs (underage or illegal), as long as the misconduct did not endanger the health or safety of others. The University may initiate an assessment or educational discussion or pursue other non-disciplinary options regarding alcohol or other drug use.

II. INITIAL ASSESSMENT AND INTAKE

A. Initial Assessment

- (1) Upon receipt of a formal complaint or informal report of Prohibited Conduct, the Title IX Coordinator will review the initially available facts as alleged to determine if it falls within the jurisdiction of the Title IX Office and if immediate action is needed to ensure safety.
- (2) As part of the initial assessment, the Title IX Coordinator will generally:
 - (a) Assess the nature and circumstances of the report, including whether it provides the names and/or any other information that identifies the

Complainant, the Respondent, any witness and/or any other individual with knowledge of the reported incident;

- (b) Address immediate physical safety and emotional well-being;
- (c) Notify the Complainant of the right to contact (or decline to contact) law enforcement or seek a civil protection order;
- (d) Notify the Complainant of the right to seek medical treatment;
- (e) Notify the Complainant of the importance of preservation of evidence;
- (f) Refer the report to the University Police Department to enter the report into the University's daily crime log if required by the Clery Act;
- (g) Assess the reported conduct and discern the need for a timely warning under the Clery Act with UPD;
- (h) Provide the Complainant with written information about on and off campus resources;
- (i) Notify the Complainant of the range of interim measures available, including the right to reasonable interim support measures regardless of whether they choose to participate in a University or law enforcement investigation;
- (j) Notify the Complainant of the range of protective measures available if the University pursues an investigation;
- (k) Provide the Complainant with an explanation of the procedural options;
- (l) Notify the Complainant of the right to be accompanied at any meeting by an advisor of choice;
- (m) Assess the available information for any pattern of conduct by the Respondent;
- (n) Discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns);
- (o) Provide written notice and explain the University's policy prohibiting retaliation and how to report acts of retaliation; and
- (p) Determine the age of the Complainant; and if the Complainant is a minor, make the appropriate report of suspected abuse consistent with the University's Protection of Minors Policy.

B. Dismissal of Complaint Under Title IX and/or Referral Under Other Conduct Policy

- (1) If the Title IX Coordinator determines that the initially available facts as alleged would not violate this policy, even if true, the Title IX Coordinator shall dismiss the Title IX complaint. Prohibited conduct would not violate this policy if:
 - (a) The conduct did not occur in the University's education program or activity;
 - (b) The conduct did not occur against a person in the United States;
 - (c) The conduct is not sexual or discriminatory in nature as set forth in this policy.
- (2) The Title IX Coordinator may dismiss a complaint if:
 - (a) The Complainant withdraws the complaint or allegations in the complaint in writing;

- (b) The Respondent is no longer enrolled or employed by the University; or
 - (c) Specific circumstances prevent the Title IX Investigator from gathering evidence sufficient to reach a determination as to the formal complaint.
- (3) Any dismissal shall be in writing and provided to the parties simultaneously. The Complainant may appeal a finding that insufficient evidence exists to support a policy violation in accordance with the Appeals and Grievances section below. Both the Complainant and Respondent may participate in the appeal.
- (4) Prohibited conduct that does not violate this policy may violate another code of conduct or policy. In those cases, the matter will be referred to the appropriate University office for sanction action. The Complainant and Respondent will be given written notice, including the office to which the matter was referred.

III. FORMAL COMPLAINT

A. Filing a Formal Complaint

- (1) A formal complaint must be signed by a Complainant or the Title IX Coordinator and request that the University investigate an allegation of Prohibited Conduct.
- (2) A Complainant may request that their name or other personally-identifiable information not be shared with a Respondent, that no investigation be pursued, or that no disciplinary action be taken. In those cases, the Title IX Coordinator will discuss and try to address the Complainant's concerns with the Complainant. The Title IX Coordinator will consider the Complainant's request and the following factors in reaching a determination on whether the request can be honored:
- (a) The totality of the known circumstances and relevant available information;
 - (b) The nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon;
 - (c) The respective ages and roles of the Complainant and Respondent;
 - (d) The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
 - (e) Whether there have been other reports of other prohibited conduct or other misconduct by the Respondent;
 - (f) Whether the report reveals a pattern of misconduct related to Prohibited Conduct (e.g., illicit use of drugs or alcohol) at a given location or by a particular group;
 - (g) The Complainant's interest in the University not pursuing an investigation or disciplinary action and the impact of those actions on the Complainant;
 - (h) Whether the University has other ways to obtain relevant evidence;
 - (i) Fairness considerations for both the Complainant and the Respondent; and

- (j) The University's obligation to provide a safe and non-discriminatory environment.
- (3) The Title IX Coordinator will consider what steps may be possible or appropriate when a Respondent is unknown or the Complainant requests anonymity. The Title IX Coordinator will also consider available measures or remedies to address any effects of the reported behavior on the campus community. The University will attempt to resolve the matter in accordance with the Complainant's request, if it is reasonably possible to do so, while also protecting the health and safety of the parties and the university community.
- (4) If the Title IX Coordinator determines that the University must proceed with an investigation despite the Complainant's request that it not occur, the Title IX Coordinator will notify the Complainant that the University intends to initiate an investigation. The Complainant is not required to participate in the investigation or in any of the actions taken by the University.
- (5) Although there is no requirement to do so, the Title IX Office may investigate informal complaints when allegations implicate both Title IX prohibited conduct and other conduct that may violate University policies or codes of conduct.

B. Notice to Respondent

Once a formal complaint has been filed, the Title IX Coordinator will contact the Respondent and will discuss the allegations with the Respondent to:

- (a) Address immediate physical safety and emotional well-being;
- (b) Notify the Respondent of the right to contact (or decline to contact) law enforcement or seek a civil protection order;
- (c) Notify the Respondent of the right to seek medical treatment;
- (d) Notify the Respondent of the importance of preservation of evidence;
- (e) Assess the need to refer the report to the University Police Department to enter into the University's daily crime log if required by the Clery Act;
- (f) Assess the reported conduct and discern the need for a timely warning under the Clery Act with UPD;
- (g) Provide the Respondent with written information about on and off campus resources;
- (h) Notify the Respondent of the range of interim measures available, including the right to reasonable interim support measures regardless of whether they choose to participate in a University or law enforcement investigation;
- (i) Notify the Respondent of the range of protective measures available if the University pursues an investigation;
- (j) Provide the Respondent with an explanation of the procedural options;
- (k) Notify the Respondent of the right to be accompanied at any meeting by an advisor of choice;

- (l) Assess the available information for any pattern of conduct by the Complainant;
- (m) Discuss the Respondent's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns);
- (n) Provide written notice and explain the University's policy prohibiting retaliation and how to report acts of retaliation; and
- (o) Determine the age of the Respondent; and if the Respondent is a minor and alleges that the Respondent is a victim of the Complainant's violation of this policy, make the appropriate report of suspected abuse consistent with the University's Protection of Minors Policy.

C. Formal Written Notice of Title IX Investigation

- (1) If a formal complaint is filed, the Title IX Coordinator will provide the parties with written notice of how the matter will proceed after completing the initial review. The Title IX Office will ensure that formal complaints of Prohibited Conduct are investigated in a fair and impartial manner.
- (2) The notice shall contain:
 - (a) Allegations (with relevant details) of the prohibited conduct;
 - (b) A statement that the Respondent is not responsible for the alleged conduct unless a determination is made at the conclusion of the grievance process;
 - (c) Whether an investigation will be conducted by the Title IX Investigator;
 - (d) Information about the applicable University grievance process;
 - (e) A statement that each party may have an advisor of choice during the investigation, that the advisor may be an attorney, and that the advisor may accompany the party to any meeting or hearing;
 - (f) A statement that each party has a right to inspect and review evidence;
 - (g) A statement and specific reference to any provision in the University's codes of conduct or policies that prohibit knowingly making false statements or submitting false information during the grievance; and
 - (h) Notice that each party has the right to discuss the allegations being investigated, and to gather and present evidence relevant to the allegations.

D. Privacy and Confidentiality

- (1) Issues of privacy and confidentiality play important roles in and may affect individuals differently. Although related, the concepts of privacy and confidentiality are distinct terms with different meanings.
- (2) "Privacy" refers to the discretion that will be exercised by the University, including the Title IX Office, in the course of any investigation or disciplinary processes.
 - (a) Information related to a report of Prohibited Conduct will be handled discreetly and shared with a limited number of University employees or designees who need to know in order to assist in assessing, investigating, and resolving the report and related issues.

- (b) Information may be disclosed to participants in an investigation as necessary to facilitate the thoroughness and integrity of the investigation.
 - (c) The University will maintain the privacy of the parties to the extent reasonably possible in all proceedings.
- (3) “Confidentiality” refers to the statutory protections provided to individuals who disclose information in legally protected or privileged relationships, including professional mental health counselors, medical professionals, and ordained clergy.
- (a) These individuals must maintain the confidentiality of communications disclosed within the scope of their professional services.
 - (b) When an individual shares information with statutory protections (on campus or in the community) as a confidential communication in the course of a protected relationship, the information cannot be disclosed to a third party without the individual’s written permission or unless permitted or required in accordance with ethical or legal obligations. Medical and counseling records cannot be released without the individual’s written permission or unless permitted or required in accordance with ethical or legal obligations.

IV. INFORMAL RESOLUTION

A. Informal Resolution Availability

- (1) N.C. A&T can facilitate an informal resolution between a Complainant and Respondent before beginning an investigation, during an investigation, or at the conclusion of an investigation in appropriate circumstances.
- (2) An informal resolution is only available in cases where a formal complaint was filed with the Title IX Office.
- (3) Allegations that an employee sexually harassed a student will not be resolved through the informal resolution process.

B. Factors

- (1) The Complainant and Respondent must voluntarily agree, in writing, to attempt to resolve a complaint through an informal resolution process.
- (2) To proceed with informal resolution, the parties will receive written notice:
 - (a) Disclosing the allegations;
 - (b) Requirements of the informal resolution process, including the circumstances under which they are precluded from resuming a formal complaint based on the same allegations; and
 - (c) That either party may withdraw from the informal resolution process before an agreement is reached.

- (3) Agreeing to try to resolve the matter informally does not waive the Complainant's or Respondent's right to a live hearing. Either party may withdraw from the informal resolution process before an agreement is reached and continue with the grievance process to resolve the formal complaint.
- (4) Informal resolutions may include mediation, restorative justice, or other measures that do not involve disciplinary action against a Respondent. However, depending on the allegations and the parties' agreement, informal resolutions may involve disciplinary action.
- (5) A Complainant and Respondent can negotiate the terms of an informal resolution. Agreements that are reached during the informal resolution process to resolve the formal complaint are contracts, and both the Complainant and Respondent may be bound by the terms.

V. INVESTIGATION

A. Title IX Investigator

- (1) When a formal complaint alleges that prohibited conduct within the meaning of University Policy 207, Sexual Harassment, Discrimination, and Misconduct may have occurred, and the Title IX Coordinator determines that the facts as alleged would fall under Title IX, the matter shall be assigned to a trained Title IX Investigator for investigation.
- (2) The purpose of an investigation is to explore the details of the allegations in the complaint, conduct witness interviews, gather and examine the evidence in depth to determine what occurred. Evidence includes witness names and statements, documents, text messages, recordings, and social media posts. The burden of gathering evidence and proving allegations of prohibited conduct shall be on the University throughout the investigatory and grievance process.
- (3) Individuals involved in investigations or disciplinary proceedings under this policy are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation. While discretion regarding the process is important, Complainants and Respondents are not restricted from discussing and sharing information with others who may support or assist them during the process. All parties, however, are encouraged to maintain the privacy of protected and/or sensitive information gathered or learned in the process.
- (4) The Complainant and Respondent are not required to disclose medical and counseling records during an investigation. However, they may contain relevant and material information, and a party is permitted to disclose the records voluntarily.

- (5) Any records provided by a party become part of the file and are available to be reviewed by the opposing party.
- (6) The Title IX Office will make every effort to conduct and complete its investigation in a prompt and equitable manner. The amount of time it may take to complete an investigation will depend upon the nature and complexity of the allegations, witness accessibility and cooperation, and procedural due process requirements. The Complainant and Respondent will be advised of any delays that occur during the process and the reasons for delay.

B. Final Investigation Report

- (1) The Title IX Investigator shall draft a report at the completion of the investigation. The draft report shall contain at a minimum:
 - (a) Details of the allegations in the complaint;
 - (b) Summary of witness statements;
 - (c) Identification of relevant evidence examined; and
 - (d) Inconsistencies in parties' or witness statements.
- (2) The Title IX Investigator shall transmit a copy of the draft report and relevant evidence to the parties with notice that they may:
 - (a) Inspect the evidence submitted;
 - (b) Meet with the Title IX Investigator and/or submit additional information, including a response, witness names, statements, and other evidence to the Investigator;
 - (c) Submit specific questions, if any, that they want the Title IX Investigator to pose to witnesses;
 - (d) Submit any response or additional information to the Title IX Investigator within ten (10) business days from the date that the Title IX Investigator transmits the draft report.
- (3) If neither party identifies additional investigative steps that the Investigator determines to be relevant and necessary, or that the Title IX Investigator identifies, the Title IX Investigator shall prepare a Final Investigation Report.
- (4) If the Complainant or Respondent provides additional information for investigation that the Investigator determines is necessary and relevant, the Investigator shall continue the investigation. Upon conclusion of any additional investigation, the Investigator shall consider any additional comments, questions, and/or information submitted by the parties during the designated review and response period, and prepare a Final Investigative Report.
- (5) The Final Investigation Report will include, subject to confidentiality protections provided by law:
 - (a) Details of the allegations in the complaint;
 - (b) Summary of witness statements;

- (c) Identification of relevant evidence examined;
 - (d) Consistency in parties' or witness statements and evidence; and
 - (e) Inconsistencies in parties' or witness statements and evidence.
- (6) The Title IX Coordinator shall review the Final Investigative Report for compliance with the required content, and direct amendment to satisfy the content requirements to the Title IX Investigator if appropriate.
- (7) After confirming that the Final Investigative Report contains the required information, or an explanation of any omissions, the Title IX Coordinator shall forward the Final Investigative Report to the appropriate office. The Title IX Coordinator shall provide:
- (a) Concurrent written notice to each party and their advisor that the investigation has concluded;
 - (b) The office to which the Final Investigative Report was transmitted; and
 - (c) A copy of the Final Investigative Report.

IV. RESOLUTION

A. Disciplinary Authority and Sanctions

- (1) The University's disciplinary and corrective action resolution process is designed to identify and implement a tailored and individual response to eliminate Prohibited Conduct, prevent its recurrence and remedy its effects, while supporting the University's educational mission, legal obligations and commitment to Title IX.
- (2) Sanctions or interventions may also serve to promote safety and/or deter other individuals from similar future behavior.
- (3) Other remedies may include corrective action that is intended to be non-punitive, such as targeted or broad-based educational programming or training.
- (4) The Disciplinary Authority is the University administrator designated to review the final investigative report and determine responsibility, appropriate sanction(s), and/or remedies to be imposed.
- (5) The Disciplinary Authority will be impartial and free from actual bias or conflict of interest.
- (a) If the Respondent is a student, the Disciplinary Authority is the Vice Chancellor for Student Affairs or designee.
 - (b) If the Respondent is an employee subject to the State Human Resources Act (SHRA), or is both a full-time SHRA employee and less than full-time student, the Disciplinary Authority is the Vice Chancellor for Human Resources or designee, who may consult with the Respondent's manager and/or direct supervisor.

- (c) If the Respondent is a non-faculty employee, or both a full-time non-faculty employee and less than full time student exempt from the State Human Resources Act (EHRA), the Disciplinary Authority is the Vice Chancellor for Human Resources or designee, who may consult with the Respondent's manager and/or direct supervisor.
 - (d) If the Respondent is a faculty member, the Disciplinary Authority is the Provost and Executive Vice Chancellor for Academic Affairs or designee, who may consult with the Dean or Department Chair.
 - (e) If there is a question as to the Respondent's relationship with the University, the Vice Chancellor for Student Affairs or designee, and the Vice Chancellor for Human Resources or designee shall work collaboratively as the Disciplinary Authority. In such cases, a Respondent may be subject to any of the sanctions applicable to students and employees.
- (6) The Disciplinary Authority's outcome must be in writing, transmitted to the parties simultaneously, and contain:
- (a) Identification of the allegations potentially constituting sexual harassment or prohibited conduct;
 - (b) Procedural history from receipt of the formal complaint to determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - (c) Findings of fact supporting the determination;
 - (d) Conclusions regarding the application of the applicable policies or code of conduct to the facts;
 - (e) A statement of, and rationale for the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent;
 - (f) Statement regarding whether remedies designed to restore or preserve equal access to the University's education program or activity (including employment) will be provided to the Complainant by the University; and
 - (g) Notice of appeal or grievance rights and procedures, including permissible grounds for appeal.

B. Hearings

- (1) Hearings conducted pursuant to this policy must be live. Live hearings may be conducted with all parties physically present in the same geographic location, or may be conducted virtually.
- (2) The University must create an audio or audiovisual recording, or transcript, of any hearing and make it available to the parties for inspection and review.
- (3) Parties and/or their advisors and the Designated University Official at a hearing have the right to:
 - (a) Be heard by an unbiased decision-maker;
 - (b) Make an opening statement;

- (c) Present relevant and material evidence as determined by the decision-maker;
 - (d) An explanation from the decision-maker as to any questions excluded as irrelevant;
 - (e) Call witnesses to testify as permitted by the decision-maker;
 - (f) Ask questions to develop the record as to the relevant facts, circumstances, and issues; and
 - (g) Make a closing argument.
- (4) The decision-maker will give the Designated University Official and each party's advisor an opportunity to conduct direct examination and cross examination, and ask the other party and witnesses relevant questions.
- (5) If a party does not have an advisor present at the hearing, the University will provide an advisor, free of charge, to conduct direct and/or cross-examination on the party's behalf.

C. Appeals and Grievances

The Complainant or Respondent may file an appeal or grievance of a dismissal or sanction as follows:

- (a) If the Respondent is a full-time student, or both a student and less than full-time employee, the matter will be conducted in accordance with the applicable University grievance process and contained in the Student Handbook and/or Graduate Student Handbook.
- (b) If the Respondent is a full-time employee, or both a full-time employee subject to the State Human Resources Act (SHRA) and less than full-time student, the matter will be conducted in accordance with the applicable University SHRA grievance process.
- (c) If the Respondent is a full-time non-faculty employee, or both a full-time non-faculty employee exempt from the State Human Resources Act (EHRA), the matter will be conducted in accordance with the applicable University and EHRA non-faculty employee grievance process.
- (d) If the Respondent is a faculty member, the matter will be conducted in accordance with the faculty grievance process.
- (e) If there is a question as to the Respondent's relationship with the University, the Vice Chancellor for Student Affairs or designee, and the Vice Chancellor for Human Resources or designee shall work collaboratively as to determine the Respondent's relationship with the University and applicable grievance process.