



Origination08/2020

Last09/2024

Approved

Effective09/2024

Last Revised09/2024

Next Review09/2028

OwnerCristin Reynolds:
Title IX
Coordinator

AreaTitle IX

Interim Sexual Harassment Policy And Procedures

COPY

ATIXA 2020 INTERIM MODEL SEXUAL HARASSMENT POLICIES AND PROCEDURES

USE AND ADAPTATION OF THIS MODEL WITH CITATION TO ATIXA IS PERMITTED

THROUGH A LIMITED LICENSE

TO THE UNIVERSITY OF SOUTHERN MISSISSIPPI.

ALL OTHER RIGHTS RESERVED.

©2020. ATIXA

POLICY: Sexual Harassment, Including Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation

1. Glossary

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *Complainant* means an individual who is alleged to be the victim of conduct that could be sexual harassment based on a protected class; or retaliation for engaging in a protected activity, such as filing a formal complaint.
- *Complaint (formal)* means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or retaliation for engaging in a protected activity against a Respondent and requesting that the University investigate the allegation.
- *Confidential Resource* means an employee to whom incidents of sexual harassment may be reported confidentially without triggering a duty to report to the Title IX Coordinator. A Confidential Resource is not a Mandated Reporter. See definition of Mandated Reporter below.
- *Day* means a business day when the University is in normal operation.
- *Education program or activity* means locations, events, or circumstances where the University exercises substantial control over both the Respondent and the context in which the sexual harassment allegedly occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- *Final Determination:* means a conclusion by a preponderance of the evidence that the alleged conduct did or did not violate policy.
- *Finding:* means a conclusion by a preponderance of the evidence standard that the conduct did or did not occur as alleged (as in a "finding of fact").
- *Formal Grievance Process* means a method of formal resolution designated by the University to address conduct that falls within the policy included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).
- *Grievance Process Pool* includes any investigators, hearing officer/decision-maker, appeal

officer, and advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).

- *Hearing Officer/Decision-maker* refers to the person who has decision-making and sanctioning authority within the University's formal grievance process.
- *Sexual Harassment Investigative Panel (SHIP)* means the persons charged by the University with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- *Mandated Reporter* means an employee of the University who is obligated by policy to share knowledge, notice, and/or reports of harassment and/or retaliation with the Title IX Coordinator.
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- *Official with Authority (OWA)* means an employee of the University explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of the University.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's educational programs.
- *Respondent* means an individual who is alleged to have participated in conduct that could constitute sexual harassment or retaliation.
- *Resolution* means the result of an informal or formal grievance process.
- *Sanction* means a consequence imposed by the University on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence.
- *Title IX Coordinator* is the official designated by the University to ensure compliance with Title IX and the University's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

2. Rationale for Policy

The University of Southern Mississippi is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from sexual harassment and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational programs and activities. The University has developed an internal policy and procedure that provide a prompt, fair, and impartial process for those involved in an allegation of sexual harassment or retaliation. The University values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process.

3. Applicable Scope

The core purpose of this policy is the prohibition of sexual harassment and retaliation. When an alleged violation of this policy is reported, the allegations are subject to resolution using the University's formal grievance process.

When the Respondent is a member of the University community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the University community. This community includes, but is not limited to, students,¹ student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers.

The procedure below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

[1]

For the purpose of this policy, the University defines "student" as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the University.

4. Title IX Coordinator

Cristin Reynolds serves as the Title IX Coordinator and oversees implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment and retaliation prohibited under this policy.

5. Independence and Conflict-of-Interest

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and procedure.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Director of Compliance and Ethics, Mr. F. Paul Walters [601.266.4466; paul.walters@usm.edu]. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct committed by the Title IX Coordinator should be reported to the University Director of Compliance and Ethics, Mr. F. Paul Walters [601.266.4466; paul.walters@usm.edu]. Reports of misconduct committed by any other Title IX Team member should be reported to the Title IX Coordinator.

6. Where to Report

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedure, may be made internally to:

Cristin Reynolds, Ph.D.
Title IX Coordinator
129 Cook Library
Hattiesburg Campus
(601) 266-6804
cristin.reynolds@usm.edu
www.usm.edu/title-ix

Officials with Authority (OWA)

The University has determined that the following administrators are Officials with Authority to address and correct sexual harassment and/or retaliation. These Officials with Authority listed below may also accept notice or complaints on behalf of the University.

Associate Vice President for Student Affairs & Dean of Students
Sirena L. Cantrell, Ph.D.
R.C. Cook Union, Room 220
118 College Dr. #5024
Hattiesburg, MS 39406
601.266.4826
sirena.cantrell@usm.edu

Provost, SR Vice President for Academic Affairs & Prof
Lance Nail, Ph.D.
118 College Dr. #5002
Hattiesburg, MS 39406
601.266.5002
lance.nail@usm.edu

Exec Dir Admission
Michelle Konscak
Gulf Park Campus
118 College Dr. #05166
Hattiesburg, MS 39406
228.214.3249
michelle.konscak@usm.edu

Unless designated as a Confidential Resource, the University has classified all employees as Mandated Reporters. Mandated Reporters must report any knowledge they have indicating that a member of the community

is experiencing sexual harassment and/or retaliation.

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

[Equal Employment Opportunity Commission](https://www.eeoc.gov/) (EEOC)
100 West Capitol Street 338
Jackson, MS 39262
800.669.4000
Web: <https://www.eeoc.gov/>

7. Notice/Complaints of Sexual Harassment and/or Retaliation

Notice or complaints of sexual harassment and/or retaliation may be made using any of the following options:

1. Give notice verbally or in writing to the Title IX Coordinator or Officials with Authority, as listed above. Such a report may be made at any time (including during non-business hours) by calling 601.266.6804, emailing cristin.reynolds@usm.edu, or by mail to the office address listed above for the Title IX Coordinator or any other official listed above.
2. Report online, using the reporting form posted at www.usm.edu/title-ix. Anonymous reports are accepted via the Ethics line online through the website link <https://secure.ethicspoint.com/domain/media/en/gui/31502/index.html> or by phone at 877.310.0424. The University tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as the University respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the University to discuss and/or provide supportive measures.

A Formal Complaint means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the University investigate the allegation(s).

A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above. As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the University investigate the allegations.

If notice of a formal complaint is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure it is filed correctly.

8. Supportive Measures

The University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the University's education program or activity, including measures designed to protect the safety of all parties or the University's educational environment, and/or deter sexual harassment and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice. At the time that supportive measures are offered, the University will inform the Complainant, in writing, that they may file a formal complaint with the University either at that time or in the future if they have not done so already.

The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide supportive measures. The University will act to ensure as minimal an academic or employment impact on the parties as possible.

The University will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing transportation accommodations

- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related Adjustments
- Trespass, Persona Non Grata (PNG), or BE-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

9. Emergency Removal

The University can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal.

This risk analysis is performed by the Title IX Coordinator in conjunction with the CARES team using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested by the respondent within five (5) business days, objections to the emergency removal will be deemed waived.

A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so.

This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.

The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily reassigning an

employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the Respondent is an employee, existing provisions for interim action are applicable.

10. Promptness

All allegations are acted upon promptly by the University once it has received notice of a formal complaint. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Resolution Processes that occur during months between contracts. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the University will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in the University procedures will be delayed, the University will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

11. Privacy

Every effort is made by the University to preserve the privacy of reports.² The University will not share the identity of any individual who has made a report or complaint of harassment or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sexual harassment or retaliation, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under this policy and procedure.

The University reserves the right to determine which University officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to Affirmative Action/EEO, the Division of Student Affairs, the Office of the General Counsel, the University Police, and the CARES Team.

Information will be shared as necessary with SHIP Investigators, the Hearing Officer, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

The University may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically below.

12. Jurisdiction of the University

This policy applies to the educational programs and activities of the University, to conduct that takes place on the campus or on property owned or controlled by the University, at University-sponsored events, or in buildings owned or controlled by the University's recognized student organizations. The Respondent must be a member of the University's community in order for its policies to apply.

This policy may also be applicable to the effects of off-campus misconduct that effectively deprives someone of access to the University's educational program.

If the Respondent is unknown or is not a member of the University community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the University's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, the University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University property and/or events.

All vendors serving the University through third-party contracts are subject to the policies and procedures of their employers.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences sexual harassment or retaliation in an externship, study abroad program, or other environment external to the University where sexual harassment policies and procedures of the facilitating or host organization may give recourse to the Complainant.

13. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the University will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/

complaint.

14. Online Sexual Harassment and/or Retaliation

The policies of the University are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the University's educational programs and activities or use the University networks, technology, or equipment.

Although the University may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the University, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the University community.

Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of the University's control (e.g., not on the University networks, websites, or between University email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

Off-campus harassing speech by employees, whether online or in person, may be regulated by the University only when such speech is made in an employee's official or work-related capacity.

15. Definition of Sexual Harassment

The Department of Education's Office for Civil Rights (OCR) and the Equal Employment Opportunity Commission (EEOC) regard Sexual Harassment as an unlawful discriminatory practice.

The University has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the actual or attempted offenses of sexual harassment, sexual assault,

domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex or that is sexual that satisfies one or more of the following:

15.1 Quid Pro Quo Sexual Harassment

An employee of the University conditioning³ the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct.

15.2 Sexual Harassment

Unwelcome conduct determined by a reasonable person to be so objectively offensive, pervasive, and severe that it effectively denies a person equal access to the recipient's educational program or activity⁴.

15.3 Sexual Assault

Sex Offenses, Forcible—Any sexual act⁵ directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent.

15.3.1 Forcible Rape

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.

15.3.2 Forcible Sodomy

Oral or anal sexual intercourse with another person, forcibly and/or against that person's will (non-consensually), or not forcibly or against that person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

15.3.3 Sexual Assault with an Object

To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

15.3.4 Forcible Fondling

The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sex Offenses, Non-forcible— Non-forcible sexual intercourse.

15.3.5 Incest

Non-forcible, sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Mississippi law.

15.3.6 Statutory Rape

Non-forcible sexual intercourse with a person who is under the statutory age of consent of Mississippi.

15.4 Dating Violence

Violence, on the basis of sex, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

15.5 Domestic Violence

A felony or misdemeanor crime of violence 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;
- By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
- By a person similarly situated to a spouse of the Complainant under the domestic or family violence Mississippi laws;
- By any other person against an adult or youth, Complainant who is protected from that person's acts under the domestic or family violence laws of Mississippi.

*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

15.6 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.
- For the purposes of this definition—
- Course of conduct means two or more acts, including, but not limited to, acts in which the

stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

16. Retaliation

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The University will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

The University and any member of the University's community are prohibited from taking materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

17. Force, Coercion, Consent, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

a. Force:

Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not

demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

b. Coercion:

Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

c. Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force,

violence, or even saying “no” may be part of the kink and thus consensual, so the University’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

d. Incapacitation:

A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

18. Mandated Reporting

All University employees (faculty, staff, administrators) are required to report actual or suspected sexual harassment or retaliation to appropriate officials immediately, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected sexual harassment or retaliation. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with the Title IX Coordinator to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator, who will take action when an incident is reported to them.

The following sections describe the reporting options at the University for a Complainant or third-party (including parents/guardians when appropriate):

a. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak

with:

On-campus licensed professional counselors and staff

- On-campus health service providers and staff
- On-campus members of the clergy/chaplains working within the scope of their licensure or ordination
- Off-campus (non-employees):
 - Licensed professional counselors and other medical providers
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains
 - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of the immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

Campus counselors and/or the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

Anonymous notice will be investigated by the University to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

However, anonymous notice typically limits the University's ability to investigate, respond, and provide remedies, depending on what information is shared.

b. Campus Peer-to-Peer Support/Advocacy Resource

If a Complainant would like to get support from a peer to help discuss options, and resources, or just to talk about an incident without the requirement to report to university officials they can talk with members of USM's Sexual Assault Prevention Ambassadors (SAPA). To contact a SAPA representative, call the Office of Leadership and Student Involvement (601)266-4403 or email them at lsi@usm.edu

c. Mandated Reporters and Formal Notice/Complaints

All employees of the University (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share **all** details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-

confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as "Take Back the Night" marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the University.

Supportive measures may be offered as the result of such disclosures without formal University action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of sexual harassment or retaliation of which they become aware is a violation of University policy and can be subject to disciplinary action for failure to comply.

19. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the University proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the University to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The University may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the University proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that the University's ability to remedy and respond to notice may be limited if the Complainant does not want the University to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the University to honor that request, the University will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by the University, and to have the incidents investigated and properly resolved through this procedure. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

20. Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the University must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The University will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

21. False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under University policy.

22. Amnesty for Complainants and Witnesses

The University community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to University officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the University community that Complainants choose to report misconduct to University officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the University maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

Students: Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to the University Police Department).

The University maintains a policy of amnesty for students who offer help to others in need. [Although policy violations cannot be overlooked, the University may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.]

Employees: Sometimes, employees are hesitant to report sexual harassment or retaliation they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to The University officials.

The University may, at its discretion, offer employee Complainants amnesty from such policy violations related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

23. Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a. All "primary crimes," which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b. Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c. VAWA-based crimes,⁷ which include sexual assault, domestic violence, dating violence, and stalking; and
- d. Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with [campus law enforcement] regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: student affairs/student conduct staff, [campus law enforcement/public safety/security], local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

INTERIM GRIEVANCE PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON SEXUAL HARASSMENT

1. Overview

The University of Southern Mississippi will act on any formal or informal notice of violation of the Policy that is received by the Title IX Coordinator⁸ or any other Official with Authority (OWA) by applying this procedure detailed below.

The procedure below apply **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrators, or faculty members.

The procedure below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the student, faculty, and staff handbooks.

2. Notice

Upon receipt of a notice to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps the University needs to take.

The Title IX Coordinator will initiate at least one of three responses:

1. Offering supportive measures because the Complainant does not want to file a formal complaint; and/or
2. An informal resolution (upon submission of a formal notice); and/or
3. A formal grievance process including an investigation and a hearing (upon submission of a formal complaint).

The University of Southern Mississippi uses the formal grievance process to determine whether or not the policy has been violated. If so, the University will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual harassment or retaliation, their potential recurrence, or their effects.

3. Initial Assessment

Following receipt of notice or a formal complaint of an alleged violation of this Policy, the Title IX

Coordinator⁹ engages in an initial assessment, typically within five (5) business days. The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
 - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a formal complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
 - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assesses the request, and implements accordingly. No formal grievance process is initiated, though the Complainant can elect to initiate one later, if desired.
 - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the misconduct alleged falls within the scope of Title IX and if it is suitable for informal resolution. The Title IX Coordinator may also seek to determine if the Respondent is willing to engage in informal resolution.
 - If a formal grievance process is requested, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
 - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
 - an incident, and/or
 - a pattern of alleged misconduct, and/or
 - a culture/climate concern, based on the nature of the formal complaint.
 - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will "formally dismiss" that aspect of the formal complaint, if any) and assesses which policies may apply. Please note that dismissing a formal complaint under Title IX is solely a procedural requirement. Title IX does not limit the University's authority to address applicable institutional violations with an appropriate process and remedies.

a. Violence Risk Assessment

The Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the University's CARES Team as part of the initial assessment. A VRA can aid in critical determinations,

including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- To help identify potential predatory conduct;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing) and/or
- Whether a Clery Act Timely Warning is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other CARE team members.

A VRA requested by the Title IX Coordinator should occur in collaboration with the CARES team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate will result in an automatic exclusion from campus.

A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted escalations.

b. Dismissal (Mandatory and Discretionary)¹⁰

The University **must** dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; or
2. The conduct did not occur in an educational program or activity controlled by The University of Southern Mississippi (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the Respondent; or
3. The conduct did not occur against a person in the United States; or
4. At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in an educational program or activity of the University.¹¹

The University of Southern Mississippi **may** dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or

2. The Respondent is no longer enrolled in or employed by the University; or
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
Upon any dismissal, the University of Southern Mississippi will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.
This dismissal decision is appealable by any party. Parties can appeal mandatory and or discretionary dismissal up to five (5) business days from the official notice of dismissal. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it. More information about the grounds for dismissal is listed below in section 37 of this grievance procedure.

4. Counterclaims

The University of Southern Mississippi is obligated to ensure that the grievance process is not abused for retaliatory purposes. The University permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedure below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are **not** made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

5. Right to an Advisor

The parties may each have an Advisor¹² of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.¹³

a. Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the University's community.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose to accept the Advisor from the University, the Advisor will be trained by the University and be familiar with the University's resolution process.

If the parties choose an Advisor from outside of those identified/offered by the University, the Advisor may not be familiar with the University's policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

b. Advisor's Role in Meetings and Interviews

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The University of Southern Mississippi cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the University is not obligated to provide an attorney.

c. Advisors in Hearings/The University of Southern Mississippi-Appointed Advisor

In accordance with U.S. Department of Education regulations under Title IX, a form of indirect questioning is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, the University will appoint an Advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses may also be conducted by the Hearing Officer during the hearing.

- For representation, Respondents may wish to contact organizations such as:
 - FACE (<http://www.facecampusequality.org>)
 - SAVE (<http://www.saveservices.org>).
- *Complainants may wish to contact organizations such as:*
 - The Victim Rights Law Center (<http://www.victimrights.org>),
 - The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]
 - The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>]

d. Pre-Interview Meetings

Advisors may request a meeting with the Title IX Coordinator in advance of interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and the University's policies and procedures.

e. Advisor Violations of the University of Southern Mississippi Policy All

Advisors are subject to the same University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address The University of Southern Mississippi officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee¹⁴ during any meeting or proceeding and may not speak on behalf of the advisee to the Investigators or Hearing Officer except during a hearing proceeding, during cross-examination. The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation. Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

f. Sharing Information with the Advisor

The University of Southern Mississippi expects that the parties may wish to have the University share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process. The University of Southern Mississippi also provides a consent form that authorizes the University to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before the University is able to share records with an Advisor. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by The University of Southern Mississippi.

g. Expectations of an Advisor

The University of Southern Mississippi generally expects an Advisor to adjust their schedule to

allow them to attend the University's meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay. The University of Southern Mississippi may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

h. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Title IX Coordinator of the identity of their Advisor at least two (2) business days before the date of their first meeting with SHIP Investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

6. Resolution Processes

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with The University of Southern Mississippi policy. Although there is an expectation of privacy around what SHIP Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to informal resolution, discussed below. The University encourages parties to discuss any sharing of information with their Advisors before doing so.

a. Informal Resolution

Informal resolution can include three different approaches:

- When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- When the parties agree to resolve the matter through an alternate resolution mechanism such as mediation, usually before a formal investigation takes place.
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process (similar to above, but usually occurs post-investigation); see discussion in b., below.

To initiate informal resolution, a Complainant needs to submit a formal complaint, as defined above. A Respondent who wishes to initiate informal resolution should contact the Title IX Coordinator.

It is not necessary to pursue informal resolution first in order to pursue a formal grievance process, and any party participating in informal resolution can stop the process at any time and begin or resume the formal grievance process.

Prior to implementing informal resolution, the University will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.

The University of Southern Mississippi will obtain voluntary, written confirmation that all parties wish to resolve the matter through informal resolution before proceeding and will not pressure the parties to participate in informal resolution.

The ultimate determination of whether informal resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of formal complaints resolved by informal resolution are not appealable.

Current Federal Regulations, section 106.45(b)(9), allows recipients to offer and facilitate informal resolution processes, within certain parameters to ensure such informal resolution only occurs with the voluntary, written consent of both parties; informal resolution is not permitted to resolve allegations that an employee sexually harassed a student.

b. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for **all** of the alleged misconduct, the formal hearing process will be paused, and the Title IX Coordinator will determine whether informal resolution can be used according to the criteria below.

The Title IX Coordinator may look to the following factors to assess whether informal resolution is appropriate:

- The parties' amenability to informal resolution
- The parties' motivation to participate
- Results of a violence risk assessment/ongoing risk analysis
- Disciplinary history
- Complaint complexity
- Goals of the parties

If informal resolution is applicable, the Title IX Coordinator will determine whether all parties and the University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of the University policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the formal grievance process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the sexual harassment or retaliation, prevent

its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

7. Grievance Process Pool

The formal grievance process relies on a pool of administrators ("the Pool") to carry out the process. The Title IX Coordinator appoints the Pool¹⁵, which acts with independence and impartiality.

a. Pool Member Roles

Members of the Pool are trained annually, and can serve in in the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to notices
- To act as an Advisor to the parties
- To serve in a facilitation role in informal resolution if appropriately trained in appropriate resolution modalities (e.g. mediation)
- To investigate formal complaints
- To serve as a Hearing Facilitator
- To serve as a Hearing Officer
- To serve as an Appeal Officer

b. Pool Member Training

The Pool members receive annual training. This training includes, but is not limited to:

- The scope of the University's Sexual Harassment Policy and Procedure
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales

- The definitions of all offenses
- How to apply definitions used by the University with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment and/or retaliation allegations
- Recordkeeping

Specific training is also provided for Appeal Officers, Advisors (who are University employees), and Hearing Officers. All Pool members are required to attend these trainings annually. The materials used to train all members of the Pool are publicly posted here: https://www.usm.edu/title-ix/education_training.php.

8. Formal Grievance Process: Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (the "NOIA") to the Respondent upon commencement of the formal grievance process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,

- A statement about the University's policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that the University's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- The name(s) of the SHIP Investigators, along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the SHIP Investigators may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Notice will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the parties' University-issued email or designated accounts. Once emailed and/or received in-person, notice will be presumptively delivered.

9. Resolution Timeline

The University of Southern Mississippi will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business days. This timeframe includes appeals, which can be extended as necessary for appropriate cause by the Title IX Coordinator. For any extensions or delays the Title IX Coordinator will provide notice and rationale to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

10. Appointment of SHIP Investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Pool members to conduct the investigation (typically using a team of three SHIP Investigators), usually within five (5) business days of determining that an investigation should proceed.

11. Ensuring Impartiality

Any individual materially involved in the administration of the formal grievance process [including the Title IX Coordinator, SHIP Investigators, and Hearing Officer(s)] may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned SHIP Investigators to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the formal grievance process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Director of Compliance and Ethics, Mr. F. Paul Walters.

F. Paul Walters, J.D.
Director of Compliance and Ethics
IC 501 Office of Compliance and Ethics
601.266.4466
paul.walters@usm.edu

The formal grievance process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation as well as evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The University of Southern Mississippi operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof (i.e. preponderance of the evidence).

12. Investigation Timeline

The investigation phase is typically completed within thirty (30) business days. However, some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

The University of Southern Mississippi will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

13. Delays in the Investigation Process and Interactions with Law Enforcement

The University will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. The University will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the University will implement supportive measures as deemed appropriate.

The University of Southern Mississippi action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

14. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and

questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The SHIP Investigators typically take(s) the following steps, if not already completed (not necessarily in this order):

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's transcript/report of the relevant evidence/testimony from their respective interviews and meetings
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the SHIP Investigators to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used by the hearing officers to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- The SHIP Investigators gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report
- Provide an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the University does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor)
- The SHIP Investigators may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The SHIP Investigators will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The SHIP Investigators should document all rationales for any changes made after the review and comment period
- The SHIP Investigators shares the report with the Title IX Coordinator and/or legal counsel for

their review and feedback

- The SHIP Investigators will incorporate any relevant feedback, and the Title IX Coordinator then shares the final report with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report

15. Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of The University of Southern Mississippi are expected to cooperate with and participate in the University's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the SHIP Investigators determine that timeliness or efficiency dictates a need for remote interviewing. The University will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the SHIP Investigators, though not preferred. If a witness submits a written statement but does not intend to be and is not present for cross-examination at a hearing, their written statement may not be used as evidence.

16. Recording/Transcription of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. SHIP Investigators will have audio recordings of interviews; all involved parties will be made aware of any audio recording. Transcripts of interview recordings will be made available to the parties.

17. Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or 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.

18. Referral for Hearing

Provided that a formal complaint of sexual harassment is not resolved through informal resolution, once

the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Hearing Officer–unless all parties **and** the Hearing Officer agree to an expedited timeline.

19. Hearing Officer Composition

The University of Southern Mississippi will designate a single Hearing Officer. The Hearing Officer will not have had any previous involvement with the investigation.

The Title IX Coordinator may not serve as a Hearing Officer in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Title IX Coordinator.

20. Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator will send notice of the hearing to the parties. Once emailed and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- Any technology that will be used to facilitate the hearing. Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Hearing Officer and parties to see and hear a party or witness answering questions.
- A list of all those who will attend the hearing, along with an invitation to object to any Hearing Officer on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least ten (10) business days prior to the hearing.
- Information on how the hearing will be recorded and transcribed as well as how to request transcript/recording of the hearing for the parties.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Hearing Officer. For compelling reasons, the Title IX Coordinator may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the University will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Hearing Officer about the matter, unless they have

been provided already.¹⁶

- An invitation to each party to submit to the Hearing Officer an impact statement pre-hearing that the Hearing Officer will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the 60-90 business day goal for resolution.

21. Evidentiary Considerations in the Hearing

Any evidence that the Hearing Officer determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or 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.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Hearing Officer at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Hearing Officer renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

22. Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing.

The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

23. Pre-Hearing Preparation

The Title IX Coordinator after any necessary consultation with the parties and/or SHIP Investigators will provide the names of persons who will be participating in the hearing, all pertinent documentary

evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the SHIP Investigators [or have proffered a written statement or answered written questions], unless all parties and the Hearing Officer assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Hearing Officer do not assent to the admission of evidence newly offered at the hearing, the Hearing Officer may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given the name of the Hearing Officer at least ten (10) business days in advance of the hearing. All objections to any Hearing Officer must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than five (5) business days prior to the hearing. The Hearing Officer will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Hearing Officer a list of the names of all parties, witnesses, and Advisors at least ten (10) business days in advance of the hearing. Any Hearing Officer who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Hearing Officer is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Hearing Officer at the hearing and will be exchanged between each party by the Hearing Officer.

24. Hearing Procedures

At the hearing, the Hearing Officer has the authority to hear and make determinations on all allegations of sexual harassment and/or retaliation.

Participants at the hearing will include the Hearing Officer, the Hearing Facilitator, the Chair for the SHIP Investigators, the parties Advisors, any called witnesses, the Title IX Coordinator, and anyone providing authorized accommodations or assistive services.

The Hearing Facilitator and the Title IX Coordinator will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Hearing Officer will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Hearing Officer and the parties and will then be excused.

25. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused

the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

26. The Order of the Hearing – Introductions and Explanation of Procedure

The Hearing Facilitator will attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

The Hearing Officer who also serves as the decision-maker explains the procedures and introduces the participants.

27. SHIP Investigator Presents the Final Investigation Report

The Chair SHIP Investigator will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Hearing Officer and the parties (through their Advisors). The Chair SHIP Investigator will be present during the entire hearing process, but will be excused when the hearing officer begins their deliberations.

Neither the parties nor the Hearing Officer should ask the Chair SHIP Investigator their opinions on credibility, recommended findings, or determinations, and the Chair SHIP Investigator, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Hearing Officer will direct that it be disregarded.

28. Testimony and Questioning

Once the Chair SHIP Investigator presents the final investigation report and is questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Hearing Officer. The parties/witnesses will submit to questioning by the Hearing Officer and then by the parties through their Advisors ("cross-examination").

All questions are subject to a relevance determination by the Hearing Officer. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing, the proceeding will pause to allow the Hearing Officer to consider it (and state it if it has not been stated aloud), and the Hearing Officer will determine whether the question will be permitted, disallowed, or rephrased.

The Hearing Officer may invite explanations or persuasive statements regarding relevance with the

Advisors. The Hearing Officer will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Hearing Officer will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Hearing Officer will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Hearing Officer has final say on all questions and determinations of relevance. The Hearing Officer may consult with legal counsel on any questions of admissibility. The Hearing Officer may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Hearing Officer has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Hearing Officer at the hearing, the Title IX Coordinator may elect to address those issues, consult with legal counsel, and/or preserve them for appeal. If bias is not in issue at the hearing, the Hearing Officer should not permit irrelevant questions that probe for bias.

29. Refusal to Submit to Cross-Examination and Inferences

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Hearing Officer can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Hearing Officer may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

If a party's Advisor of choice refuses to comply with the University's established rules of decorum for the hearing, the University may require the party to use a different Advisor. If a University-provided Advisor refuses to comply with the rules of decorum, the University may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

30. Recording/Transcriptions of Hearings

Hearings (but not deliberations) are recorded and transcribed by the University for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Hearing Officer, the parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording or read the transcription in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording or transcription without permission of the Title IX Coordinator.

31. Deliberation, Decision-making, and Standard of Proof

The Hearing Officer will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof is used. The Hearing Facilitator may be invited to attend the deliberation by the Hearing Officer, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Hearing Officer may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Title IX Coordinator will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Hearing Officer may – at their discretion – consider the statements, but they are not binding.

The Hearing Officer will review the statements and any pertinent conduct history provided by appropriate administrators and will determine the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Hearing Officer will then prepare a written finding of facts and conclusions statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions.

The finding of facts and conclusions statement must be submitted to the Title IX Coordinator within ten (10) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

32. Notice of Outcome

Using the findings of facts and conclusions, the Title IX Coordinator will prepare a Notice of Outcome in collaboration with the Hearing officer. Legal counsel will then review the Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within five (5) business days of receiving the Hearing Officer's finding of facts and conclusions statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the parties' University-issued email or otherwise approved account. Once emailed and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the University from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the University is permitted to share such information under state or federal law; any sanctions issued which the University is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the University's educational or employment program or activity, to the extent the University is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

33. Statement of the Rights of the Parties ([see Appendix A](#))

34. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the sexual Harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment and/or retaliation
- The need to remedy the effects of the sexual harassment and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Hearing Officer

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

a. Student Sanction

The following are the usual but not an exhaustive list of sanctions¹⁷ that may be imposed upon students;

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either University-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the University.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend University-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript, subject to any applicable expungement policies.
- *Loss of Commencement Participation*: The University can deny a student participation in commencement activities as a sanction.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

b. Employee Sanctions/Responsive Actions

Responsive actions for an employee who has engaged in harassment and/or retaliation can include:

- *Warning – Verbal or Written*
- *Performance Improvement Plan/Management Process*
- *Enhanced supervision, observation, or review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Delay of tenure track progress*
- *Assignment to new supervisor*
- *Restriction of stipends, research, and/or professional development resources*

- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions, the University may assign any other responsive actions as deemed appropriate.

35. Withdrawal or Resignation While Charges Pending

a. Students

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the University, the resolution process ends, as the University no longer has disciplinary jurisdiction over the withdrawn student. However, the University will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment and/or retaliation. It is the University's discretion to withhold readmission to an educational program regarding pending and or dropped allegations when the University once again has disciplinary jurisdiction over a previously withdrawn student.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to the University unless and until all sanctions have been satisfied.

b. Employees

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the University no longer has disciplinary jurisdiction over the resigned employee. However, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for rehire with the University or any campus of the University, and the records retained by the Title IX Office and Human Resources will reflect that status. All University responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

36. Appeals

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

A single Appeal Officer will review the appeal request. No appeal panelists will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Officer for consideration to determine if the request meets the grounds for appeal (a Review for Standing). The Appeal Officer will have five (5) business days to review for standing after receiving the appeal.

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed. General dissatisfaction with the outcome of the proceeding is not a basis for appeal.

a. Grounds for Appeal

Appeals are limited to the following grounds:

- A. Procedural irregularity that affected the outcome of the matter;
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- C. The Title IX Coordinator, SHIP Investigators, or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, the request will be denied by the Appeal Officer. The parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Title IX Coordinator will notify the other party(ies) and their Advisors and when appropriate, the SHIP Investigators and/or the original Hearing Officer.

The other party(ies) and their Advisors and when appropriate, the SHIP Investigators and/or the original Hearing Officer will be emailed, and/or provided a hard copy of the request with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Title IX Coordinator will forward all responses to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Officer and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the SHIP Investigators and/or original Hearing Officer, as necessary, who will submit their responses in five (5) business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Officer will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and will render a decision in no more than five (5) business days, barring exigent circumstances, using the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale

supporting the essential findings to the extent the University is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the parties' University-issued email or otherwise approved account. Once emailed and/or received in-person, notice will be presumptively delivered.

b. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are on hold during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

c. Appeal Considerations

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Officers to substitute their judgment for that of the original Hearing Officer merely because they disagree with the finding and/or sanction(s).
- The Appeal Officer may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original SHIP Investigators and/or Hearing Officer for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.
- In rare cases where a procedural [or substantive] error cannot be cured by the original Hearing Officer (as in cases of bias), the appeal may order a new hearing with a new Hearing Officer.
- The results of a remand to a Hearing Officer cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

37. Long-Term Remedies/Other Actions

Following the conclusion of the formal grievance process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the sexual harassment and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Environmental Assessment
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the University to the Respondent to ensure no effective denial of educational access.

The University of Southern Mississippi will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the University's ability to provide these services.

38. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Hearing Officer (including the Appeal Officer).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

39. Recordkeeping

The University of Southern Mississippi will maintain for a period of at least seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity;
4. Any appeal and the result therefrom;
5. Any informal resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, SHIP Investigators, Hearing Officers, and any person who facilitates an informal resolution process. These training materials will be publicly available on The University of Southern Mississippi's website; and
7. Any actions, including any supportive measures, taken in response to a notice or formal complaint of sexual harassment filed with the office, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent;
 - b. Any measures designed to restore or preserve equal access to the University's education program or activity; and
 - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The University of Southern Mississippi will also maintain any and all records in accordance with state and federal laws.

40. Disabilities Accommodations in the Resolution Process

The University of Southern Mississippi is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the University's grievance process.

Anyone needing such accommodations or support should contact the Director of Student Accessibility Services, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

Student Accessibility Services
Hattiesburg Campus
Room: Bond Hall 114
Location: 118 College Drive Hattiesburg, MS

Phone: 601.266.5024

Email: sas@usm.edu

Gulf Coast Campus

Room: Hardy Hall 233

Location: 730 East Beach Blvd Long Beach, MS

Phone: 228.214.3302

Email: sas@usm.edu

41. Revision of this Policy and Procedures

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. The University of Southern Mississippi reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the formal grievance process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective August 14, 2020.

Footnotes

[1] For the purpose of this policy, the University defines “student” as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the University.

[2] For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of University employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the University’s response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the University’s Student Records Policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. The University has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, see section 18. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clery Act. Other information may be shared as required by law.

[3] Implicitly or explicitly

[4] Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of 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.

[5] This would include having another person touch you sexually, forcibly, or without your consent.

[6] Bondage, discipline/dominance, submission/sadism, and masochism.

[7] VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

[8] Anywhere this procedure indicates “Title IX Coordinator,” the University may substitute a trained designee.

[9] If circumstances require, the Director of Compliance and Ethics or the Title IX Coordinator will designate another person to oversee the process below should an allegation of bias be made about the Coordinator or the Coordinator is otherwise unavailable or unable to fulfill their duties.

[10] These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45.

[11] Such a Complainant is still entitled to supportive measures, but the formal grievance process is not applicable.

[12] This could include an attorney, advocate, or support person. The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally).

[13] Subject to the state law provisions or The University of Southern Mississippi policy above.

[14] Subject to the state law provisions or The University of Southern Mississippi policy above.

[15] This does not preclude the University from having all members of the Pool go through an application and/or interview/selection process.

[16] The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

[17] The University's policies on transcript notation will apply to these proceedings.

APPENDIX A: STATEMENT OF RIGHTS OF THE PARTIES

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or retaliation made in good faith to The University of Southern Mississippi officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by University officials.
- The right to have University policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by University officials from reporting sexual harassment or retaliation to both on-campus and off-campus authorities.
- The right to be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by University authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly by University law enforcement and/or other University officials.
- The right to be informed of available supportive measures, such as counseling; advocacy; health care; work location; living arrangements; and other assistances or services, both on

campus and in the community. No formal report, or investigation, either campus or criminal, needs to occur before this option is available.

- The right to request a University-implemented no-contact order [or a no-trespass order against a non-affiliated third party] when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to have the University maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the University's ability to provide the supportive measures.
- The right to ask the SHIP Investigators and Hearing Officer to identify and question relevant witnesses, including expert witnesses.
- The right not to have irrelevant prior sexual history or character admitted as evidence.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to fair opportunity to provide the SHIP Investigators with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
The right to have reports of alleged Policy violations addressed by SHIP Investigators, the Title IX Coordinator, and Hearing Officer who have received relevant annual training.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to petition that any University representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the grievance process.
- The right to have the University compel the participation of faculty and staff witnesses.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Hearing Officer following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale of the decision (including an

explanation of how credibility was assessed), delivered simultaneously to the parties.

- The right to be informed in writing of when a decision by the University is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the grievance process, and the procedures for doing so in accordance with the standards for appeal established by the University.
- The right to a fundamentally fair resolution as defined in these procedures.[^]

All Revision Dates

09/2024, 03/2023, 10/2021, 08/2020, 08/2020

Approval Signatures

Step Description	Approver	Date
	Cristin Reynolds: Title IX Coordinator	09/2024
Associate Director of Compliance and Ethics	Jennifer Lewis: Asc Dir Compl & Ethics	09/2024
		
		