

This policy will become Effective July 1, 2026. All cases prior to this date will be under the old policy.

TUSKEGEE UNIVERSITY

TITLE IX POLICY

SUMMARY

This is the Title IX policy of Tuskegee University (“TU”). Title IX of the Education Amendments of 1972 is a law promulgated to prohibit discrimination based on sex in education programs and activities that receive federal financial assistance. Title IX states that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

TU shall respond to reports of Title IX sexual harassment when: (1) the school has actual knowledge of sexual harassment; (2) it occurred within the school’s education program or activity; (3) against a person in the United States. TU prohibits discrimination based on sex in employment and education programs and activities. This policy applies to all students, employees, staff and volunteers and to conduct occurring in locations, events, or circumstances over which TU exercises substantial control over both (1) the respondent, and (2) the context in which the sexual harassment occurs, including on school grounds; and through technology resources provided by or used at TU or impacting a student or employee at a location owned, leased or controlled by TU.

TU will process all sexual harassment reports it receives, to determine whether the conduct alleged in the report, if proved, would constitute sexual harassment as defined in applicable regulations. This includes reports of sexual assault or harassment made by students and employees, and against students, employees, and volunteers. TU reserves the right to address potential disciplinary infractions that fall outside of Title IX’s scope under its student, staff handbook and faculty codes of conduct and handbooks:

- 1) Staff Handbook: [00726 Tuskegee Handbook](#)
- 2) Student Handbook: [EDITING COPY SHB](#)

TU will take appropriate action should it receive a formal complaint and has actual knowledge that any contractor, vendor, partner, or other affiliate has engaged in sex-based misconduct, up to and including termination of the business relationship.

All reports of sexual harassment and retaliation prohibited under the Title IX policy shall be directed to TU’s Title IX Coordinator.

The Title IX Coordinator’s responsibilities include receipt and review of reports and formal complaints, investigating or overseeing the investigation of formal complaints of alleged sexual harassment; ensuring that consistent standards and practices apply to all investigations; being available to meet with students and employees who believe a violation of this policy has occurred; and assisting campus security or law enforcement as needed.

Delegation of Duties Under This policy

Obligations in this policy assigned to a particular title, such as the Title IX Coordinator, may be designated as appropriate by University, including external professionals.

DEFINITIONS

Actual knowledge means notice of sexual harassment or allegations of sexual harassment to TU's Title IX Coordinator or any TU official who has authority to institute corrective measures on behalf of TU. There can be no imputation of knowledge based solely on vicarious liability or constructive notice, and the "actual knowledge" requirement is not satisfied when the only TU official with actual knowledge is the respondent.

Appeals Officer means the Vice President for Student Affairs or designee who will determine appeals of dismissals or determinations about responsibility.

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. A complainant must be enrolled at or employed by TU to sign a formal complaint.

Consent means intelligent, knowing, and voluntary consent of an individual over that age of 16 and does not include forcible compulsion, incapacity to consent.¹ "Consent" shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender. Once consent is withdrawn or revoked, sexual activity must stop immediately.

- (i) Consent must be **voluntary** and given without coercion, force, threats, or intimidation.
- (ii) Consent can be **withdrawn or revoked**. Consent to one form of sexual activity (or consent to sexual activity on one occasion does not constitute consent to other forms of sexual activity, other sexual acts, or sexual activity on another occasion. Consent cannot be given by a person who is **incapacitated**. **Incapacitated** means a complainant is temporarily incapable of appraising or controlling his/her conduct due to the influence of a narcotic, anesthetic, alcohol, or other substance, including substances administered without consent, or due to any other act committed upon the victim without consent. A person cannot give consent if s/he is unconscious or coming in and out of consciousness. Examples of incapacitation include unconsciousness, sleep and blackouts. Whether an *intoxicated* person (due to using alcohol or other drugs) is *incapacitated* depends on the extent to which the person's decision-making capacity, awareness of consequences, and ability to make fully informed judgments is impaired.
- (iii) Being intoxicated by drugs or alcohol does not diminish a person's responsibility to obtain consent from the other party before engaging in sexual activity. Factors to be considered when determining culpability include whether the person knew, or whether a reasonable person in the accused's position should have known, that the victim could not give, did not give, or revoked, consent; was incapacitated; or was otherwise incapable of giving consent.
- (iv) Persons who are drugged, incapacitated, or under the age of 16 are unable to give consent.

Corrective Measures means supportive measure provided by TU including but not limited to; counseling services, missed class notifications, extension in deadlines, modification in work or class schedules, no-contact order, change in housing and leaves of absence.

Disclosure or Report: A disclosure or report may be made by anyone, whether they learned about conduct potentially constituting prohibited conduct under this policy, or whether they personally experienced such conduct. A person making a disclosure or report may or may not be seeking to initiate an investigation.

¹ § 13A-6-70, Ala. Stat.

Days: any reference to days refers to business days when TU is in normal operation. Accordingly, federal and state holidays are excluded.

Education program or activity includes (1) any on-campus premises of TU; (2) any off-campus premises over which TU has substantial control; (3) off-campus activities that are part of a TU program, including field trips and sanctioned events such as performances, and athletic or academic competitions; and (4) activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of TU's programs and activities over which TU has substantial control.

Formal complaint means a document filed by a complainant alleging sexual harassment against a respondent and requesting that TU investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of TU. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by e-mail using the contact information for the Title IX Coordinator listed in this policy and other publications, or through an online portal provided for this purpose by TU. The complaint must (1) contain the complainant's physical or digital signature, or (2) indicate that the complainant is the person filing the formal complaint.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment

Supportive measures mean non-disciplinary, non-punitive, individualized services offered as appropriate, reasonably available, and without charge to the complainant or respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Prohibited Conduct

This policy prohibits Title IX sexual harassment and retaliation as defined below. These acts may also be referred to as Prohibited Conduct under this Policy:

- a. Title IX Quid Pro Quo Sexual Harassment.** An employee or graduate student conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct;
- b. Title IX Hostile Environment Sexual Harassment.** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity.
- c. Sexual assault:** an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Specifically, this includes:

Rape—The 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 victim.

Sexual Contact—the intentional, nonconsensual touching of the clothed or unclothed body parts of another person for the purpose of sexual degradation, sexual gratification, or sexual humiliation. Sexual Contact also includes the forced, nonconsensual touching by the victim of the actor’s clothed or unclothed body parts for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication.

Incest—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent.

- d. Dating violence: physical violence committed by a person:
 - a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - o The length of the relationship;
 - o The type of relationship; and
 - o The frequency of interaction between the persons involved in the relationship.
- e. Domestic violence: felony or misdemeanor crimes of physical violence committed by a person who:
 - o Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of Alabama, or a person similarly situated to a spouse of the victim;
 - o Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - o Shares a child in common with the victim; or
 - o Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
- f. 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.
- g. Retaliation: Retaliation is any materially adverse action taken against an individual because they were involved in the disclosure, reporting, investigation, or resolution of a report of Prohibited Conduct. Retaliation includes threats, intimidation, harassment, coercion, discrimination, violence, or any other conduct against any person by TU, a student, or an employee or other person authorized by TU to provide aid, benefit, or service under TU’s education program or activity, for the purpose of interfering with any right or privilege secured by this policy or by law, including Title IX or its regulations. Adverse action does not include perceived or petty slights, or trivial annoyances.

Retaliation: The prohibition against retaliation applies to any individuals who participate (or refuse to participate) in any manner in an investigation, or hearing, and to any student who refuses to participate in an investigation, proceeding, or hearing. Retaliation may occur even where there is a finding of “not responsible” under this policy. Good faith actions lawfully pursued in response to a report of Prohibited Conduct are not Retaliation. Retaliation allegations may be investigated and adjudicated under this policy but may also be referred to other offices as appropriate.

1. **Reporting Sexual Harassment and filing a formal complaint**

- (a) All reports of violations of this policy will be taken seriously and in good faith. Employees, students, guests, or visitors who believe that this policy has been violated should promptly contact the Coordinator or another member of the Title IX Office as follows:
- (i) Maria Khan
mkhan@tuskegee.edu
203, Tompkins Hall,
(334) – 727 - 8422
 - (ii) Maxient Online Link: [Title IX Online Incident Reporting Form](#)
- (b) Complaints directed to the Deputy Chief Athletics Director & Compliance or to Human Resources will be referred to the Title IX Coordinator.
- (c) Any person may report sexual harassment (whether or not the person reporting is the person alleged to be the victim of sexual harassment) by using the contact information listed for the Title IX Coordinator, and such a report may be made at any time (including during non- business hours) by using the above-listed telephone numbers or email addresses, or by mail to the listed office address. Third party (including “bystander”) reporting, and anonymous reporting (by the complainant or by a third party) triggers response obligations.²
- (d) Upon receipt of a report, the Title IX Coordinator must contact the complainant to discuss supportive measures, consider the complainant’s wishes with respect to supportive measures, and explain to the complainant the process for filing a formal complaint. If the conduct alleged does not meet the definition of Title IX sexual harassment, TU has discretion to pursue disciplinary action under another provision of its faculty, staff or student code of conduct. Any TU official who has authority to institute corrective measures on behalf of TU receiving a report of sexual harassment is responsible for reporting it to the Title IX Coordinator. Failure to comply with this policy shall be grounds for disciplinary action.
- (e) **Employee Reporting Obligations**
- (i) All employees (TU faculty and staff) must report any information they learn about or observe that may constitute prohibited conduct under this policy to the Title IX Coordinator. This includes an obligation to report any concerns or complaints that are raised to the employee by other employees or by students, visitors, guests, or others. Employees may share this information with the Title IX Coordinator by email, using the Maxient reporting link, or in-person.
 - (ii) When providing this information to the Title IX Coordinator, the employee must include their own name and contact information, and all known details about an incident, which may

² 34 C.F.R. § 106.8(a).

include, if known, the dates, times, locations, names of involved individuals and the nature of the incident.

- (iii) If the Title IX Coordinator or any employee with the authority to institute corrective measures on behalf of TU has knowledge about Title IX Prohibited Conduct, then TU is considered to have actual knowledge of the report and will respond in accordance with this policy.
 - (iv) TU also encourages employees who themselves experience sexual harassment to bring their concerns to the Title IX Coordinator, though they are not required to do so.
 - (v) Aside from this reporting obligation, employees will, to the fullest extent possible, maintain the privacy of an individual's information, consistent with FERPA.
- (f) If the information provided does not suggest a potential violation of this policy, the Title IX Coordinator will provide the complainant written notice that the matter is being referred for handling under a different policy, and/or to another appropriate office for handling, if applicable.

2. Initial Response to a Report

- (a) Initial Contact. Upon (a) the Title IX Coordinator's receipt of a report, or (b) notice of alleged conduct implicating this policy from a TU official who has authority to institute corrective measures on behalf of TU. The Title IX Coordinator, will attempt to meet with the complainant, provide a copy of this policy, and explain:
- (i) The right to report a crime to campus security or local law enforcement;
 - (ii) The right to not report a crime to law enforcement or file criminal charges;
 - (iii) The right to simultaneously file both a criminal complaint with campus security or local law enforcement and a formal institutional Title IX complaint;
 - (iv) The right to assistance from TU officials with filing a criminal complaint if assistance is requested;
 - (v) If a formal complaint is filed, initial review by the Title IX Coordinator \ to determine whether, if true, the allegations would constitute a violation of Title IX;
 - (vi) Options for informal and formal resolution if a complaint proceeds beyond the initial review process;
 - (vii) Available health care, victim advocacy, mental health, legal assistance resources and counseling services available both on and off campus, including the campus health center, the student services center, and pastoral counselors.
 - (viii) Even if a complainant asks TU not to take any action, the University may be obligated to investigate the complaint; and
 - (ix) Prohibitions against retaliation.

Initial Intake & Assessment

- (b) The Initial Assessment process seeks to gather information about the nature and circumstances of the report to determine whether this policy applies to the report and, if so, which resolution process

may be appropriate, as well as which section of the resolution procedures apply based on the conduct and the status of the parties. The Title IX Coordinator may also determine that the provision of supportive measures only is the appropriate response under the policy. The initial assessment is not a finding of fact or responsibility. If the individual bringing forward the report is not the actual complainant, the Title IX Coordinator will limit communication to general information on policies and processes.

- (c) Should the complainant wish to file a formal complaint, the Title IX Coordinator will determine whether this policy applies and, if so, the appropriate process under this policy. The Title IX Coordinator will communicate to the complainant this determination.
- (d) If the information provided does not suggest a potential violation of this policy, the Title IX Coordinator will provide the complainant with written notice that the matter is being referred for handling under a different policy, and/or to another appropriate office for handling.

Requests for Confidentiality or No Further Action

- (e) When a complainant requests that TU not use their name as part of any resolution process, or that TU not take any further action, TU will generally try to honor those requests. However, there are certain instances in which TU has a broader obligation to the community and may need to act against the wishes of the complainant. In such circumstances, the Title IX Coordinator will notify the complainant in writing of the need to take action. The factors the Title IX Coordinator will consider when determining whether to act against the wishes of a complainant include:
 - (i) The complainant's request not to proceed with filing a formal complaint;
 - (ii) The complainant's reasonable safety concerns regarding filing a formal complaint;
 - (iii) The risk that additional acts of Prohibited Conduct would occur if a formal complaint is not filed;
 - (iv) The severity of the alleged Prohibited Conduct, including whether the prohibited conduct, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
 - (v) The age and relationship of the parties, including whether the respondent is an employee of TU;
 - (vi) The scope of the alleged prohibited conduct, including information suggesting a pattern, ongoing prohibited conduct, or prohibited conduct alleged to have impacted multiple individuals;
 - (vii) The availability of evidence to assist a Hearing Officer in determining whether the prohibited conduct occurred; and
 - (viii) Whether TU could end the alleged sex discrimination and prevent its recurrence without filing a formal complaint.
 - (ix) Whether the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other persons, or that the conduct as alleged prevents TU from ensuring equal access on the basis of sex to its education program or activity.
- (f) **Formal Complaints signed by the Title IX Coordinator:** Only a TU official is authorized to initiate the grievance process against a respondent. The Title IX Coordinator may, under some circumstances, initiate a grievance process when a complainant does not wish to participate. The Title IX Coordinator will only initiate a grievance process against the complainant's wishes if doing so is not

clearly unreasonable in light of the known circumstances. The reasons for the decision must be documented.

- (g) **Temporary removal of the respondent on an emergency basis:** TU is authorized to remove a respondent from its education programs or activities, including but not limited to University housing, on an emergency basis, with or without a grievance process being pending. In this event, the respondent must be given post-removal notice and an opportunity to challenge the removal.
- (h) **Administrative Leave:** TU retains the authority to place an employee respondent on administrative leave during a pending formal complaint process or other process under this policy, with or without pay as appropriate. Administrative leave may be a supportive measure, emergency removal, or consistent with applicable law and policy. Administrative leave implemented as a supportive measure or as emergency removal is subject to the procedural provisions above, including the right to challenge the decision to implement that measure.
- (i) **Formal Complaint:** A formal complaint is required in order to proceed with a resolution process under this Policy except Support-Based Resolution. A formal complaint must be written, in paper form (hand delivered or by mail or shipping service) or electronically submitted and either signed or with another indication that it is being filed by the complainant, the complainant's parent or guardian if applicable, or by the Title IX Coordinator, and that alleges a violation of the Policy as defined above, by a covered person, within TU's program or activity, and requesting that TU investigate the allegations.

Where the complainant is unable or unwilling to file a formal complaint, and there have been allegations of violations of this Policy involving covered persons in TU's programs and activities, the Title IX Coordinator may file and sign a formal complaint. In that case, the Title IX Coordinator does not have the status of complainant or party. A complainant retains their rights even if they decline to participate, including but not limited to receiving notices, the opportunity to review evidence and the right to receive the final investigation report. The Title IX Coordinator will use discretion in these matters.

A formal complaint cannot be filed anonymously because the Respondent must be notified who is making the accusation against them. A person does not, however, need to file a formal complaint to obtain supportive measures. For supportive measures, the complainant's identity may remain confidential to the extent practicable to implement the supportive measure.

In certain cases, the identity of the Respondent may not be known by the person filing the formal complaint. They may still file the formal complaint and TU may be able to better identify the Respondent.

3. **Support-Based Resolution**

- (a) A formal complaint is not required for a support-based resolution. A support-based resolution is an option for a complainant who does not wish TU to take any further steps to address their concern, and when the Title IX Coordinator determines that another form of resolution, or further action, is not required. Some types of support that may be appropriate include: adjustments or changes to class

schedules; moving from one residence hall room to another; adjusted deadlines for projects or assignments; adjustments to work schedule or arrangements; escorts to and around campus; or counseling.

- (b) A support-based resolution does not preclude later use of another form of resolution, for example if new information becomes available to TU and the Title IX Coordinator determines there is need for additional steps to be taken, or the complainant later decides to pursue a formal complaint.

4. **TU's Grievance Procedure**

- (a) TU's grievance process consists of: (1) an investigation; (2) a live hearing; (3) an appeal; and (4) imposition of sanctions and remedies, as applicable. The grievance process may not require, allow, rely upon, or use questions or evidence that constitute or seek disclosure of information protected by a legally recognized privilege, including a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless TU obtains that party's voluntary, written consent.
- (b) **Timeline:** The timeline for any part of the resolution process may be extended for good cause by the Title IX Coordinator. All parties shall be notified, in writing, of any extension to the timeline that is granted, the reason for the extension, and the new anticipated date of conclusion of the investigation and/or hearing. Good cause reasons for extension may include ensuring availability of witnesses and other participants and ensuring participants have sufficient time to review materials.
- (c) TU shall not unreasonably deny a student party's request for an extension of a deadline related to a formal complaint during periods of examinations or school closures.
- (d) The investigator and/or Title IX Coordinator shall provide the Parties with periodic status updates, in writing.

5. **Investigation**

- (a) A formal complaint must be filed before an investigation begins. A formal complaint is:
 - (i) A written document filed by a complainant alleging sexual harassment against a respondent and requesting that TU investigate an allegation of sexual harassment, or
 - (ii) A complaint signed by the Title IX Coordinator.
- (b) Formal complaints will be either investigated by the Title IX Coordinator or at its discretion, TU can utilize external personnel to serve as an investigator. Other University officials may assist in gathering facts during the investigation and information from TU campus security or local law enforcement officials may be considered. Individualized support services must be offered to both the complainant and respondent involved in an alleged incident of sexual harassment prior to an investigation or while an investigation is pending. Both parties must be given the same opportunity to present relevant evidence and witnesses, including expert and character witnesses. Investigators must receive

training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

- (c) At the time a student or employee files a formal complaint, the student or employee must be employed by TU or currently enrolled or continuing to participate in a TU education program or activity.
- (d) If a respondent is no longer enrolled at or employed by TU at the time the complaint is made, or specific circumstances prevent TU from gathering sufficient evidence to investigate the complaint or its allegations, the Title IX Coordinator can dismiss the formal complaint or any allegations therein.

6. **Notice of Allegations**

- (a) Prior to the start of an investigation, the Parties will be provided with a written Notice of Allegations. A revised written Notice of Allegations shall be provided to all parties as needed, for example, if additional allegations are raised during the grievance process. Written notice of the grievance process;
- (b) Written notice of the alleged conduct/allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. "Sufficient details" include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;
- (c) A statement that the respondent is presumed not responsible for the alleged conduct;
- (d) A statement that a determination regarding responsibility is made at the conclusion of the grievance process;
- (e) Written notice that the parties may have an advisor of their choice, who may be an attorney;
- (f) A statement that the parties may inspect and review evidence; and
- (g) If, during an investigation, TU decides to investigate allegations about the complainant or respondent that are not included in the notice described by (a)-(f), above, TU must provide notice of the additional allegations to the parties whose identities are known.

7. **Investigation of a Formal Complaint**

- (a) When investigating a formal complaint and throughout the grievance process, the Title IX Coordinator, including an external investigator, must:
 - (i) Ensure that the burden of proof and the burden of gathering evidence rest on TU;
 - (ii) Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
 - (iii) Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
 - (iv) Provide the parties the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney,

and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding;

- (v) Provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
- (vi) Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including evidence upon which TU does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- (vii) Prior to completion of the investigative report, the Title IX Coordinator must send to each party and the party's advisor the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- (viii) The Title IX Coordinator must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
- (ix) Create an investigative report that fairly summarizes relevant evidence and, at least ten (10) days prior to a hearing regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for review and a written response;
- (x) The investigator may exclude any third party (including legal counsel, the complainant and respondent) from witness interviews; and
- (xi) Credibility determinations may not be based on a person's status as a complainant, respondent, or witness.

8. Dismissal of a Formal Complaint

- (a) A formal complaint may be dismissed by the Title IX Coordinator:
 - (i) If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in 34 C.F.R. §106.30 even if proved, did not occur in TU's education program or activity, or did not occur against a person in the United States, TU must dismiss the formal complaint under Title IX. Such a dismissal does not preclude action under another provision of TU's code of conduct, personnel or faculty handbooks.
 - (ii) TU may dismiss a formal complaint or any allegations therein, if at any time during the investigation or hearing, a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by TU; or specific circumstances prevents TU from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
 - (iii) Upon a dismissal required or permitted by this section, TU must promptly send written notice of the dismissal and reason(s) therefore, simultaneously to the parties.

- (b) **Dismissal of a Formal Complaint:** Before dismissing a formal complaint, TU will make reasonable efforts to clarify the allegations with the complainant. TU may dismiss a formal complaint brought under this policy, or any specific allegations raised within that formal complaint, at any time during the investigation or hearing, if:
 - (i) The University is unable to identify the respondent after taking reasonable steps to do so;
 - (ii) The respondent is not participating in TU's education program or activity and is not employed by TU;
 - (iii) If specific circumstances prevent TU from gathering evidence sufficient to reach a determination regarding the formal complaint or allegations within the formal complaint; or
 - (iv) The complainant voluntarily withdraws their formal complaint in writing and the Title IX Coordinator declines to initiate a formal complaint.

- (c) A formal complaint of Title IX sexual harassment must be dismissed when:
 - (i) The conduct alleged did not occur in TU's education program or activity, or did not occur against a person in the United States; or
 - (ii) The complainant voluntarily withdraws some but not all allegations in a formal complaint in writing, and TU determines that; the conduct that remains alleged in the formal complaint would not constitute sexual harassment under this policy; or
 - (iii) The conduct alleged in the formal complaint, even if proven, would not constitute sexual harassment under this policy.

- (d) Upon dismissal, TU will promptly notify the parties in writing of the basis for the dismissal. If a dismissal of one or more allegations changes the appropriate decision-making process under these procedures, the Title IX Coordinator will include that information in the notification.

- (e) TU will notify the parties that a dismissal may be appealed on the basis outlined in the Appeals section.

- (f) When a formal complaint is dismissed, TU will, at a minimum:
 - (i) Offer supportive measures to the complainant as appropriate;
 - (ii) If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and,
 - (iii) Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that prohibited conduct does not continue or recur within TU's education program or activity.

- (g) A complainant who decides to withdraw a formal complaint or any portion of it may later request to reinstate it or refile it.

9. **Withdrawal of a Formal Complaint**

A formal complaint may be withdrawn by the complainant, at any stage, provided that the complainant submits a written notice of withdrawal to the Title IX Coordinator and/ or investigator.

10. **Consolidation of a Formal Complaint**

- (a) TU has discretion to consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.
- (b) TU also reserves the right to use this policy to adjudicate other allegations and conduct charges as defined by policies outside of the scope of this policy in instances when the conduct is associated with an alleged issue of Prohibited Conduct under this policy. The Title IX Coordinator will address these consolidated reports in collaboration and coordination with other appropriate offices, such as Student Services and Human Resources. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this policy.
- (c) **Referrals for Other Misconduct:** The University has the discretion to refer reports of misconduct not covered by this policy to another Department for handling under any other applicable TU policy or code. As part of any such referral for further handling, TU may use evidence already gathered through any process covered by this policy.

11. **Cooperation**

All faculty, staff, volunteers, and students are required to cooperate in the investigation process. Refusal to cooperate will result in disciplinary action based on failure to cooperate in an official TU investigation for employees and volunteers, and disciplinary action potentially leading to dismissal.

12. **Evidentiary/Fact Determinations**

- (a) The Investigator and/or Investigating committee have discretion to determine whether a proffered witness or documentary information would be relevant or helpful to the investigation.
- (b) The investigator will review all evidence gathered through the investigation and determine what evidence is relevant, directly related, or irrelevant

13. **Relevant Information and Directly Related Evidence for Investigation**

- (a) Prior to the hearing, TU will provide the parties an equal opportunity to inspect and review “any evidence directly related” to the allegations, including inculpatory and exculpatory evidence, and regardless of whether TU intends to rely on the evidence, and regardless in making a determination of responsibility.
- (b) The Title IX Coordinator or investigator may collect and consider the following types of information:
 - (i) Statements by the complainant and respondent about the alleged incident(s);
 - (ii) Statements by witnesses to the alleged incident(s);
 - (iii) Evidence about the credibility of the alleged victim and the alleged harasser;
 - (iv) Evidence that the alleged harasser has been found to have harassed other victims;
 - (v) Evidence that the alleged victim has made false allegations against other individuals;
 - (vi) Evidence as to the alleged victim's reaction or behavior after the alleged harassment;

- (vii) Evidence as to whether the alleged victim filed a complaint or took other action to protest the conduct soon after the incident occurred; and
 - (viii) Other evidence of the harassment (e.g., reporting conduct to parents, counselors or friends, or medical records)
 - (ix) The fact of a current or previous consensual dating or sexual relationship between the parties will not imply consent or preclude a finding of sexual violence.
 - (x) Medical treatment records and other privileged information will only be considered or disclosed with the written consent of the complainant or respondent.
- (c) During the investigation, the complainant and respondent are entitled to an advisor of his or her choice. An advisor can be:
- (i) A parent
 - (ii) A friend
 - (iii) A trusted faculty or staff member
 - (iv) A counselor
 - (v) An attorney
- (d) An advisor cannot be:
- (i) A witness; or
 - (ii) Someone with an actual conflict of interest.

14. Pending Criminal Matters

The internal investigation will proceed whether a related criminal matter is pending or not. If there is an ongoing criminal investigation, TU will not wait for the conclusion of the criminal investigation or criminal proceeding to begin its own Title IX investigation. However, if requested by law enforcement, following notice to both parties, TU may temporarily delay the fact-finding portion of a Title IX investigation while the police or other law enforcement officials are gathering evidence.

15. Time Frame for Investigation and Completion of Report

There is no fixed time frame under which TU must complete a sexual harassment investigation, hearing or informal resolution. The investigation must be completed within a “reasonable time” taking into account the facts and circumstances of the complaint, the number and location of witnesses, and the institution’s schedule, including exams, closures for institutional breaks, or other reasons.

16. Live Hearing

The grievance process for formal complaints of sexual harassment under this policy must provide for a live hearing before a trained Title IX Hearing Board. At the live hearing, the Hearing Board must permit each party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s advisor and never by a party personally.

In addition:

- (a) During the hearing, there must be an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence. Credibility determinations may not be based on a person's status as a complainant, respondent, or witness.
- (b) At the request of either party, TU will provide for a virtual live hearing to occur with the parties located in separate rooms with technology enabling the Hearing Board and parties to simultaneously see and hear the party or the witness answering questions.
- (c) An advisor must be allowed to attend disciplinary hearings in an advisory capacity and to cross-examine witnesses.
- (d) If a party does not have an advisor for the live hearing, TU will provide one at no charge to conduct cross-examination on behalf of that party. An advisor may be, but is not required to be, an attorney.
- (e) Only relevant cross-examination and other questions may be asked of a party or witness.
- (f) The decision maker at the hearing will determine whether each question asked during cross examination is “relevant” and whether it violates rape shield law protections before it is answered.
- (g) The Hearing Board must provide on-the-spot explanation for any decision to disallow a question.
- (h) Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, 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.
- (i) The fact of a current or previous consensual dating or sexual relationship between the parties does not itself imply consent or preclude a finding of sexual violence.
- (j) The Hearing Board cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- (k) Live hearings may be conducted with all parties physically present in the same geographic location or, at TU's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- (l) TU must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review upon request.

Hearing Board's Report: Following the hearing, the Hearing Board shall prepare a determination report. All findings shall be made by a preponderance of the evidence, meaning more likely than not. To the extent credibility determinations need to be made, such determinations shall not be based on a person's status as complainant, respondent, or witness.

The determination report will include:

- (i) A description of the prohibited conduct alleged;
- (ii) A reference to the policies and procedures used to evaluate the allegations;
- (iii) Description of all procedural steps taken to date;
- (iv) The Hearing Board's evaluation of the relevant evidence along with the finding of facts;
- (v) Determinations for each allegation, with the rationale;
- (vi) Sanction determination (if applicable)
- (vii) Whether remedies will be provided;
- (viii) The procedures for an appeal, including how to challenge participation by the appeal officer for bias or conflict of interest – which the Title IX Coordinator will resolve in their sole discretion.

The Hearing Board's report shall be provided to the Title IX Coordinator. If the decision-maker determines that there is no finding of responsibility, the Title IX Coordinator shall communicate the findings to each party, and their advisor should the party wish the advisor to receive it, a written Notice of Outcome along with a copy of the Hearing Board's report, to the parties, together with procedures for appeal.

If there is a finding of responsibility, the Title IX Coordinator shall contact the appropriate sanctioning officer who will determine the sanction and notify the Title IX Coordinator of the sanctioning determination. The Title IX Coordinator will then provide each party, and their advisor should the party wish the advisor to receive it, a written Notice of Outcome regarding the Hearing Officer's decision, including the Hearing Board's report. The Title IX Coordinator will also provide written communication to the complainant regarding any appropriate remedies.

Sanctions: The range of possible disciplinary sanctions TU may implement following a determination of responsibility are the sanctions for disciplinary misconduct set forth for faculty, staff, and students in TU's codes of conduct and handbooks for faculty, staff and students. This ranges from probation up to and including termination for faculty and staff, and suspension or expulsion for students.

The form of sanction or discipline used will depend on the nature of the offense, as well as any prior disciplinary history. Such discipline or sanction will be imposed pursuant to and in accordance with any and all applicable University rules, policies, and procedures. Factors considered when determining a sanction/responsive action may include:

- (i) The nature, severity of, and circumstances surrounding the violation.
- (ii) An individual's disciplinary history.
- (iii) Previous resolutions or allegations involving similar conduct.
- (iv) The need for sanctions/responsive actions to bring an end to the sex discrimination or retaliation.
- (i) The need for sanctions/responsive actions to prevent the future recurrence of sex discrimination or retaliation.
- (ii) The need to remedy the effects of the sex discrimination or retaliation on the victim and the campus community.

Student sanctions imposed are implemented when the decision is final (after an appeal, or, if there was no appeal, after the appeals period expires).

Faculty found responsible for violating this policy may be referred to the appropriate academic official for any other applicable processes.

17. Appeals

- (a) Dismissals of formal complaints and determinations made in the investigation and hearing processes may be appealed in writing by either party. Appeals will be made in writing and sent to the Title IX Coordinator within ten (10) days following the issuance of the outcome letter. The Title IX Coordinator then sends the appeal to the appropriate Appeals Officer. The Appeals Officer will make a determination regarding the appeal, including whether it is a proper appeal under this section. The Appeal Officer will communicate their decision, along with a rationale for the decision, to the parties. The decision of the Appeals Officer is final.
- (b) Appeals may be filed only on the following three grounds::
- (i) Procedural irregularity that materially affected the outcome of the matter. A description of the error and its impact on the outcome of the case must be included in the written appeal;
 - (ii) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could materially affect the outcome of the matter. Information that was known to the party during the resolution process but which they chose not to present is not considered new information. The new evidence, an explanation as to why the evidence was not previously available or known, and an explanation of its potential impact on the investigation findings must be included in the written appeal; or; and
 - (iii) The Title IX Coordinator, investigator(s), or Hearing Board(s) had an actual conflict of interest or demonstrated bias for or against complainants or respondents generally or the individual complainant or respondent that materially affected the outcome of the matter. Any evidence supporting the alleged conflict of interest or demonstrated bias must be included in the written appeal.
- (c) Any party may file an appeal within ten (10) days of receipt of the decision to dismiss or the determination after a live hearing. Appeals filed after the deadline will not be considered. The Appeals Officer will issue a decision in writing no later than thirty (30) days after the appeal has been submitted. As to all appeals, TU will:
- (i) Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
 - (ii) Ensure that the Appeals Officer is not the same person as a member of the Hearing Board or the person who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
 - (iii) Ensure that the decision-maker(s) for the appeal not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent;
 - (iv) Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
 - (v) Issue a written decision describing the result of the appeal and the rationale for the result; and
 - (vi) Provide the written decision simultaneously to both parties.

18. Remedies

- (a) Remedies are measures provided, as appropriate, to a complainant or any other person TU identifies as having had their equal access to TU's education program or activity limited or denied by prohibited conduct covered by this policy. These measures are provided to restore or preserve that person's access to the education program or activity after the University determines that sex discrimination occurred. Only the complainant will be informed of any remedies pertaining to them. Some examples are academic support and/or opportunity to retake a class or resubmit work or time extensions on course or degree completion, or non-academic support such as counseling, or changes to work assignments or locations. The Title IX Coordinator is responsible for implementation of remedies.
- (b) Remedies may include the same individualized services used as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent

19. **Training**

- (a) Any individual serving as a Title IX Coordinator, investigator, Hearing Board member, and persons designated by TU to facilitate the informal resolution process, must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Title IX Coordinators, investigators, Hearing Board and any person who facilitates an informal resolution process, must receive training on the following:
 - (i) The definition of sexual harassment in 34 C.F.R. §106.30;
 - (ii) The scope of the recipient's education programs and activities;
 - (iii) How to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes;
 - (iv) The presumption that the respondent is not responsible for the alleged conduct; and
 - (v) How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
- (b) Decision-makers must also receive training on:
 - (i) Any technology to be used at a live hearing; and
 - (ii) Issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
- (c) All training provided by the Title IX Coordinator must be gender neutral and free of any sex bias or sex stereotyping. Any materials used to train Title IX Coordinators, investigators, Hearing Board, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

20. **Informal Resolution**

- (a) TU offers informal resolution processes such as mediation as alternatives to a full investigation and adjudication of the formal complaint. A formal complaint must be filed before engaging in informal resolution. Informal resolution requires that both parties give voluntarily agree in writing to resolve the formal complaint in a way that does not include a finding of responsibility. The Title IX Coordinator must approve of the use of the informal resolution, and approve any final agreement between the parties. Informal resolution cannot be used for complaints against employees alleging

sexual harassment of students. The Title IX Coordinator has the discretion to determine at any time that informal resolution is not an appropriate way to address the reported conduct, and that the matter must instead be resolved through the hearing procedures.

(i) Prior to initiating informal resolution, the Title IX Coordinator will send the parties written notice that includes the following:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The requirements of the informal resolution process;
- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared, and whether TU could disclose such information for use in a future TU resolution process, including an investigation and resolution process arising from the same or different allegations, as may be appropriate.
- Notice that an agreement resulting from the informal resolution process is binding only on the parties and is not subject to appeal.
- Notice that once the Agreement is finalized and signed by the Parties, they cannot initiate or continue an investigation procedure arising from the same allegations.
- A statement indicating that the decision to participate in the informal resolution process does not presume that the conduct at issue has occurred.
- A statement that the respondent is presumed not responsible for violating this policy, unless respondent admits to violations of this policy;
- An explanation that all parties may be accompanied by an advisor of their choice, who may be a parent, colleague, friend, or attorney;
- A statement that any party has the right to withdraw from the informal resolution process and initiate or resume resolution procedures at any time before agreeing to a resolution;
- Information regarding Supportive Measures, which are available equally to the parties; and
- The potential terms that may be requested or offered in an informal resolution agreement.

(b) If all Parties are willing to explore informal resolution, the Title IX Coordinator will first meet separately with each party to discuss the informal resolution process and facilitate an agreement. If an agreement cannot be reached, either because the Parties do not agree, determine they no longer wish to participate in the informal resolution process, or the Title IX Coordinator does not believe that the terms of the agreement or continuing the informal resolution process is appropriate, the Title IX Coordinator may decide that the reported conduct will instead be addressed through the investigation and hearing process. The Title IX Coordinator will inform the parties of such decision, in writing.

(c) Informal resolution processes are managed by facilitators who do not have a conflict of interest or bias in favor of or against complainants or respondents generally or regarding the specific parties in the matter. The Title IX Coordinator may serve as the facilitator, subject to these restrictions. The investigator or Hearing Officer for the matter may not facilitate an informal resolution in that same matter.

(d) Any party may craft or create the terms of their agreement and will be asked for their suggestions or ideas. Examples of agreements may include but are not limited to:

- an agreement that the respondent will change classes or housing assignments;
- an agreement that the Parties will not communicate or otherwise engage with one another;
- an agreement that the Parties will not contact one another;
- completion of a training or educational project by the respondent;
- completion of a community service project by the respondent;
- an agreement to engage in a restorative justice process or facilitated dialogue; and/or
- discipline agreed upon by all parties.

(e) In order to facilitate informal resolution, information shared by any party will not be used in any related resolution process of the same formal complaint under this policy. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any outside person, provided that any party to the informal resolution process may generally discuss the allegations under investigation with a parent, advisor, or other source of emotional support, or with an advocacy organization. An admission of responsibility made during an informal resolution process, however, may not be incorporated into the investigation and adjudication proceeding.

(f) **Finalizing the Resolution Agreement:** Once the final terms of the Agreement have been agreed upon by all parties, in writing, and approved by the Title IX Coordinator, the matter will be considered closed, and no further action will be taken. Once signed, no appeal is permitted. The informal resolution process is generally expected to be completed within thirty (30) days and may be extended by the Title IX Coordinator as appropriate. All parties will be notified, in writing, of any extension and the reason for the extension. Records of an informal resolution process can be shared with other offices as appropriate. Any violations of the terms of the Agreement may result in disciplinary action.

(g) The informal resolution process will be resolved within a reasonable period of time and may be temporarily delayed or limited extensions of time frames allowed for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

21. Non retaliation

Retaliation against a student, employee, or other individual who reports or complains about sex discrimination to an appropriate school official or participates in a report, investigation or proceeding involving a claim or allegation under this policy because he or she made a complaint, testified, or participated in an investigation or proceedings is prohibited. Retaliation should be reported to the Title IX Coordinator.

22. Dissemination of Policy

- (a) This policy must be distributed to:
- (i) Students

- (ii) Administrators, faculty, other employees, and volunteers
- (iii) Newly admitted students
- (iv) Newly admitted faculty and staff

(b) This policy must be available:

- (i) On the University website;
and/or
- (ii) In hard copy at multiple campus locations
- (iii) In both printed and electronic publications, including student, staff, and faculty handbooks, codes of conduct, and catalogs

23. **Record Keeping**

- (a) For each response, TU must maintain all records of Title IX proceedings for seven (7) years. This includes records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.
- (b) In each instance, TU must document:
 - (i) the basis for its conclusion that its response was not deliberately indifferent, and
 - (ii) document that it has taken measures designed to restore or preserve equal access to TU's education program or activity.
 - (iii) If a complainant is not provided with supportive measures, TU must document the reasons why its response was not clearly unreasonable in light of the known circumstances.
 - (iv) The documentation of certain bases or measures does not limit the recipient in the future from providing additional explanations or detailing additional measures taken.