



**Functional Offices:** President  
Finance and Administration  
Provost  
Student Services  
Human Resources  
Compliance

**Approval Date:** July 31, 2024

# **SEX DISCRIMINATION POLICY AND GRIEVANCE RESOLUTION PROCESS**

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## **Purpose**

Harrisburg University of Science and Technology (HU) is committed to maintaining a safe and healthy educational and work environment in which no member of the HU community is, on the basis of sex, excluded from participation in, denied the benefits of, or subjected to discrimination in any HU program or activity, including admissions and employment. Sex discrimination and sex-based harassment, including sexual violence, are forms of sex discrimination in that they deny or limit an individual's ability to participate in or benefit from HU programs or activities.

HU's Sex Discrimination Policy and Grievance Resolution Process (Policy) is designed to ensure a safe and nondiscriminatory educational and work environment, as well as meet HU's legal requirements, including but not limited to: Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in HU's programs or activities; relevant sections of the Violence Against Women Reauthorization Act; Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; and Pennsylvania laws that prohibit discrimination on the basis of sex.

## **Applicability**

This Policy, and all applicable federal and state laws, applies to all HU students, all HU employees, third parties on HU owned or controlled property, and other community members on HU owned or controlled property or participating in an HU affiliated activity.

## **Definitions**

The terms and definitions used here are important components of HU's Policy. The definitions are intended to give meaning to these terms in the context of the HU community. Criminal and other applicable state laws may use different definitions and are inapplicable to this Policy.

### ***Actual Knowledge***

Actual Knowledge is when an official notice, which can be a verbal notice or through electronic means, of sex discrimination, including sex-based harassment, is provided to Harrisburg University's Title IX Coordinator, Deputy Title IX Coordinator, Title IX Investigator, Title IX Administrator or a CSA (Campus Security Authority).

### ***Advisor***

An advisor is a support person who is present to aid a student complainant or respondent throughout an investigation, and/or appeal hearing related to a possible violation of HU's Sex Discrimination Policy under the *Student Involved Sex-based Harassment Grievance Process* located in the Policy. Complainants and respondents may be accompanied by one advisor throughout the investigation and any related hearing process. The advisor may be any person of the party's choosing, including an

attorney. An advisor may not speak, write, or otherwise communicate with a report facilitator during the statement collection and fact-finding portion of an investigation.

### ***Appeal Decision Maker***

An Appeal Decision Maker is the individual responsible for deciding on any appeal during the resolution process. An Appeal Decision Maker cannot be the individual responsible for the original decision.

### ***Campus Security Authority (CSA)***

A Campus Security Authority is a HU employee who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings, and in their employment capacity, has the authority and the duty to take action or respond to particular issues on behalf of the university.

It is considered official notice to HU if the misconduct is within the actual knowledge of a CSA. CSAs assist HU in fulfilling its responsibility to annually disclose accurate crime statistics and to issue or facilitate the issuance of timely warnings or emergency notifications under the *The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* (Clery Act) for crimes under that statute that pose a serious or continuing threat to the campus community.

### ***Complainant***

A Complainant is the recipient of the alleged misconduct. A complainant can be a student or employee.

For Title IX investigations a complainant must be participating in, or attempting to participate in, HU's education program or activity at the time of filing a formal complaint. A complainant who has graduated may still be "attempting to participate" in HU's education program or activity where the complainant has graduated from one program but intends to apply to a different program, or where the graduated complainant intends to remain involved with HU's alumni programs and activities. A complainant who is on a leave of absence may be "participating or attempting to participate" in HU's recipient's education program or activity. A complainant who has left HU because of sexual harassment but expresses a desire to re-enroll if HU appropriately responds to the sexual harassment, is "attempting to participate" in HU's education program or activity.

Situations in which the complainant is no longer participating in or is no longer attempting to participate in HU's education program or activity will not be processed through Title IX, rather through the respective Student or Employee Handbook of the respondent.

### ***Confidential Employee***

A Confidential Employee is an employee who is designated as such by the university and is not required to report sex-based harassment, sex discrimination, or retaliation to the Title IX

coordinator, unless it is an emergency. Confidential employees typically do not share information without permission but may be required or allowed to do so in certain circumstances, such as if a court order is presented or if they have reason to believe a student is at risk.

### ***Consent***

Consent is when clearly understandable words or actions manifest a knowing, active, voluntary, present, and ongoing agreement to engage in specific sexual or intimate contact. Relying solely on non-verbal communication can be unclear and lead to misunderstandings and harmful consequences for all parties involved. Individuals should be able to articulate why and how they knew they had received consent and what they considered to be indications of consent before they engaged in sexual activity.

Consent is not present when an individual does not have the capacity to give consent. Inability to give consent can be due to a physical or mental condition, or the age of consent as defined by law. Things that can impair the ability to give consent include, but are not limited to, disability, the voluntary or involuntary consumption of drugs or alcohol, unconsciousness, sleep, or where the person is unaware that sexual activity is occurring. Consent can be revoked at any time.

### ***Credibility***

In the grievance resolution process, credibility is the process of evaluating the accuracy and truthfulness of evidence. It also refers to how believable a person is. Credibility is important because it gives weight to evidence, which is then used to determine responsibility findings.

### ***Decision-Maker***

The decision-maker oversees the statements and cross-examination of parties and witnesses during a Title IX resolution proceeding. During questioning, the decision-maker will determine if an advisor is adhering to HU's procedural guidelines, if the cross-examination questions are relevant, and make the final determination as to whether there is a preponderance of evidence to support that the misconduct did or did not occur.

### ***Deliberate Indifference***

HU is deliberately indifferent only if its response to sex discrimination is clearly unreasonable and untimely in light of the known circumstances.

### ***Deputy Title IX Coordinator***

Deputy Title IX Coordinators are fully trained on HU's sex discrimination policies and assist the Title IX Coordinator in addressing reports of sex discrimination.

### ***Education Program or Activity***

An education program or activity includes locations, events, or circumstances over which HU exercised substantial control over both the respondent and the context in which the misconduct occurs, and includes any building owned or controlled by a student organization that is officially recognized by HU. This includes employment or admissions.

### ***Emergency Provision***

An Emergency Provision is a temporary measure/s, imposed by HU on one or both parties based on credible information from a report of sex discrimination. The Title IX Coordinator or Deputy Title IX Coordinator can impose Emergency Provisions, including removal from campus or campus housing for students and suspension with pay for employees based on the initial information received in a report of sex discrimination. As a provision may impact a student's access to education or employment, the Title IX Coordinator will only implement provisions if there is cause to believe that the individual poses a threat to the safety or wellbeing of an individual or the campus community or the offensive behavior is severe, pervasive, and is unlikely to cease.

Emergency Provisions required for HU employees will be made by HU administration in consultation with the Office of Human Resources.

### ***Formal Complaint***

A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that HU 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 HU's education program or activity with which the formal complaint is filed.

### ***Gender Identity***

According to the Department of Education (DOE), gender identity is a person's internal sense of being male, female, or something else, such as agender, binary, gender fluid, gender nonconforming, genderqueer, or nonbinary.

### ***Hostile Environment***

A hostile environment can be defined as an intimidating or offensive setting that causes fear or prevents someone from participating in or benefiting from a program, activity, or employment. Under Title IX, a hostile environment can occur when an individual is subjected to sex discrimination or sex-based harassment, or retaliation based on a protected characteristic.

### ***Investigator***

A Title IX investigator is a trained individual who investigates complaints of sex discrimination or sex-based harassment that fall under Title IX.

### ***Party or Parties***

Party or Parties is a term that refers to the complainant/s and the respondent/s collectively.

### ***Preponderance of the Evidence (Burden of Proof)***

A preponderance of the evidence standard is the burden of proof under this policy for both employees and students. It is understood to mean that a fact is more likely than not to be true. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on HU and not on the parties.

### ***Pregnancy and Related Conditions***

Pregnancy and related-conditions are defined as physical or mental conditions that are related to, affected by, or arise from pregnancy, childbirth, or related medical conditions. These conditions can require temporary modifications to HU programs or activities under Title IX.

### ***Quid Pro Quo Harassment***

Quid pro quo sexual harassment typically involves someone being pressured by a superior or someone has power over a complainant to provide sexual favors in order to avoid a negative repercussion or to receive a benefit. The respondent in Quid Pro Quo harassment must be an employee of HU to be processed under a Title IX Investigation.

### ***Report Facilitator***

A Report Facilitator is responsible for meeting with parties and witnesses, gathering statements and evidence, and compiling a final report for review for either a decision in non-Title IX sexual misconduct allegations or cross-examination in Title IX resolution proceedings.

### ***Respondent***

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. Any “individual” can be a respondent, whether such individual is a student, faculty member, another HU employee or other person with or without any HU affiliation.

### ***Sex-Based Harassment***

Under the Policy, sex-based harassment includes the following prohibited behaviors: sexual assault, sexual exploitation, dating/domestic violence, stalking, hostile environment, and quid pro quo.

### ***Sex Characteristics***

Sex characteristics are physical traits that are linked to biological sex, such as reproductive organs, hormones, chromosomes, and genes.

### ***Sexual Harassment***



It is unlawful to harass a person (an applicant or employee) because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is prohibited to harass a woman by making offensive comments about women in general.

Both complainant and the respondent can be any gender, and the parties can be the same sex.

Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

### ***Sex Stereotype***

A sex stereotype, also known as a gender stereotype or sex-role stereotype, is a preconceived idea about how someone should act or behave based on their sex assigned at birth.

### ***Sexual Orientation***

According to the CDC, sexual orientation is a person's sexual and emotional attraction to another person, as well as the behaviors and social affiliations that may result from that attraction.

### ***Sexual Violence***

Sexual violence means that someone forces or manipulates someone else into unwanted sexual activity without their consent. Reasons someone might not consent include fear, age, illness, disability, and/or influence of alcohol or other drugs. Anyone can experience sexual violence including children, teens, adults, and elders. Those who sexually abuse can be acquaintances, family members, trusted individuals or strangers.

### ***Support Measures***

Support measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Supportive measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sex discrimination.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, 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.

An individual can initiate the process for support measures by contacting the Title IX Coordinator.

### ***Title IX Coordinator***

The Title IX Coordinator is responsible for overseeing the sex discrimination resolution process under Title IX.

### ***Unwelcome Conduct***

Conduct is unwelcome if a person (1) did not request or invite it and (2) regarded the unrequested or uninvited conduct as undesirable or offensive. If a person welcomes some sexual contact that does not mean that person welcomes other sexual contact. Similarly, a person who willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcomed on a subsequent occasion.

Whether conduct is unwelcome is determined based on the totality of the circumstances, including various objective and subjective factors. The following types of information may be helpful in making a determination: statements by any witnesses to the alleged incident; information about the relative credibility of the parties and witnesses; the detail and consistency of each person's account; the absence of corroborating information where it should logically exist; information that the respondent has been found to have harassed others; information that the complainant has been found to have made false allegations against others; information about the complainant's reaction or behavior after the alleged incident; and information about any actions the parties took immediately following the incident, including reporting the matter to others.

In addition, when a person lacks capacity to request or invite conduct, conduct of a sexual nature is deemed unwelcomed, provided that the respondent knew or reasonably should have known of the person's inability to give consent (*See* definition of "consent").

### ***Witness***

A witness is a person who has direct or indirect knowledge related to specific aspects of a case. A witness can be a student, employee, or a third-party with no connection to HU.

## **Policy Jurisdiction**

This Policy applies to prohibited conduct that is committed by students, faculty, staff, HU appointees, or third parties (such as vendors and contractors), whenever the misconduct occurs on HU property or off HU property, if the conduct was in connection with an HU or HU-recognized program or activity; or the conduct may have the effect of creating a hostile environment for a member of the HU community.

## **Prohibited Conduct**

HU prohibits all forms of sex discrimination and sex-based harassment. This conduct violates HU's community standards and disrupts the living, learning, and working environments for HU students, faculty, staff, and other community members.

Prohibited conduct includes:

### ***Dating/Domestic Violence***

Dating/Domestic Violence includes intimidation, harassment, physical abuse, sexual abuse, or interference with personal liberty of any person by someone in an intimate relationship.

Dating violence includes, but is not limited to, people who have or have had a dating relationship or people who have or had a social relationship of a romantic or intimate nature.

Domestic violence includes, but is not limited to, relationships of current and former spouses, current and former domestic partners, intimate partners or dating partners who share or formerly shared a common dwelling or persons who otherwise have a child in common or share a relationship through a child.

Actions that constitute dating/domestic violence include, but are not limited to:

- a. Physical abuse: hitting, slapping, shoving, grabbing, pinching, biting, or hair pulling;
- b. Psychological or emotional abuse: a pattern of behavior undermining an individual's sense of self-worth or self-esteem, constant criticism, diminishing one's abilities, name-calling, or damaging one's relationship with one's children;
- c. Sexual abuse: attacks on sexual parts of the body, forcing sex after physical violence, treating one in a sexually demeaning manner, coercing or attempting to coerce any sexual contact or behavior without consent.

### ***Hostile Environment***

A hostile environment under Title IX is a situation of discriminatory or sexual nature that has occurred and created an adverse setting, an intimidating or offensive environment that causes a person to be fearful, and/or a setting that denies, limits, or interferes with a person's ability to participate in, gain admission to, or benefit from a program, activity, or job. Verbal, nonverbal, graphic, or physical conduct may create a hostile environment if the conduct is sufficiently severe, pervasive, objectively offensive that it denies access to HU's programs or activities.

### ***Quid Pro Quo Harassment***

Quid pro quo is a type of sexual harassment under Title IX that occurs when someone offers a benefit or service in exchange for something in return. The Latin phrase quid pro quo translates to "in exchange for" or "this for that". This includes, but is not limited to, behavior such as a faculty member requesting sexual favors in exchange for a grade or a supervisor threatening to terminate an employee if they reject sexual advances.

### ***Retaliation and Peer Retaliation***

HU strictly prohibits retaliation against any member of its community for reporting an incident of sex discrimination or for participating in an investigation or hearing related to a report of sex discrimination. HU considers such actions to be protected activities in which all members of the HU community may freely engage.

Retaliation is a materially adverse action taken against an individual because they engaged in protected activities when the adverse action is sufficiently severe or pervasive that it could deter a reasonable person from engaging in the protected activities. Members of the community are prohibited from engaging in actions directly or through others that reasonably could deter a party or a witness from reporting sex discrimination or participating in an investigation or hearing.

These actions can be verbal, nonverbal, or physical and can include, but are not limited to:

- Verbal harassment: Insults, threats, intimidation, spreading rumors, or making derogatory comments about the individual or their experience.
- Nonverbal harassment: Exclusion from social groups, ostracization, ignoring, or other forms of social isolation.
- Physical harassment: Assault, battery, vandalism, or other forms of physical harm.
- Academic sabotage: Interfering with the individual's academic performance, such as damaging their work, spreading false information about their grades, or hindering their ability to participate in class.

### ***Sexual Assault***

Sexual assault includes any of the following behaviors:

- Sexual penetration without Consent (e.g., rape): Any penetration of the sex organs or anus of another person when consent is not present; any penetration of the mouth of another person with a sex organ when consent is not present; or performing oral sex on another person when consent is not present. This includes penetration or intrusion, however slight, of the sex organ or anus of another person by an object or any part of the body.
- Sexual Contact without Consent (e.g., fondling): Knowingly touching or fondling a person's genitals, breasts, thighs, groin, or buttocks, or knowingly touching a person with one's own genitals, breasts, or buttocks, when consent is not present. This includes contact done directly or indirectly through clothing, bodily fluids, or with an object. It also includes causing or inducing a person, when consent is not present, to similarly touch or fondle oneself or someone else.
- Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by the laws of the location in which the incident occurred.
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent under the laws of the state in which the incident occurred.

### ***Sex Discrimination***

The violation of sex discrimination under the Policy is treating someone unfavorably based on their sex, including their sexual orientation, sex characteristics, sex stereotypes, gender identity, or pregnancy and related conditions such so that it denies access or admission to HU activities, programs, or employment.

### ***Sexual Exploitation***

Sexual exploitation is taking sexual advantage of another person for the benefit of oneself or a third party when consent is not present. This includes but is not limited to the following actions (including when they are done by electronic means, methods, or devices):

- Sexual voyeurism or permitting others to witness or observe the sexual or intimate activity of another person without that person's consent;
- Indecent or lewd exposure or inducing others to expose themselves when consent is not present;<sup>1</sup>
- Recording any person engaged in sexual or intimate activity in a private space without that person's consent;
- Distributing sexual information, images, or recordings about another person without that person's consent; or  
Recruiting, harboring, transportation, providing, or obtaining another person for the purpose of sexual exploitation.

### ***Stalking***

Stalking is a course of conduct directed at a specific person that is unwelcomed and that would cause a reasonable person to fear for their safety (or the safety of a third party) or suffer substantial emotional distress. Conduct that can amount to stalking may include two or more actions directed at another person, whether done directly, indirectly, through others, through devices, or by any other methods or means (specifically including electronic means), including but not limited to:

- Following a person;
- Being or remaining near a person without academic purpose or invited social cause;
- Entering or remaining on or near a person's property, residence, or place of employment;
- Monitoring, observing, or conducting surveillance of a person through any means, including electronic means;
- Threatening (directly or indirectly) a person;
- Communicating to or about a person;
- Giving gifts or objects to, or leaving items for, a person;
- Interfering with or damaging a person's property (including pets); or
- Engaging in other unwelcome contact.

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<sup>1</sup> Breast feeding a child is not indecent and does not constitute sexual misconduct.

## REPORTING PROCEDURES

### *Complaints and Reporting*

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that HU investigate and make a determination about alleged discrimination under Title IX:

- A “complainant” which includes:
  - A student or employee of HU who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
  - A person other than a student or employee of HU who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in HU’s education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- HU’s Title IX Coordinator.

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- Any student or employee of HU; or
- Any person other than a student or employee who was participating or attempting to participate in HU’s education program or activity at the time of the alleged sex discrimination.

### *Employee Reporting*

All HU employees (including student employees) should be familiar with HU's *Sex Discrimination Policy and Grievance Resolution Process* in addition to the resources and support available to complainants and witnesses of all forms of sex discrimination. HU requires all employees, except for confidential employees, to report sex discrimination. In the event in which a complainant discloses sex discrimination to a non-confidential HU employee, the employee should notify the complainant that they will disclose this information to the Title IX Coordinator. The employee should also provide the complainant with the Title IX Coordinator’s contact information. The Title IX Coordinator can provide support measures without seeking a formal resolution.

Employees should make every attempt to explain to the complainant that they are potentially not a confidential resource before a complainant reveals something that they may want to keep confidential. If a complainant, respondent, or witness begins talking about the incident(s) with no warning, employees should gently interrupt and inform them that the conversation may not be considered confidential, and if they do not want the incident(s) to potentially be reported then they should make an appointment with a confidential resource, including HU's Counseling Center.

In emergency situations, where a person's health or safety is in immediate danger, employees should call 911 and then report to the Title IX Coordinator.

### ***Anonymous Reporting***

Anonymous incident reports will be reviewed by the Title IX Coordinator. HU's ability to address alleged sex discrimination reported anonymously is significantly limited.

Individuals can make anonymous reports by going to this public link:

[https://harrisburgu-advocate.symplicity.com/public\\_report/](https://harrisburgu-advocate.symplicity.com/public_report/)

Reporters are encouraged to provide as much information as possible including date(s) of incident(s), time of incident, individual names, nicknames, locations, potential witnesses, and any other pertinent details.

### ***Third Party Reporting***

While HU strongly encourages reporting of violation under this policy and will address all reports from third parties, HU asks third parties to consider the impact of a potential investigation on the complainant. HU may need to move forward with an investigation based on the information provided to the Title IX Coordinator by the third party. This may put the complainant at risk or retraumatize the complainant by taking away the complainant's right to choose to report. HU encourages third parties to reach out to confidential resources on or off-campus prior to reporting to a Title IX Coordinator.

HU encourages third parties to discuss concerns with the complainant directly, if possible. Third parties may reach out to confidential resources and Title IX Coordinator for additional resources and information on how to approach these difficult conversations. Confidential resources and the Title IX Coordinator can answer general questions without requiring specific information that may initiate an investigation.

### ***All Other Reporting***

While HU strongly encourages reporting, members of the HU community who believe they have experienced sex discrimination have the right to choose whether to report the incident to HU or law enforcement and whether to pursue a formal complaint with HU.

### ***Time Considerations for Reporting Sex Discrimination***

All reports should be made as soon as possible after an incident because the passing of time makes the collection and review of evidence more difficult, and the memories of involved individuals become less reliable. There is no time limit for when an incident of sex discrimination may be reported. The Title IX Coordinator reserves the right to conduct an initial inquiry, initiate an investigation, or otherwise address any report, regardless of the time it is made, based on concern for the safety or well-being of the HU community.

A report of a violation can be submitted by anyone by any means listed within this policy including phone, email, personally or electronically through the following link:

[https://harrisburgu-advocate.symplicity.com/public\\_report/](https://harrisburgu-advocate.symplicity.com/public_report/).

If the respondent(s) is/are no longer students, employees, or third-party contractors for HU, HU may be unable to pursue a formal investigation but may be able to offer support measures to the impacted individual.

***Reporting to Title IX Staff***

The following individuals are trained to receive reports of sex discrimination and can coordinate support measures:

**Title IX Coordinator**  
Melissa Morgan, AVP of Student Services

Physical Address:  
326 Market Street, Room 1246  
Harrisburg, PA 17101

Mailing Address:  
326 Market Street  
Harrisburg, PA 17101  
(717)901-5149

[MMorgan@HarrisburgU.edu](mailto:MMorgan@HarrisburgU.edu)

**Title IX Deputy Coordinator**  
Ellyn Garcia, AVP of Human Resources

Physical Address:  
255 Market Street, Room 201  
Harrisburg PA 17101

Mailing Address:  
326 Market Street  
Harrisburg, PA 17101  
(717) 901-5112

[egarcia@harrisburgu.edu](mailto:egarcia@harrisburgu.edu)

**Title IX Administrator-Pregnancy and  
Related Conditions**  
Julie Denniston, Graduate Student Services  
Coordinator

Physical Address:  
Student Union, Room 123  
Harrisburg, PA 17101

Mailing Address:  
326 Market Street  
Harrisburg, PA 17101  
(717) 901-5100 x1761

[jdenniston@harrisburgu.edu](mailto:jdenniston@harrisburgu.edu)

Upon receipt of a report, a Title IX staff member will contact the complainant to provide information about policies, resources, support measures, and reporting options. The information provided by the Title IX staff member will generally include information about medical and confidential counseling and support resources; options for pursuing a complaint and/or reporting the incident to law enforcement; how to request a protective order or support measures; how to request accommodations; how to preserve evidence; where to access more information; and an invitation to meet with or speak to a Title IX staff member.



## ***Reporting Confidentially***

When complainants request that their name or other identifiable information not be shared with respondents and/or that no conduct proceeding or other action be taken, HU will seek to honor that preference when possible. In determining how to proceed, HU will balance a complainant's request with its obligation to provide a safe and nondiscriminatory environment for all HU community members, including the respondent.

HU will consider the following factors in evaluating such requests:

- The nature and scope of the reported conduct, including whether the reported conduct involved physical force or the use of a weapon;
- The potential impact on the complainant of moving forward, particularly in reports involving intimate partner violence;
- The respective ages and roles of the complainant and respondent, including whether the complainant is (or was at the time of the reported conduct), a minor under the age of 18;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether there are any other documented complaints to HU related to similar behavior about the same respondent (if known)<sup>2</sup>;
- Whether the respondent has a history of convictions or records from a prior school indicating a history of harassment/misconduct, if such records are available;
- Whether the respondent threatened future sexual violence against the complainant or others;
- Whether the report reveals a pattern of conduct at a given location or by a particular group such that there is an increased risk of future acts of sexual misconduct under similar circumstances; and
- Whether the conduct included multiple respondents.

When HU determines that a complainant's request to remain confidential can be honored, HU will evaluate whether support measures will remedy any effects on the complainant and the HU community. Those steps may include offering appropriate supportive measures to the complainant, providing targeted training or prevention programs, and/or providing or imposing other remedies tailored to the circumstances. HU cannot impose sanctions on a respondent without due process.

When HU determines that action should be taken that is inconsistent with the request of the complainant that a report remain confidential or that it not be acted upon, the complainant will be informed about the chosen course of action, which may include HU initiating a conduct proceeding against a respondent. In that event, HU will need to disclose the identity of the complainant to the respondent. If so, the complainant will be notified that HU intends to proceed with a conduct proceeding, but that the complainant is not required to participate in the proceeding or in any other actions undertaken by HU.

In cases when the complainant chooses not to participate, HU may pursue conduct proceedings if it is possible to do so without the complainant's participation. Where a complainant declines to participate in a conduct proceeding, however, HU's ability to meaningfully investigate and respond

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<sup>2</sup> Prior allegations of sexual misconduct can only be considered if the investigation determined that the allegations were founded.

to a report, including a subsequent disciplinary hearing, may be limited or unable to be adequately pursued.

### ***Reporting to Law Enforcement***

HU encourages individuals to report incidents of sexual misconduct to local law enforcement. Timely reporting to the police is an essential factor for the successful investigation and prosecution of crimes, including sexual violence crimes. It may lead to the arrest of an offender or aid in the investigation of other incidents.

An individual who has experienced sex discrimination that meets the criteria for a criminal offense has the right to choose whether to file a police report. Filing a police report may result in the investigation of whether sexual violence or related crimes occurred and the prosecution of those crimes against a perpetrator. It is important to know that reporting the incident to the police does not mean an individual is obligated to testify in court.

Police can also assist in reviewing options with alleged victims and identifying and facilitating support resources related to:

- Seeking medical attention
- Seeking support, advocacy, and counseling services; and
- Discussing legal options, including seeking protective orders from a court.

### **Contact information for local law enforcement**

#### **Harrisburg Police Department**

123 Walnut Street  
Harrisburg, PA 17101  
(717) 255-3131  
9-1-1 for Emergencies

#### **Philadelphia Police Department**

401 N. 21<sup>st</sup> St.  
Philadelphia, PA 19130  
(215) 686-3090  
9-1-1 for Emergencies  
3-1-1 for non-Emergencies

#### **Swatara Township Police (Steelton-Highspire Aquaponics Lab)**

599 Eisenhower Blvd  
Harrisburg, PA 17111

717-564-2550  
9-1-1 for Emergencies

### ***Amnesty Policy***

HU encourages the reporting of sex discrimination and seeks to remove any barriers to making a report. HU recognizes that an individual who has been drinking or using drugs at the time of an incident may be hesitant to make a report because of the potential consequences of their conduct. An individual who makes a good faith report of sex discrimination will not be subject to disciplinary action by HU for a conduct or policy violation that is related to and revealed in the report or investigation, unless HU determines the violation was serious and/or placed the health or safety of others at risk. HU may, however, initiate an educational discussion or pursue other

educational interventions regarding alcohol or other drugs. These interventions do not include involuntary leaves for students from HU. Amnesty does not preclude or prevent action by police or other legal authorities.

### **Confidential Resources**

Resources are available for individuals to discuss incidents and issues related to sex discrimination on a confidential basis. Confidential resources will not disclose information about incidents of sex discrimination to anyone, including law enforcement or HU, except in limited situations, such as when failure to disclose the information would result in imminent danger to the individual or to others or where state law requires that a report be made.

Confidential resources can provide alleged victims with information about support services and their options. Because of the confidential nature of these resources, disclosing information to or seeking advice from a confidential counselor does not constitute a report or complaint to HU and will not result in a response or investigation by HU. A person consulting with a confidential resource may later decide to make a report to HU or law enforcement.

#### ***On-Campus Confidential Resources for the Harrisburg and Philadelphia Campus for Students***

Harrisburg University  
Counseling Center (HUCC)  
225 Market Street  
Harrisburg, PA 17101  
(717) 901-5100, ext: 1727  
[Counseling@HarrisburgU.edu](mailto:Counseling@HarrisburgU.edu)

#### ***Virtual Confidential Resources***

##### **For Students (including student employees)**

Student Assistance Program by BHS

<https://portal.bhsonline.com/>

Username: HarrisburgU

1-800-327-2252

Available 24/7

##### **For Employees (non-student employees)**

Employee Assistance Program (EAP)

Mutual of Omaha

EAP professionals are available 24 hours a day, 7 days a week, at 1-800-316-2796

#### ***Off-Campus Confidential Resources***

A list of confidential off-campus resources can be found on SharePoint:

<https://myharrisburgu.sharepoint.com/sites/StudentServices/SitePages/Resources.aspx>

### **Seeking Medical Assistance**

Experiencing any form of sex discrimination, especially acts of violence, is difficult and overwhelming. Survivors often experience a range of emotions, including fear, anxiety, and confusion, and may be unsure of what they want to, or should do next. Regardless of whether the

individual chooses to report the incident, HU strongly encourages survivors of any form of violence to seek medical attention as soon as possible, even if they feel no injury was sustained. Medical assistance providers can treat visible physical injuries and identify injuries that may not be visible, and where appropriate, also address concerns regarding sexually transmitted infections and pregnancy, and provide emergency contraception (if requested). In addition, a hospital can test for the presence of alcohol or drugs (e.g., "date rape" drugs) and perform a rape evidence collection procedure (see Procedure Section 2), which are also strongly recommended to maintain all legal options.

### ***Medical Care Providers***

#### **Harrisburg Campus Location**

##### **Pinnacle Health Services Sexual Assault Forensic Examiner (SAFE) Program\***

(717)782-5205

111 South Front Street,  
Harrisburg PA 17101

<https://www.pinnaclehealth.org/our-services/womens-health/our-programs/>

\*Accessible through emergency room

#### **Philadelphia Campus Location**

##### **Thomas Jefferson University Hospital, Center City Philadelphia Sexual Assault Forensic Examiner**

**(SAFE) Program\***

132 South 10<sup>th</sup> Street,  
Philadelphia PA 19107

<https://hospitals.jefferson.edu/departments-and-services/emergency-department-at-jefferson.html>

\*Accessible through the Emergency Room on the corner of 10<sup>th</sup> and Sandon Streets)

##### **Philadelphia Sexual Assault Response Center (PSARC)**

Emergencies: Call (215) 425-1625 to reach the on-call sexual assault nurse examiner

Or (215) 800-1589 for non-emergencies

300 E. Hunting Park Avenue,  
Philadelphia, PA 19124

<https://drexel.edu/medicine/about/departments/emergency-medicine/forensic-emergency-medicine/>

Additional resources can be found on SharePoint at:  
<https://myharrisburgu.sharepoint.com/sites/StudentServices/SitePages/Resources.aspx>

### **Preserving Evidence**

Many sex discrimination offenses, especially those involving assault, stalking, or exploitation, also are crimes in the state or locality in which the incident occurred. For that reason, complainants often have legal options that they can pursue. However, these options are available solely at their discretion, and complainants may change their minds about pursuing them at any time. For example, complainants may seek a protective order from a court against the perpetrators; pursue a

civil action against the perpetrator(s); and/or participate in a law enforcement investigation and criminal prosecution of the perpetrator(s).

Regardless of whether an incident of sex discrimination is reported to the police or HU, HU strongly encourages those who experienced sexual assault to preserve evidence to the greatest extent possible, as this will best maintain all legal options for them in the future.

Additionally, this evidence may also be helpful in a HU investigation. While HU does not conduct forensic tests for parties involved in a complaint of sexual assault, the results of such tests that have been conducted by law enforcement agencies and medical assistance providers may be submitted as evidence that HU may consider in its investigation or proceeding, if the evidence is available at the time of HU's investigation or proceeding. For Title IX hearings, the collector of the evidence with firsthand knowledge must be available for cross-examination purposes.

Below are suggestions for preserving evidence related to an incident of sexual assault. It is important to remember that each suggestion may not apply in every incident:

### ***General Evidence Preservation Recommendations<sup>3</sup>***

To potentially maintain future legal options, individuals should consider not altering, disposing, or destroying any physical evidence of sexual misconduct.

If there is suspicion that a drink may have been drugged, an individual should inform a medical assistance provider and/or law enforcement as soon as possible so attempts can be made to collect possible evidence (e.g., from the drink, through urine or blood sample).

Individuals can preserve evidence of electronic communications by saving them and/or by taking screen shots of text messages, instant messages, social networking pages, or other electronic communications and by keeping pictures, logs, or copies of documents that relate to the incident and/or respondent.

Even if complainants choose not to make a complaint regarding sexual misconduct, they may consider speaking with City of Harrisburg Police to preserve evidence if they change their mind at a later date.

### ***Evidence Preservation Suggestions Specific to Sexual Assault***

Because some evidence, particularly evidence that may be located on the body, dissipates quickly (within 48-96 hours), individuals who have been sexually assaulted and wish to preserve evidence should go to the hospital or medical facility immediately to seek a medical examination and/or evidence collection. Pennsylvania law, 18 Pa.C.S. § 11.707, provides that the costs of the forensic rape examination and medications provided as a direct result of a sexual offense shall not be charged to the victim. The victim of a sexual offense does not need to 'report' the sexual offense or 'talk' to law enforcement for the costs to be paid by the Victims Compensation Assistance Program (VCAP).

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<sup>3</sup> This is not offered or intended to be legal advice or ensure the acceptability or admissibility of evidence. These are practical tips that may result in the preserving of evidence but may not be best practice forensically.

Health care providers must utilize the victim's insurance to include Medical Assistance, health maintenance organizations, or federally financed insurance programs such as Medicare or Champus, before applying to the VCAP. In instances where the victim or person responsible for the victim requests that the provider not access insurance, the claim may be submitted directly to the VCAP for consideration of payment.

An individual who has been sexually assaulted and wishes to preserve evidence should, if possible, not shower, bathe, douche, smoke, brush teeth, eat, drink, use the bathroom, or change clothes or bedding before going to the hospital or seeking medical attention.

If the individual who has been sexually assaulted decides to change clothes or bedding and wishes to preserve evidence, they should not wash clothes worn or bedding used during the assault, and should bring them to the hospital, medical facility, or the police in a non-plastic bag (e.g., paper bag).

In Pennsylvania, individuals who have been sexually assaulted may allow the collection of evidence even if they choose not to make a report to law enforcement. A Sexual Assault Nurse Examiner (SANE) advocate or a law enforcement officer will know how long evidence will be stored. A sexual assault evidence collection kit may not be released by a Pennsylvania hospital without written consent from the survivor.

### **Title IX VAWA Statement**

It is Policy of HU to comply with Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination (including sexual harassment and sexual violence) based on sex in HU's educational programs and activities.

It is also HU's Policy to continue to comply as Policy with the federal Violence Against Women Act (VAWA) amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act (Clery Act), and the accompanying regulations.

Title IX prohibits retaliation for asserting or otherwise participating in claims of sex discrimination.

VAWA imposes additional duties on universities and colleges to investigate and respond to reports of sexual assault, stalking, and dating or domestic violence, and to publish policies and procedures related to the way these reports are handled.

HU has designated the Title IX Coordinator to coordinate its compliance with Title IX and VAWA and to respond to reports of violations.

HU has directed its Clery Coordinator to coordinate its compliance with the Clery reporting-related VAWA requirements. HU's Clery report is posted annually on its website and circulated to the HU community.

A person may also file a complaint with the Department of Education's Office for Civil rights regarding an alleged violation of Title IX by visiting <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html> or calling 1-800-421-3481.

### ***Special Reporting Requirements for Students Impacted by Pregnancy or Related Conditions***

If a student informs a non-confidential HU employee that they are pregnant or impacted by a pregnancy related condition, the HU employee must provide the individual with the contact information for the Title IX Coordinator. If the student informs the HU employee that they are already in contact with the Title IX Coordinator, the HU employee does not need to provide the Title IX Coordinator contact information.

## **Grievance Resolution Process**

### ***Introduction***

The goal of the resolution process is to promptly initiate a fair and impartial investigation to determine what occurred and subsequently take steps to resolve the situation, if necessary. This includes all parties having the same procedural and substantive rights; an equal opportunity to preserve relevant witness information and other evidence; and similar and timely access to information that will be used in the investigation and subsequent report. Grievances of sex-based harassment, as defined in the Policy, that involve a student will be resolved using the *Student Involved Sex-based Harassment Grievance Procedure* outlined below. All other grievances of sex discrimination, including sex-based harassment that does not involve a student, will be resolved through the *Sex Discrimination Grievance Process* outlined below.

### ***Participation in Process***

If a complainant decides not to participate but wants disciplinary action to be taken, HU will determine whether it is possible to move forward with a case without the participation of the complainant. In most cases, disciplinary action is not possible without the participation of the complainant. HU may act as the complainant in the process in unusual circumstances or resolve the complaint under student or employee conduct policies. Support measures are available for complainants regardless of whether the complainant wishes to participate in the resolution process.

HU encourages Respondents to participate in the complaint resolution process. Failure to participate cannot be used to infer the respondent is culpable for the misconduct.

### ***Mandatory Grounds for Dismissal***

If the conduct alleged in a formal complaint would not constitute sex discrimination as defined in Title IX, even if proved, then HU must dismiss the formal complaint with regard to that conduct for purposes under Title IX. However, a dismissal for this reason does not preclude action under HU Student Code of Conduct for non-Title IX offenses. HU will promptly send written notice of the dismissal and reason(s) simultaneously to the parties.

### ***Discretionary Grounds for Dismissal of a Title IX Grievance***

The recipient may dismiss a formal Title IX grievance or any allegations contained in it, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator that the complainant would like to withdraw the formal complaint or any allegations in it or specific circumstances prevent HU from gathering evidence sufficient to reach a determination as to the formal complaint or allegations. However, a dismissal for this reason does not preclude action under HU Student Code of Conduct for non-Title IX offenses. HU will promptly send written notice of the dismissal and reason(s) simultaneously to the parties.

Either party may appeal the dismissal of any grievance in writing to the Title IX Coordinator. The Director of Compliance or designee will determine the appeal outcome.

### ***Voluntary and Informal Resolution:***

Informal resolution involves action taken by HU in response to a report of a Title IX offense from a complainant when formal resolution is not desired by the complainant. Informal resolutions cannot be used for misconduct that involves faculty or staff and a student. Examples of informal resolutions can include, but are limited to, a warning to cease current behaviors, no-contact directives, an educational conversation with the respondent or others, and changes in academic, work, or living arrangements. As part of the informal resolution process, the parties may submit to mediation to resolve outstanding issues. However, mediation will not be used to resolve complaints involving sexual or physical violence or where there is a power dynamic such as between a HU employee and student.

To proceed with informal resolution, HU must provide the parties with written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

To proceed with informal resolution, HU must obtain the parties' voluntary, written consent to the informal resolution process.

The factors that will be considered in evaluating requests for informal resolution, include, but are not limited to:

- The nature and scope of the reported conduct, including whether the reported conduct involved physical force or the use of a weapon;
- The potential impact on the complainant of moving forward, particularly in reports involving intimate partner violence;
- The respective ages and roles of the complainant and respondent, including whether the complainant is (or was at the time of the reported conduct), a minor under the age of 18;



- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether HU has received other complaints of similar behavior about the same respondent (if known);
- Whether the respondent has a history of convictions or records from prior school(s) indicating a history of harassment/misconduct, if such records are available;
- Whether the respondent threatened further sexual violence or other violence against the complainant or others;
- Whether the report reveals a pattern of conduct at a given location or by a particular group such that there is an increased risk of future acts of sexual misconduct under similar circumstances; and
- Whether the conduct included multiple respondents.

### ***Providing False Statements***

All participants have the responsibility to be completely truthful with any information they share at all stages of this Policy's processes. Any individual who knowingly or intentionally provides false information as part of a report or investigation under this Policy will be subject to discipline in accordance with the procedures set forth in the Student Handbook, Faculty Handbook, or Employee Handbook.

This provision does not apply to a good faith report that is not substantiated or not proven by a preponderance of the evidence.

### ***Credibility and Assessing Credibility***

Assessing credibility of party or witness's statements is essential in Title IX investigations, and it will be conducted fairly and impartially. The goal is to reach a conclusion based on the evidence, not to determine who is more believable based on personal characteristics or biases.

Credibility is the believability of a witness's testimony based on factors like consistency, corroboration, demeanor, and other evidence. Credibility is based on a spectrum of evidence. Investigators must list factors impacting credibility during investigative reports. Investigators can use the following procedures to assess credibility:

- Request evidence that supports their claims, such as eyewitness accounts, written documentation, medical records, and physical evidence.
- Consider the consistency and plausibility of the evidence presented.
- The investigation should focus on the facts of the case and not rely on stereotypes or assumptions.
- Corroborating evidence can support or undermine a claim, but its absence doesn't automatically discredit a party. Examples of corroboration include multiple witness statements, physical evidence, medical records, or communication logs.
- Encourage parties to address inconsistencies in their statements or evidence.

- The investigation should assess the reasonability of explanations for inconsistencies and whether they undermine the overall credibility of the account.
- The investigation will not rely on assumptions about the parties based on their race, gender, sexual orientation, or any other protected characteristic.
- Investigators understand that demeanor can sometimes be relevant, but it should be analyzed with caution and not be the sole basis for determining credibility.
- Investigators understand that nervousness, emotional distress, or other behaviors are not inherently indicative of dishonesty or truthfulness.

### ***Privacy and Sharing of Information***

To the extent noted in this Policy, HU considers complaints and investigations of sex discrimination to be private matters for the parties involved. For that reason, HU will protect the identity of persons involved in reports to the extent circumstances allow. HU will only share personally identifiable information with persons who are on "a need-to-know basis" for HU to investigate, respond, or deliver resources or support services.

HU does not publish the names nor post identifiable information about persons involved in a report of sexual misconduct in HU's Daily Crime Log or elsewhere online. HU does not confirm to outside parties the identity of an individual who may be involved in a report of sex discrimination without the individual's consent. However, HU cannot promise complete confidentiality or privacy in the handling reports or complaints. It can promise discretion to the extent possible as noted within this Policy or applicable laws.

All participants in an investigation or a hearing of sex discrimination are informed that confidentiality helps enhance the integrity of the investigation, protects the privacy interests of the parties, and protects the participants from statements that might be interpreted to be retaliatory. For these reasons, the complainant, respondent, witnesses, and advisors, if allowed in the grievance process, will be asked to keep information related to the investigation and resolution private to the extent consistent with applicable law.

HU reserves the right to share information regarding an investigation with other appropriate parties on a need-to-know basis consistent with the Family Educational Rights and Privacy Act (FERPA) and other applicable laws.

### ***Case Resolution Timeline***

In most cases, HU investigates and resolves complaints of sexual misconduct, including any sanctions and/or corrective actions within 90 days of receiving a complaint. However, this may vary based on the availability of the parties and witnesses, the scope of the investigation, support measures or accommodations, or unforeseen circumstances. Many cases are resolved in a shorter time.

Extensions of time beyond this 90-day timeframe may occur for good cause. In cases where there is simultaneous law enforcement investigation, HU generally will proceed with its investigation

and resolution of a complaint during, and possibly prior to the completion of, any law enforcement investigation.

The primary goal of an investigation is to provide a prompt but equitable resolution to a case through a fair and impartial proceeding. Due to extenuating circumstances, an investigation may take additional time to preserve these goals. However, available electronic means, such as online interviews, may be utilized to timely complete an investigation.

### ***Conflicts of Interest***

The Title IX Coordinator or designee will notify the Parties of the names of the individuals who will be investigating and determining the outcome of the grievance prior to the commencement of the investigation. Parties can raise the issue of a potential conflict of interest or perceived bias regarding the investigators or decision maker within two days of this notification. The Title IX Coordinator will determine whether a conflict of interest exists. No investigator or decision maker will make findings or determinations in a case in which they have a conflict of interest.

A Title IX Coordinator may hire external investigators and decision makers in complicated cases if perceived bias cannot be avoided or the nature of the case exceeds HU's resources. External investigators and decision makers will receive training specific to HU policy prior to initiating a report finding procedure.

### ***Evidence***

HU is responsible for collecting, verifying, and providing parties with the opportunity to review relevant and permissible evidence. HU is also responsible for deciding what evidence is relevant and permissible. Evidence will be deemed permissible based on the following guidance:

- Evidence must be directly related to the alleged conduct.
- Evidence must be material to the outcome of the grievance process. This means it must have a logical connection to the facts in dispute and be relevant to the issues at hand.
- The evidence must have probative value, meaning it must be likely to prove or disprove a material fact in the case either on its own or as part of a collection of evidence.
- If evidence is relevant but may be unduly prejudicial, the university will balance the probative value against the potential for unfair prejudice to the parties involved.
- Evidence must be credible and reliable. This includes considering the source of the information, the circumstances under which it was obtained, and any potential biases or motivations of the source.

### ***Standard of Evidence***

HU uses the preponderance of the evidence standard in its investigations and hearings of complaints alleging sex discrimination and any related violations. A preponderance of evidence means it is more likely than not that a violation of the Policy occurred.

## ***Initial Inquiry***

When HU receives a report of sex discrimination, the Title IX Coordinator will begin an initial inquiry as soon as practical. This will most frequently begin with an attempt to gain additional information from the complainant, preferably through an in-person meeting. The scope and timing of further action will depend upon a number of factors, including but limited to, the type of grievance, whether the identity of the victim is known; whether the complainant is willing to participate in an investigation and/or hearing; whether the complainant requests anonymity or confidentiality; whether the respondent is affiliated with HU; and whether HU has an obligation to proceed with an investigation based on concerns for the safety of the broader HU community, regardless of the complainant's wishes.

Following an Initial Inquiry, possible next steps include:

- **Refer for Resolution under *Code of Conduct*:** If the conduct described in the initial report does not meet the criteria outlined in the definition section of this Policy for resolution under Title IX, and the respondent is a student, the Title IX Coordinator will refer the report to the AVP of Student Services for resolution through the process outlined HU's *Code of Conduct*, Chapter 1 of HU's *Student Handbook*
- **Refer for Resolution under *Employee Handbook*:** If the conduct described in the initial report does not meet the criteria outlined in the definition section of this Policy for resolution under Title IX, and the respondent is an HU employee or third-party, the Title IX Coordinator will refer the report to the AVP of Human Resources for resolution through policies and procedures outlined in the *Employee Handbook* or *Faculty Handbook*.
- **Close the Case:** For a case to be referred for a full investigation, there must be sufficient information to believe a policy violation may have occurred and that the respondent may be responsible. The Title IX Coordinator may dismiss a case when insufficient information exists to move forward or when the alleged misconduct, even if substantiated, would not be a violation of Policy. The Title IX Coordinator may, in their discretion, reopen a case in the future if additional information becomes available or a complainant who was unwilling to pursue formal resolution changes their mind, (consistent with the time limitations discussed above). Parties can appeal against this decision by contacting the Title IX Coordinator.
- **Consolidation.** If multiple complaints have been filed that arise from the same or similar set of facts, the matters may be consolidated into one investigation in the sole discretion of HU and processed informally, formally, or closed.
- **Formal Resolution:** The Title IX Coordinator may determine that there is reasonable information to suggest a policy violation involving sex discrimination may have occurred. In these cases, and with the information available at the time of the initial report, the Title IX Coordinator will determine if the complaint will be resolved through the two following grievance procedures:
  - **Student Involved Sex-based Harassment Grievance Procedure-** any report of sex-based harassment, that involves a student as either complainant or respondent, will proceed to further investigation and formal resolution through *Student Involved Sex-Based Harassment Grievance Procedure* section of this Policy.
  - **Sex Discrimination Grievance Procedure-** any report of sex discrimination, employee on employee sex-based harassment, and

retaliation will proceed to further investigation and formal resolution through *Sex Discrimination Grievance Procedure* section of this Policy.

- **Voluntary and Informal Resolution:** A complainant may request a mutual and voluntary agreement between the parties involved in an allegation of sex discrimination or sex-based harassment. A Voluntary and Informal Resolution involves measures that both parties agree to and that are easily determined to be completed. See *Voluntary and Informal Resolution* of this Policy.

## **Student Involved Sex-based Harassment Grievance Procedure**<sup>4</sup>

### ***Notification to Parties***

The Title IX Coordinator will notify all parties in writing of the alleged Title IX violation and all dismissals, delays, meetings, and proceedings. All notices will include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the process. The written notice must inform the parties that they may have an advisor of their choice, who may be an attorney, the written notice must inform the parties that they may inspect and review evidence, the written notice must inform the parties of any provision in HU's Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the process, and 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.

The notification will also include a brief description of the alleged misconduct, the date and location of the incident, the identities of the parties if known, a list of any HU policies allegedly violated, and a description of the steps toward resolution. HU may modify the list of policies allegedly violated based on additional information revealed during fact and statement gathering. If, in the course of an investigation, HU decides to investigate allegations about the complainant or respondent that are not included in the notice provided, HU must provide notice of the additional allegations to the parties whose identities are known.

All notifications will contain statements regarding false statements and retaliation, as well as contact information for ADA accommodations.

### ***Investigation Process***

One or more Title IX Investigators are assigned from a list of trained investigators. In some cases, an outside investigator may be retained. All investigators and Title IX staff receive trauma-

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<sup>4</sup> This applies to only sex-based harassment that involves student complainants or respondents.

informed training on sexual misconduct and are familiar with HU's policies and procedures regarding Title IX.

During the investigation process, the complainant can describe the allegations and present supporting evidence to the investigator. The respondent can review the allegations, respond to them, and present a statement and supporting evidence to the investigator. HU will record a written transcript of these meetings. Parties may choose to have an advisor present.

Generally, the investigator meets with each party and each witness separately. In some cases, the investigator may interview the parties and/or witness more than once. The parties may submit additional materials, evidence, or information to the investigator following their interview(s). In all cases, both the complainant and the respondent have equal opportunities to share information and have their information considered. Each will have access to the statements, materials, and evidence submitted by the other party's witnesses. All parties will have an opportunity to respond to relevant evidence through the written transcripts of the meetings with the investigator. Both parties are able to question the credibility of statements by other the other party or witnesses by responding to the transcripts of the interviews and reviewing evidence.

The complainant and the respondent can present names of witnesses they suggest to the investigator. Complainants and respondents may only present factual witness and may not present character or expert witness. The investigator will take information provided by the complainant and respondent into consideration when identifying whom they will interview and what questions they ask, but these decisions are at the investigator's sole discretion. The investigator may also choose to interview other witnesses not identified by the parties based on the information provided in the parties' statements.

Once the investigator collects all statements and evidentiary documents, the investigator will create an investigative report that includes all statements and evidence that the parties provided. Parties will receive the report for review before cross-examination. Prior to completion of the investigative report, the recipient must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have appropriate time to submit a written response, which the investigator will consider prior to completion of the investigative report.

### ***Decision Maker***

The Title IX Coordinator will schedule provide a final copy of the final investigative report to the Title IX Decision Maker. The final investigative report will include all permissible evidence, transcripts of the meetings with parties and witnesses, credibility evaluations and rationale, and the parties' responses to evidence and the investigative report.

The Title IX Decision Maker will review the final investigative report and will make the final determination of whether there was a preponderance of evidence to support that the Title IX violation did occur.

### ***Final Determination***

A final determination will contain the following information:

- Identification of the allegations potentially constituting sex discrimination;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
- Findings of fact supporting the determination;
- Conclusions regarding the application of HU's Policy to the facts
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions that HU imposes on the respondent, and whether remedies designed to restore or preserve equal access to HU's recipient's education program or activity will be provided by HU to the complainant; and
- HU's procedures and permissible bases for the complainant and respondent to appeal.

### ***Notification of Findings and Sanctions***

Notification of findings and sanctions are simultaneously provided to the complainant and the respondent in separate correspondence from the Title IX Coordinator including an explanation of the weight of evidence using the appropriate standard of proof. However, some information may not be shared if it would violate any federal or state law, such as the Family Educational Rights and Privacy Act (FERPA).

The complainant's notification includes findings related to violations of the Policy, remedies offered or provided to the complainant, sanctions imposed on the respondent that directly relate to the complainant, and any other steps HU has taken to prevent the recurrence and eliminate a hostile environment, if such was found to exist. Information contained in the notification may be limited due to applicable laws.

The respondent generally will not be notified of the individual remedies offered or provided to the complainant.

Complainants and respondents are informed of appeal procedures within their notifications. HU encourages the parties to maintain confidentiality of all communication related to findings and sanctions.

## **Sex Discrimination and Non-student Involved Sex-based Harassment Grievance Procedures<sup>5</sup>**

### ***Notification to Parties***

The Title IX Coordinator or designee will notify all parties in writing of the alleged Title IX violation. All notices will include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the process. The written notice must inform the parties that they may inspect and review evidence.

All notifications will contain statements regarding false statements and retaliation, as well as contact information for ADA accommodations.

### ***Investigation Process***

One or more Title IX Investigators are assigned from a list of trained investigators. In some cases, an outside investigator may be retained. All investigators and Title IX staff receive trauma-informed training on sexual misconduct and are familiar with HU's policies and procedures regarding Title IX.

During the investigation process, the complainant can describe the allegations and present supporting evidence to the investigator. The respondent can review the allegations, respond to them, and present a statement and supporting evidence to the investigator.

Generally, the investigator meets with each party and each witness separately. In some cases, the investigator may interview the parties and/or witness more than once. The parties may submit additional materials, evidence, or information to the investigator following their interview(s). In all cases, both the complainant and the respondent have equal opportunities to share evidence. Each party will have access to the evidence, or an accurate description of the evidence, submitted by the other party and witnesses. All parties will have an opportunity to respond to relevant evidence. When credibility is in dispute, the investigator will consider the credibility of the evidence.

The complainant and the respondent can present names of witnesses they suggest to the investigator. Complainants and respondents may only present factual witness and may not present character or expert witness. The investigator will take information provided by the complainant and respondent into consideration when identifying whom they will interview and what questions they ask, but these decisions are at the investigator's sole discretion. The investigator may also choose to interview other witnesses not identified by the parties based on the information provided in the parties' statements.

Once the investigator collects all statements and evidentiary documents, the investigator will create an investigative report that includes all statements and evidence that the parties provided. That report will be provided to the decision-maker for a final determination.

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<sup>5</sup> This grievance procedure applies to sex discrimination complaints and sex-based harassment complaints that does not include a student as a complainant or respondent.



### ***Decision Maker***

The Title IX Coordinator will provide a final copy of the investigative report to the Title IX Decision Maker. The investigator and the decision maker can be the same individual in this grievance process.

The Title IX Decision Maker will review the investigative report and will make the final determination of whether there was a preponderance of evidence to support that the Title IX violation did occur.

### ***Final Determination***

A final determination will contain the following information:

- Identification of the allegations potentially constituting sex discrimination, including non-student involved sex-based harassment;
- A determination regarding responsibility, any disciplinary sanctions that HU imposes on the respondent, and whether remedies designed to restore or preserve equal access to HU's recipient's education program or activity will be provided by HU to the complainant; and
- HU's procedures and permissible bases for the complainant and respondent to appeal.

### ***Notification of Findings and Sanctions***

Notification of findings and sanctions are provided to the complainant and the respondent in separate correspondence from the Title IX Coordinator including an explanation of the weight of evidence using the appropriate standard of proof.

The complainant's notification includes findings related to violations of the Policy, remedies offered or provided to the complainant, sanctions imposed on the respondent that directly relate to the complainant, and any other steps HU has taken to prevent the recurrence and eliminate a hostile environment, if such was found to exist. Information contained in the notification may be limited due to applicable laws.

The respondent generally will not be notified of the individual remedies offered or provided to the complainant.

Complainants and respondents are informed of appeal procedures within their notifications. HU encourages the parties to maintain confidentiality of all communication related to findings and sanctions.

## **Title IX Sanctions<sup>6</sup>**

Sanctions are determined based on several factors, including the severity of the conduct and any prior policy violations. In addition, HU may take steps to address the effects of the conduct on victims and others, including, but not limited to, counseling and support resources, academic and housing assistance, change in work situations, leaves of absence, and training or other preventative measures. Sanctions and remedial actions aim to eliminate any hostile environment, prevent sexual misconduct from recurring, and remedy any discriminatory effects on a complainant or others. HU may impose more severe sanctions if there are prior founded conduct violations on the respondent's student or employment record.

Sanctions and corrective actions are<sup>7</sup>:

- Verbal warning
- Written warning
- Advisory Letter
- Monitoring
- Disciplinary hold on academic and/or financial records
- Performance improvement/management process
- Required training or education
- Campus access restrictions
- Loss of oversight, teaching or supervisory responsibility
- Probation
- Demotion
- Loss of pay increase
- Revocation of offer (employment or admissions)
- Disciplinary suspension
- Deferred suspension
- Suspension with pay
- Suspension without pay
- Exclusion
- Expulsion
- Degree revocation
- Loss of privileges
- Termination of employment
- Termination of contract (for contractors)
- No trespass orders

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<sup>6</sup> These sanctions may apply to all findings of sex discrimination.

<sup>7</sup> Listed sanctions may not be applicable to all respondents. The list includes potential sanctions applicable to HU employees and students.

## **Title IX Right to Appeals<sup>8</sup>**

### ***Appeals***

Both parties may file an appeal from a determination regarding responsibility or from HU's dismissal of a formal complaint or any allegations contained within.

### ***Basis for Appeal***

The only grounds for appeal to a finding of sexual misconduct are as follows:

1. New information discovered after the investigation that could not have reasonably been available at the time of the investigation and is of a nature that could materially change the outcome;
2. Procedural errors within the investigation or resolution process that may have substantially affected the fairness of the process;
3. An outcome (findings or sanctions) that was manifestly contrary to the weight of the information presented (i.e., obviously unreasonable and unsupported by the great weight of information).
4. Documented conflict or bias with an investigator or decision maker that was not known at the time of the investigation.

All other reasons for an appeal will be dismissed. At the time of its filing, an appeal must specifically provide supporting facts and/or documentation in support of the three permissible grounds for appeal as outlined above.

### ***Appeal Process***

1. An appeal must be made within the record retention timeframe. An appeal must be in writing to the Title IX Coordinator and specify the basis for the appeal as outlined above. The original finding is presumed reasonable and appropriate by a preponderance of the evidence unless information to the contrary is presented.
2. In the event of sanctions, it is in the sole discretion of the Title IX Coordinator and the sanctioning office whether the sanctions are implemented or stayed pending resolution of an appeal.
3. Appeals are reviewed by the appropriate University Official who has appropriate training to make a decision regarding an appeal in the grievance resolution process. The Title IX Coordinator will confirm with the parties that there is no perceived bias in the role of the appeal decider.

### ***Requirements for Appeals***

For all appeals, HU will do the following:

- Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;

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<sup>8</sup> All parties have a right to appeal the final determination of a sex discrimination grievance as part of Title IX.

- Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal or the investigator(s);
- Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- Issue a written decision describing the result of the appeal and the rationale for the result; and
- Provide the written decision simultaneously to both parties.

### **Training Materials**

All materials used to train HU's employees in administering the Title IX process as outlined in the policy are available by request to the Title IX Coordinator.

### **Record Retention**

All records received and created under this Policy shall be maintained for a period of seven years from the date the file is closed. All records shall be maintained in electronic format. The Director of Compliance, in collaboration with the Office of Student Services and Office of Human Resources, will maintain all files.

The ability for anyone to access closed records is at the discretion of the Director of Compliance in a manner consistent with federal and state laws.