



**PROCEDURES FOR ADDRESSING  
PROHIBITED SEXUAL HARASSMENT  
UNDER TITLE IX**

**WSSU**

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## 1. Rationale for Policy

The University is committed to providing an inclusive and welcoming environment for all members of our community. The University values safety, diversity, education, and equity and is firmly committed to maintaining a campus environment free from Sexual Harassment. This Policy and associated Procedures are grounded in Title IX of the Education Amendments Act of 1972 (“Title IX”) and its implementing regulations<sup>1</sup>. Title IX governs the University’s response to Title IX Sexual Harassment, including Sexual Assault, Dating Violence, Domestic Violence, and Stalking, as defined in this Policy. WSSU also prohibits Retaliation under this policy. Such acts violate the essential dignity of our community members and are contrary to our institutional values.

## 2. Applicable Scope

This Policy and associated Procedures provide for the prompt and equitable response to reports of Title IX Sexual Harassment, including Sexual Assault, Dating Violence, Domestic Violence, and Stalking, as well as Retaliation, as defined in this Policy.

This Policy and associated Procedures protects University Students, Employees, and other persons in the United States from Title IX Sexual Harassment in an Education Program or Activity of the University<sup>2</sup>. This Policy and associated Procedures apply to the conduct of University Students, Employees, and other persons reported to have engaged in conduct that could constitute Title IX Sexual Harassment and Retaliation under this Policy.

This Policy applies to locations, events, or circumstances for which the University exercised substantial control over both the Respondent and the context in which the Title IX Sexual Harassment occurred at the time of the alleged incident. This includes any building owned or controlled by a student organization that is officially recognized by the University. This Policy applies to conduct that occurs against a person in the United States.

Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation that do not meet the definitions and/or jurisdictional requirements set out in this Policy will be addressed under the appropriate and applicable university policy.

## 3. Policy Statement

This Policy prohibits specific forms of Sexual Harassment and Retaliation. Specifically, this Policy prohibits Sexual Harassment, including Sexual Assault, Dating Violence, Domestic Violence, and Stalking, as defined in this Policy.

When the University has Actual Knowledge of potential Title IX Sexual Harassment or allegations of Title IX Sexual Harassment, the Title IX Coordinator, in consultation with other

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<sup>1</sup> [Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance](#), 85 FR 30026 (May 19, 2020)

<sup>2</sup> Education Program or Activity are locations, events, or circumstances for which the University exercised substantial control over both the Responding Party and the context in which the Sexual Harassment occurred at the time of the alleged incident, which includes any building owned or controlled by a student organization that is officially recognized by the University.

administrators, will implement reasonable and appropriate Supportive Measures to restore or preserve equal access to the University's Educational Program or Activities and to protect the safety of the parties.

When a Formal Complaint under this Policy is filed, as detailed in the related Procedures, the University will initiate a formal process of investigation and adjudication of the alleged Policy violation.

#### **4. Supportive Measures**

The University will make available supportive measures to the parties. Supportive measures are available before or after the filing of a formal complaint, or where no formal complaint has been filed. Supportive measures are non-disciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, and without fee or charge.

The University will maintain as confidential any supportive measures provided to the parties, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.

Supportive measures may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments

- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- [Timely warnings](#)
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

## 5. Policy Definitions

Complainant means the individual(s) who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment or Retaliation.

Respondent means the individual(s) who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment or Retaliation.

**Employee means** any faculty or staff member, whether part-time or full-time, permanent or temporary, including post-doctoral scholars. For the purposes of this Policy, employees who are also students are considered employees if the Complainant alleges that the student-employee conditioned the provision of university aid, benefits, or services which the student-employee had the authority or ability to provide on the Complainant's participation in unwelcome Sexual Contact.

**Actual knowledge means** notice of Title IX Sexual Harassment or allegations of Title IX Sexual Harassment to the University's Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University.

The section below describes the specific forms of harassment that are prohibited under University Policy. All offense definitions encompass actual and/or attempted offenses.

### A. Title IX Sexual Harassment

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

The University has adopted the following definitions of sexual harassment in order to address the unique environment of an academic community.

Title IX Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This definition applies to all formal complaints that fall within Title IX jurisdiction as determined by the Title IX Coordinator. Sexual Harassment includes conduct on the basis of sex, or that is sexual in nature, that satisfies one or more of the following:

**Quid Pro Quo:**

- a. an employee of the University,
- b. conditions<sup>3</sup> the provision of an aid, benefit, or service of the University,
- c. on an individual's participation in unwelcome sexual conduct.

**Sexual Harassment:**

- a. unwelcome conduct, determined by a reasonable person, to be so severe, and
- b. pervasive, and,
- c. objectively offensive,
- d. that it effectively denies a Complainant equal access to the University's education program or activity.<sup>4</sup>

**Sexual Assault, defined as:**

Rape:

- a. 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 their consent,
- b. including instances where they are incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Forcible Sodomy:

- a. Oral or anal sexual intercourse with a Complainant,
- b. forcibly, and/or
- c. against their will (non-consensually), or
- d. not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

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<sup>3</sup> Implicitly or explicitly.

<sup>4</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Sexual Assault with an Object:

- a. The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of the Complainant, forcibly, and/or
- b. against their will (non-consensually), or
- c. not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Forcible Fondling:

- a. The touching of the private body parts of the Complainant (buttocks, groin, breasts, etc.),
- b. for the purpose of sexual gratification,
- c. forcibly, and/or
- d. against their will (non-consensually), or
- e. not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Incest:

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

Statutory Rape:

- a. Non-forcible sexual intercourse,
- b. with a person who is under the statutory age of consent in North Carolina.



**Dating Violence**, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition:

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

**Domestic Violence**,<sup>5</sup> defined as:

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

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<sup>5</sup> To categorize an incident as Domestic Violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

**Stalking**,<sup>6</sup> defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at the Complainant, that
  - i. would cause a reasonable person to fear for the person's safety, or
  - ii. the safety of others; or
  - iii. suffer substantial emotional distress.

## **B. Consent**

Consent is:

- voluntary,
- informed,
- clear permission
- by word or action,
- revocable at any time
- to engage in sexual activity.

*The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.*

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

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

Whether an individual actively and willingly participates in conduct may be a factor in determining whether there was consent. Clear communication from the outset is strongly encouraged.

If consent is withdrawn, that sexual activity should cease. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a

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<sup>6</sup> Course of conduct means two or more acts, including, but not limited to acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

Consent is not given in situations involving coercion, force, or incapacitation as defined below:

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

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

*Incapacitation:* Incapacitation is the physical and/or mental inability to understand the fact, nature, or extent of the sexual situation. Incapacitation is a temporary or permanent state in which an individual is unable to give consent to sexual contact due to mental, developmental, or physical impairment, or from the influence of alcohol or drugs. States of incapacitation include but are not limited to: sleep, unconsciousness or intermittent consciousness, involuntary physical restraint, or any other state where an individual is unaware of the sexual contact.

For incapacitation due to alcohol and/or other drugs, incapacitation requires more than being under the influence; a person is not incapacitated just because they have been drinking or using other drugs. Where alcohol and/or other drugs are involved, incapacitation is determined based on the facts and circumstances of the particular situation, looking at whether the individual was able to understand the fact, nature, or extent of the sexual situation; whether the individual was able to communicate decisions regarding consent, non-consent, or the withdrawal of consent; and whether such condition was known or reasonably should have been known to the accused or a reasonable sober person in the accused’s position. Use of drugs or alcohol by the accused is not a defense to allegations of non-consensual sexual contact.

*Coercion:* Coercion is undue pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent.

## **C. Retaliation**

- a. Intimidation, threats, coercion, or discrimination
- b. for the purpose of interfering with any right or privilege secured by Title IX or against an individual for engaging in protected activity.
- c. Protected activity consists of
  - i. making a report or complaint about conduct reasonably believed to constitute a violation of this Policy, or
  - ii. testifying, assisting, or participating in any manner in an investigation or other proceeding related to such a complaint.

## **6. Revision of this Policy and Procedures**

This Policy and its associated procedures supersede any previous policies addressing Title IX Sexual Misconduct and Retaliation for incidents occurring on or after August 14, 2020, under Title IX and will be reviewed and updated annually by the Title IX Coordinator. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the Resolution Process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

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

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally. In the event any provision of this Policy and Procedures conflicts with applicable law, the law will supersede such provision.

## **7. External Regulations and Consequences**

- Title IX of the Education Amendments Act of 1972 and accompanying regulations
- The Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, 20 U.S.C. section 1092(f) (Clery Act)
- Section 304 of the 2013 Amendments to the Violence Against Women Act (VAWA)

## **8. Policy Contacts**

*Winston-Salem State University is a Constituent Institution of the University of North Carolina  
An Equal Opportunity Employer*

Inquiries or concerns about this policy or Title IX may be referred to the University's Title IX Coordinator.

Kayla Rudisel, JD  
Title IX Coordinator  
O: 123 Blair Hall  
601 S. Martin Luther King Jr. Drive  
Winston-Salem, NC 27110  
P: 336-750-8758  
E: [krudisel@wssu.edu](mailto:krudisel@wssu.edu)

Concerns about the University's application of laws covered by this Policy may be addressed to the United States Department of Education, Office for Civil Rights.

Office for Civil Rights  
OCR@ed.gov  
(800) 421-3481

## 9. Rationale for Policy

The University is committed to providing an inclusive and welcoming environment for all members of our community. The University values safety, diversity, education, and equity and is firmly committed to maintaining a campus environment free from Sexual Harassment. The Policy for Addressing Prohibited Sexual Harassment Under Title IX ("Title IX Sexual Harassment Policy" or "the Policy") is grounded in Title IX of the Education Amendments Act of 1972 ("Title IX") and its implementing regulations<sup>7</sup>. Title IX governs the University's response to Sexual Harassment, including Sexual Assault, Dating Violence, Domestic Violence, and Stalking, as defined in the Title IX Sexual Harassment Policy.

## 10. Applicable Scope

These Procedures provide for the prompt and equitable response to reports of Sexual Harassment, including Sexual Assault, Dating Violence, Domestic Violence, and Stalking, as defined in the Title IX Sexual Harassment Policy.

These Procedures protect University Students, Employees, and other persons in the United States from Title IX Sexual Harassment in an Education Program or Activity of the University<sup>8</sup>. These Procedures apply to the conduct of University Students, Employees, and other persons reported to have engaged in conduct that could constitute Sexual Harassment

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<sup>7</sup> [Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance](#), 85 FR 30026 (May 19, 2020)

<sup>8</sup> Education Program or Activity are locations, events, or circumstances for which the University exercised substantial control over both the Responding Party and the context in which the Sexual Harassment occurred at the time of the alleged incident, which includes any building owned or controlled by a student organization that is officially recognized by the University.

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under the Title IX Sexual Harassment Policy. WSSU also prohibits Retaliation under the Title IX Sexual Harassment Policy.

These Procedures apply to locations, events, or circumstances for which the University exercised substantial control over both the Respondent and the context in which the Title IX Sexual Harassment occurred at the time of the alleged incident. This includes any building owned or controlled by a student organization that is officially recognized by the University. These Procedures apply to conduct that occurs against a person in the United States.

Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation that do not meet the definitions and/or jurisdictional requirements set out in the Title IX Sexual Harassment Policy will be addressed under the appropriate and applicable university policy.

## **11. Title IX Coordinator**

The University has designated and authorized a Title IX Coordinator to coordinate its efforts to comply with its responsibilities under 34 C.F.R. Part 106. The University will notify applicants for admission and employment, students, employees, contractors, and vendors of the name and title, office address, electronic mail address, and telephone number of the Title IX Coordinator.

The University's Title IX Coordinator is:

Kayla Rudisel, JD  
Title IX Coordinator  
O: 123 Blair Hall  
601 S. Martin Luther King Jr. Drive  
Winston-Salem, NC 27110  
P: 336-750-8758  
E: [krudisel@wssu.edu](mailto:krudisel@wssu.edu)

## 12. Reporting Title IX Sexual Harassment

A report of harassment, and/or retaliation may be made using any of the following options:

A report of a violation of this Policy may be reported at any time, regardless of the length of time between the alleged offense and the decision to report. The University encourages reporting so that we can provide individuals with support and resources. Complainants also are encouraged to report incidents of criminal activity to the police.

Reporting carries no obligation for the complainant to initiate a formal complaint or investigation. The University observes complainants' requests to forgo a formal investigation unless there is a compelling threat to health or safety. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/ or violence.

An individual can submit a report using the reporting form on the [WSSU Title IX webpage](#) or by contacting the following resource(s) at any time:

Kayla Rudisel, JD  
Title IX Coordinator  
O: 123 Blair Hall  
601 S. Martin Luther King Jr. Drive  
Winston-Salem, NC 27110  
P: 336-750-8758  
E: [krudisel@wssu.edu](mailto:krudisel@wssu.edu)

Any person may report sex discrimination, including Sexual Harassment, to the Title IX Coordinator or designee in person, by mail, by telephone, by electronic mail, or by any other means that results in the Title IX Coordinator or designee receiving the person's verbal or written report. Such a report may be made whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or Sexual Harassment. Reports may be made at any time, including during non-business hours, by using the contact information listed above.

*After normal business hours and weekends, you can also contact WSSU Police and Public Safety at 336-750-9111 for an immediate response.*

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

### **13. No Time Limits on Reporting**

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

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

### **14. Emergency Removal**

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

Placement of an employee on administrative leave with pay shall be in exceptional circumstances, such as to avoid disruption in the workplace or protect the safety of members of the campus community.

When an emergency removal is imposed, the Respondent will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon as reasonably possible thereafter, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. This meeting must be requested within three (3) business days of the notice of action/removal. If a timely request is not made, the objections to the emergency action/removal will be deemed waived. There is no appeal process for emergency removal decisions.



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

The Title IX Coordinator has sole discretion under this Policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

The University will attempt to implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take incomplete grades without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural/club athletics.

## **15. Confidentiality/Privacy**

WSSU will not share the identity of any individual who has made a report or Formal Complaint of harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of harassment, discrimination, or retaliation; any Respondent; or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA) or required by law; or to carry out resolution process grievance arising under these policies and procedures.

Documents prepared in anticipation of any hearing, such as pre-hearing submission, notices of hearing testimony, and information submitted at the hearings may not be disclosed outside the investigation and hearing proceedings, except as may be required or authorized by law or the Title IX Coordinator.

The University, in accordance with Title IX compliance, will to the extent practicable, try to comply with the wishes of the individual regarding their request for confidentiality or not pursuing a hearing. The University will take such requests seriously; however, such requests may limit the University's ability to investigate and take reasonable action. Under federal law, the University may be required to move forward with an investigation and take reasonable action in response to the complaint, no matter if these steps may be limited by a request for confidentiality. Title IX requires the University to evaluate the request of the complaint next to the University's concern for the safety, well-being, and nondiscriminatory environment.

## **16. False Allegations and Evidence**

Knowingly falsifying, distorting, or misrepresenting information provided to the Title IX Coordinator, investigator, hearing or appellate decision maker(s), or any official conducting an investigation, hearing, or informal resolution; knowingly tampering with or destroying evidence; or knowingly instituting a formal complaint or submitting a report in bad faith are serious offenses and will be subject to disciplinary action under appropriate university policies. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

## **17. Amnesty**

Sometimes, Complainants or witnesses are hesitant to report to the University officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons. To encourage reporting and participation in the process, the University typically offers parties and witnesses amnesty from minor policy violations—such as underage consumption of alcohol or the use of illicit drugs—related to the incident.

## **18. Ensuring Impartiality**

Any individual materially involved in the administration of the Resolution Process including the Title IX Coordinator, investigator(s), and decision-maker(s) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

At any time during the Resolution Process, the parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable.

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

WSSU operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

Due to availability, absences, conflict of interest, etc., employees may delegate their duties to another trained person upon approval by the Title IX Coordinator. All employees involved in the formal complaint process are trained as required by applicable law.

## **19. Resolution of a Formal Complaint**

### **A. Overview**

*Winston-Salem State University is a Constituent Institution of the University of North Carolina  
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Complaints, investigations, hearings, etc. (“Resolution Process” or “Grievance Process”) may be consolidated when the allegations of misconduct arise out of the same facts or circumstances or when the Title IX Coordinator deems it prudent to consolidate cases. In addition, the procedures below may be used to address alleged collateral misconduct by the Respondent arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another), when alleged violations of the Title IX Sexual Harassment Policy are being addressed at the same time.

Violations of no contact orders or other restrictions related to the allegations may be referred to appropriate student conduct or employee grievance processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under the Title IX Sexual Harassment Policy and these associated procedures.

## **B. Filing a Formal Complaint**

A formal complaint is a designated form signed by a Complainant or signed by the Title IX Coordinator alleging the Respondent violated the Title IX Sexual Harassment Policy and requesting that WSSU investigate the allegation(s).

A Complainant can request a formal complaint form from the Title IX Coordinator. The formal complaint form can be filed with the Title IX Coordinator in person, via mail, email, or in any manner approved by the Title IX Coordinator. If a formal complaint is submitted in a manner that does not meet the approved standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of the Title IX Sexual Harassment Policy. The Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under these Procedures irrespective of their level of participation.

### **C. Mandatory and Discretionary Dismissal of Formal Complaint**

A Formal Complaint may be dismissed during the resolution process on certain grounds.

A Formal Complaint will be dismissed if the conduct reported in the Formal Complaint if:

1. It would not constitute Sexual Harassment as defined under Title IX, even if proved,
2. It did not occur in the University's education program or activity,
3. It did not occur against a person in the United States.

A Formal Complaint may be dismissed, in whole or in part, at the Title IX Coordinator's discretion, if:

1. A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations in the complaint,
2. The respondent is no longer enrolled or employed by the University, or
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations in the complaint.

The Title IX Coordinator will promptly send written notice of the dismissal, including the reason(s) for the dismissal to the parties. The parties have the opportunity to appeal the dismissal of a formal complaint or any allegations in the formal complaint in the manner set forth in the Appeal Procedures section.

A dismissal does not preclude action under another provision of university policy. Even if the University is unable to take disciplinary action, the University will seek to take appropriate steps to prevent sexual harassment from occurring.

### **D. Promptness**

The university will conduct a timely investigation. Complaints typically take 60 to 90 business days to resolve. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but WSSU will attempt to avoid all undue delays within its control.

WSSU may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, academic breaks, the absence of parties and/or witnesses, and/or health conditions. The Title IX Coordinator maintains discretion to reasonably advance the process.

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

## **E. Right to an Advisor**

Both parties are encouraged to seek the assistance of an advisor to support and accompany them through the process. Each party may have one (1) advisor present with them for support throughout the proceedings.

### **i) Who Can Serve as an Advisor?**

The parties may select whoever they wish to serve as their Advisor as long as the Advisor is available. Available means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor should not have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the Resolution Process. The parties may choose Advisors from inside or outside of the WSSU community. The Title IX Coordinator will also offer to assign a trained Advisor to any party if the party so chooses. If the parties choose an Advisor from the pool available from the university, the Advisor will have been trained by the university and be familiar with the university's Resolution Process. If the parties choose an Advisor from outside the pool of those identified by the university, the Advisor may not have been trained by the university and may not be familiar with university policies and procedures. Choosing an Advisor who is also a witness in the process creates potential bias which will be explored by the hearing decision-maker(s). Parties also have the right to choose not to have an Advisor in the initial stages of the Resolution Process, prior to a hearing.

### **ii) Sharing Information with the Advisor**

WSSU expects that the parties may wish to have WSSU share documentation and evidence related to the allegations with their Advisors. WSSU provides a consent form that authorizes WSSU to share such information directly with a party's Advisor. The parties must either complete and submit this form to the Title IX Coordinator before WSSU is able to share records with an Advisor.

Advisors appointed by the institution will not be asked to disclose details of their interactions with their advisees to hearing decision-maker(s).

### **iii) Privacy of Records Shared with Advisor**

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by WSSU. WSSU may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the WSSU's privacy expectations.

### **iv) Expectation of an Advisor**

When scheduling a hearing, the University will make reasonable efforts to accommodate an advisor; however, the availability of the parties; witnesses; the designated administrator, panel members, or board members assigned to the matter; and other necessary participants as well as the expectation to promptly complete the Resolution Process may, in the University's discretion, take priority when determining the date and time for the hearing. WSSU may make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available. Additionally, an advisor may not delay, disrupt, or otherwise interfere with the Resolution Process.

In order for an advisor to participate in any meeting or hearing, designated form(s) must be submitted to the Title IX Coordinator or designee no later than 3 business days prior to the meeting or proceeding.

## **F. Investigation of Formal Complaints**

1. The Title IX Coordinator will inform the Respondent and Complainant in writing of the investigation.
2. The investigator is primarily responsible for the investigation of the reported conduct. The investigation is a neutral fact gathering process. Interviews with the investigator may be recorded. No other recordings of interviews are permitted.
3. The investigator will:
  - a. Conduct a prompt, fair, and equitable investigation and will treat all participants in the process with respect.
  - b. Conduct a fact-finding inquiry or investigation into the complaint, including appropriate interviews and meetings with each party and witnesses.
  - c. Create, gather, and maintain investigative documentation, as appropriate.
  - d. Disclose appropriate information to others only on a need-to-know basis, consistent with state and federal law as well as university policy.
  - e. Handle all data in accordance with applicable federal and state privacy laws.

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- f. Prepare a written investigation report summarizing relevant information collected throughout the investigation.
4. Directly related evidence will be sent to each party. Each party will have 10 calendar days to submit a written response to the Title IX Coordinator.
5. The investigator will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report.
6. The investigative report will be forwarded to the Title IX Coordinator for review. The Title IX Coordinator has discretion to ask the investigator for clarification, additional investigation, and/or to have information added, removed, or redacted from the investigative report.
7. All witnesses, evidence, and information should be presented to the investigator prior to the conclusion of the investigation. Evidence that is relevant and/or directly related will be shared with the other party at least 10 calendar days prior to the Hearing.

## **G. Hearing Procedures**

The Title IX Coordinator will designate a decision-maker(s) to serve as the decision-maker(s) for Title IX and Sexual Misconduct matters. WSSU reserves the right to appoint any trained individuals who are without conflict or bias to serve as a decision-maker(s). The decision-maker(s) will not include the Title IX Coordinator or any person who served as an investigator for the matter.

At the hearing, the Board has the authority to hear and make determinations on all allegations of Title IX Sexual Harassment and Retaliation and may also hear and make determinations on any additional alleged policy violations that occurred in concert with the sexual offenses or retaliation, even though those collateral allegations may not specifically fall within the Title IX Sexual Harassment Policy.

Participants at the hearing may include the Hearing Chair, additional hearing board members, the hearing facilitator, the parties (or three (3) organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, the Title IX Coordinator, hearing board advisor, and anyone providing authorized accommodations, interpretation, and/or assistive services. The Chair will allow witnesses who have relevant information to appear at a portion of the hearing to respond to specific questions from the decision-maker(s) and the parties, and the witnesses will then be excused.

All parties, witnesses, and other participants may appear at the live hearing virtually with technology enabling participants to see and hear each other simultaneously. At the request of either party, the university will consider conducting an in-person hearing.

Each party will have an equal opportunity to present witnesses and other evidence. Any credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

Each party's Advisor will be permitted to ask the other party and any participating witnesses all relevant questions and follow-up questions, including those challenging credibility. This cross-examination will be conducted directly, orally, and in real time by the party's Advisor and never by a party themselves.

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 is offered to prove that someone other than the respondent committed the conduct alleged by 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.

The University cannot require, access, consider, disclose, allow, rely upon, seek disclosure of, or otherwise use a party's protected records or information without the voluntary, written consent of the relevant party or individual. Protected records or information include, but are not limited to, the following:

1. Records that are made or maintained by a physician, psychiatrist, psychologist, counselor, 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; and
2. Information protected under a legally recognized privilege (e.g., attorney-client, married individuals, clergy and communicant, psychotherapist and patient, physician and patient, etc.).

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



## **H. Joint Hearings**

In hearings involving more than one Respondent and/or involving more than one Complainant, can be heard jointly if the respondent has been accused of substantially similar conduct or allegations that arise out of the same occurrence or series of events.

At the discretion of the Title IX Coordinator, investigations and/or hearings pertinent to each Respondent or complaint will be conducted separately if there is a compelling reason to do so. Charges against multiple students involved in the same incident may be heard in a single case only if each student respondent consents to such a proceeding. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each complaint with respect to each alleged policy violation.

## **I. Hearing Recordings**

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

The hearing decision-maker(s), the parties, their Advisors, and appropriate administrators of Winston-Salem State University will be permitted to review the recording or review a transcript of the recording, upon request to the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without the permission of the Title IX Coordinator.

## **J. Deliberation and Standard of Proof**

The decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used.

When there is a finding of responsibility on one or more of the allegations, the decision-maker(s), the parties, their Advisors, and appropriate administrators of Winston-Salem State University may then consider the previously submitted party impact and/or mitigation statement(s) in determining appropriate sanction(s). Each of the parties will have an opportunity to review any submitted impact and/or mitigation statement(s).

As part of that determination of sanctions and remedies, the Title IX Coordinator may, in their discretion, provide the decision-makers with information regarding previous conduct violations by the respondent.

## **K. Notice of Outcome**

The Hearing Chair will share the outcome letter, which includes the final determination, rationale, and any applicable sanction(s), with the parties and their Advisors.

The Notice of Outcome will be shared with the parties simultaneously to the parties' WSSU-issued email or any other means of delivery deemed appropriate by the Title IX Coordinator (in-person, mail, to an approved email account, etc.) Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will include a description of the procedural steps taken by WSSU related to the grievance procedure; the finding for each alleged policy violation; a statement of, and rationale for, the result of each allegation to the extent the WSSU is permitted to share such information under state or federal law; remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant; any sanction(s) issued which the WSSU is permitted to share according to state or federal law; and the relevant procedures and bases for appeal.

## **L. Sanctions/Remedies**

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

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

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

## i) Student Sanctions

The following are the common sanctions that may be imposed upon students singly or in combination:

- Expulsion means a permanent dismissal. A student who has been expelled from WSSU may not be admitted to another constituent institution of the University, unless and until the sanction of expulsion has been rescinded by WSSU.<sup>9</sup>
- Permanent Suspension means that the student is removed from good standing and must leave the University permanently without an expectation that the student may eventually return to the WSSU campus. The student is not barred, however, from seeking admission to another UNC System university, if that university wishes to permit such application following disclosure of the student's disciplinary record at WSSU.<sup>10</sup>
- Suspension for a Definite or Indefinite Period means that the student is removed from good standing and must leave the University for a definite or indefinite period. This form of suspension anticipates that the student may eventually return if applicable conditions are satisfied. Academic work completed at another institution during a period in which a student is under suspension from the University may not be transferred toward the degree, but applicable health care or insurance benefits may be continued if the health insurance premium has already been paid.<sup>11</sup>
- Probation for a Definite or Indefinite Period, including probation with associated conditions or requirements as set by the Hearing Officer, means that a student may remain at the University but may be required to satisfy specified conditions or requirements, report regularly to a designated administrator, and be barred from holding any office or participating in any activity in which the student represents the University, including athletics or other competitive teams, or from participating in any University-recognized student organizations either within or outside the University community. The sanction of probation prohibits graduation until the period of probation has ended and the student has complied with all requirements.
- *Other Actions:* In addition to or in place of the above sanctions, the University may assign any other measures as deemed appropriate which may include the loss of privileges, residential and/or campus bans, No Contact Order, withholding or revoking a degree, restitution, educational program/project/class, housing

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<sup>9</sup>The chancellor or a vice chancellor must make the final administrative decision in all expulsion cases. After an expulsion has become final, the chancellor who imposed or approved the sanction (or his or her successor) may conclude on the basis of the former student's petition and any supportive documentation that the individual should be given a new opportunity to pursue higher education.

<sup>10</sup> A vice chancellor or the vice chancellor's delegate must make the final administrative determination in all suspension cases.

<sup>11</sup> A vice chancellor or the vice chancellor's delegate must make the final administrative determination in all suspension cases.

relocation, housing termination, counseling referral, educational conversation with faculty or staff, fines, residence hall expulsion/eviction, community service, any other University sanctions, or any other appropriate measures.

Expulsion, permanent suspension, suspension for a definite or indefinite period, and probation will be noted on a student's transcript while the sanction is in effect.

## **ii) Employee Sanctions**

The following are the common sanctions that may be imposed upon students singly or in combination:

- Verbal or Written Warning
- Performance Improvement Plan/Management Process
- Enhanced Supervision, Observation, or Review
- Required Counseling
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Reassignment
- Delay of (or referral for delay of) Tenure Track Progress
- Assignment to New Supervisor
- Restriction of Stipends, Research, and/or Professional Development Resources
- Suspension/Administrative Leave with Pay
- Suspension/Administrative Leave without Pay
- Termination
- Other Actions: In addition to or in place of the above sanctions/responsive actions, the university may assign any other responsive actions as deemed appropriate.

### **iii) Remedies**

When there has been a determination that the Complainant has violated the Policy, the University will consider appropriate remedies, based upon the findings and unique circumstances of each report. Remedies are measures taken to restore and preserve the Complainant's equal access to the University's educational programs, employment opportunities, or activities by addressing the effects of the conduct on the Complainant. Remedies seek to restore to the Complainant, to the extent possible, all benefits and opportunities lost as a result of the Title IX Sexual Harassment. Remedies may include, but are not limited to, adjustment of work or class assignments, location, and/or schedule or recommending a review of a negative performance or grade decision that may have resulted from the conduct that violated the Policy. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

The Title IX Coordinator or designee will, in all cases, consider whether there is a need for additional or extended remedies. The Title IX Coordinator or designee is responsible for effective implementation of any remedies.

### **M. Disability Accommodations in the Resolution Process**

WSSU is committed to providing reasonable accommodations and support to qualifying students, employees, or others with disabilities to ensure equal access to the Resolution Process.

Students needing such accommodations or support should contact WSSU's Department of Disability Services and employees should contact Human Resources, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

### **N. Appeal Procedures**

Both parties have the opportunity to appeal a determination regarding responsibility and a dismissal of a formal complaint or any allegations in the complaint to the appeal decision-maker(s) within five (5) business days of the issuance of the decision. Appeals are submitted by completing the online appeal form that will be included in any decision letter from the hearing decision-maker(s).

If neither party requests an appeal within the five (5) business day timeline, any sanction will take effect immediately at the end of the five (5) business day appeal timeline. Appeals are limited to 2,500 words, including attachments. Grounds for the appeal must be clearly and concisely stated, and all relevant information substantiating the grounds for appeal should be included.

The following constitute appropriate grounds for appeal:

1. the procedural irregularity that affected the outcome;
2. new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
3. Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainant or respondent generally or the individual complainant or respondent that affected the outcome of the matter.

Mere dissatisfaction with the hearing decision-maker(s) or dismissal outcome is not a valid basis for appeal. In addition, appeals are not intended to be a rehearing of the matter. The scope of the appeal will be limited to the grounds for appeal included in the written appeal submissions. In any request for an appeal, the burden of proof lies with the party requesting the appeal, because the outcome will be presumed to have been decided reasonably and appropriately.

If it is determined that the written appeal does not meet any of these criteria, the appeal will be denied without review by the appeal decision-maker(s). Once the appeal is filed, WSSU will provide written notice to the other party. If the appeal is determined to be properly filed, the other party will be given an opportunity to review and respond to the written appeal. Responses to written appeals are due five (5) business days after receipt of a copy of the appeal and are limited to 2,500 words.

If both parties have filed an appeal, the appeal documents from each party will be considered together in one appeal review process. Each party will be provided with the other party's appeal and may provide a response to the other party's written appeal. Responses to written appeals are due five (5) business days after receipt of a copy of the appeal and are limited to 2,500 words.

After reviewing all submitted materials, the appeal decision-maker(s) may: (1) affirm the outcome; (2) return the matter to the original or a new hearing decision-maker(s) with instructions to cure the procedural error, perceived conflict of interest/bias, or to consider the new evidence; (3) return the matter to the original or a new investigator with instructions to cure the procedural error, perceived conflict of interest/bias, or to consider the new evidence; (4) change the sanctions; or (5) overturn the dismissal.

All decisions are by majority vote and apply the preponderance of the evidence standard. Decisions by the appeal decision-maker(s) are by a majority vote of appeal decision-maker(s) present and participating in the appeal consideration.

The outcome (including rationale for the result) of the appeal decision-maker(s) will be made in writing to both the complainant and respondent. All decisions by the appeal decision-maker(s) are final.

## **20. Sanctions Status During the Appeal**

Any sanctions imposed as a result of the hearing are stayed (i.e., not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

## **21. Failure to Comply with Sanctions and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Chair/Decision-maker(s)).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, and expulsion/termination from the University. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

## **22. Withdrawal or Resignation Before Complaint Resolution**

### **A. Students**

Should a respondent decide not to participate in the Resolution Process, the process may proceed absent their participation. Should a student Respondent permanently withdraw from WSSU, the Resolution Process typically ends with a dismissal, as WSSU has lost primary disciplinary jurisdiction over the withdrawn student. However, WSSU may continue the Resolution Process at the discretion of the Title IX Coordinator.

Regardless of whether the complaint is dismissed or pursued to completion of the Resolution Process, WSSU will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The respondent who withdraws or leaves while the process is pending might not be able to return to WSSU in any capacity, if the Process is not completed.

Admissions and Security may be notified, accordingly.

If the respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue and, if found in violation, that student is not permitted to return to WSSU unless and until all sanctions, if any, have been satisfied.

### **B. Employees**

Should an employee Respondent resign with unresolved allegations pending, the Resolution Process typically ends with dismissal, as the University has lost primary disciplinary jurisdiction over the resigned employee. However, the University may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be

necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

Regardless of whether the matter is dismissed or pursued to completion of the Resolution Process, the University will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

The employee who resigns with unresolved allegations pending may not be eligible for academic admission or rehire with the University, and the records retained by the Title IX Coordinator will reflect that status.

Future inquiries regarding employment references for that individual may include that the former employee resigned during a pending disciplinary matter.

### **23. Informal Resolution Process (IRP)**

The Formal Grievance/Resolution Process is WSSU's primary resolution approach unless Informal Resolution is elected by all parties and WSSU.

At the request of either the Complainant or Respondent in writing, the University may facilitate an Informal Resolution Process (IRP). The University has chosen to offer IRP as an option for parties to choose a resolution that is best for them, while still serving the safety and educational needs of the campus community. IRP may be requested any time prior to the hearing decision-maker(s) rendering an outcome letter.

The IRP process is voluntary, and both the Complainant and Respondent must consent in writing to participating in the IRP process. The University will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints.

The Title IX Coordinator will determine whether the request for IRP is appropriate for the particular Title IX complaint. The Title IX Coordinator may deny a request for IRP if the Title IX Coordinator determines that IRP would not be appropriate for the unique allegations and circumstances, even if both the complainant and respondent consent to the request.



An IRP request must be submitted, using the IRP form provided by the Title IX Coordinator. IRP may include a broad range of strategies, including but not limited to:

- ***Supportive Resolution.*** When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation
- ***Alternative Resolution.*** When the parties agree to resolve the matter through an alternative resolution mechanism including mediation, restorative practices, facilitated dialogue, facilitated agreement etc.
- ***Accepted Responsibility.*** When the Respondent accepts responsibility for violating policy, and desires to accept the recommended sanction(s) and end the Resolution Process.

IRP may be conducted by any means (in-person, virtually, email, etc.) the Title IX Coordinator determines to be appropriate, based on factors such as the nature of the complaint, the desires of the parties, and any other relevant considerations. WSSU does not offer or facilitate an IRP to resolve allegations that an employee sexually harassed a student. The Title IX Coordinator may facilitate the IRP or assign a facilitator as appropriate.

At any time prior to agreeing to a resolution in writing, the Title IX Coordinator has the right to end the IRP and each party also has the right to withdraw from the IRP and resume the formal complaint process.

As a condition of engaging in Informal Resolution, the statements made, or evidence shared, during the Informal Resolution process will not be considered in the Formal Grievance Process unless all party's consent. The facilitator is prevented from participating in a formal resolution process as a witness (to share information about the parties' IRP), Hearing Chair, and hearing decision-maker(s).

Prior to implementing Informal Resolution, WSSU will provide the parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by WSSU.

WSSU will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

WSSU maintains the right to reject any term or proposed term of the IRP agreement. WSSU may provide suggested language to be included in the agreement.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions

(e.g., referral for formal resolution, referral to the conduct process for failure to comply). The results or agreements resulting from an IRP are not appealable.

## **24. Public Notifications and Recordkeeping**

The University will make publicly available on its website the following materials:

- Name and contact information of the Title IX Coordinator
- The Title IX Sexual Harassment Policy and these Procedures, and
- All materials used to train Title IX Coordinators, investigators, Hearing Decision-Makers, Appeals Decision-Makers, other decision-makers under this resolution process, and facilitators of informal resolutions.

The University will maintain for a minimum period of seven (7) years records of the following:

- Each Sexual Harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant;
- Any appeal and results of the appeal;
- Any informal resolution and results of that resolution; and
- All materials used to train Title IX Coordinators, investigators, Hearing Officer, Appeals Officers, other decision-makers under this resolution process, and facilitators of informal resolutions.

## **25. Revision of the Policy and these Procedures**

The Policy and these procedures supersede any previous policies addressing Title IX Sexual Misconduct and Retaliation for incidents occurring on or after August 14, 2020, under Title IX and will be reviewed and updated annually by the Title IX Coordinator. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the Resolution Process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

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

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally. In the event any provision of this Policy and Procedures conflicts with applicable law, the law will supersede such provision.

Effective August 22, 2022