

University of Findlay's Title IX Policy Regarding Sex Discrimination, Sexual Harassment, and Other Forms of Sexual Misconduct

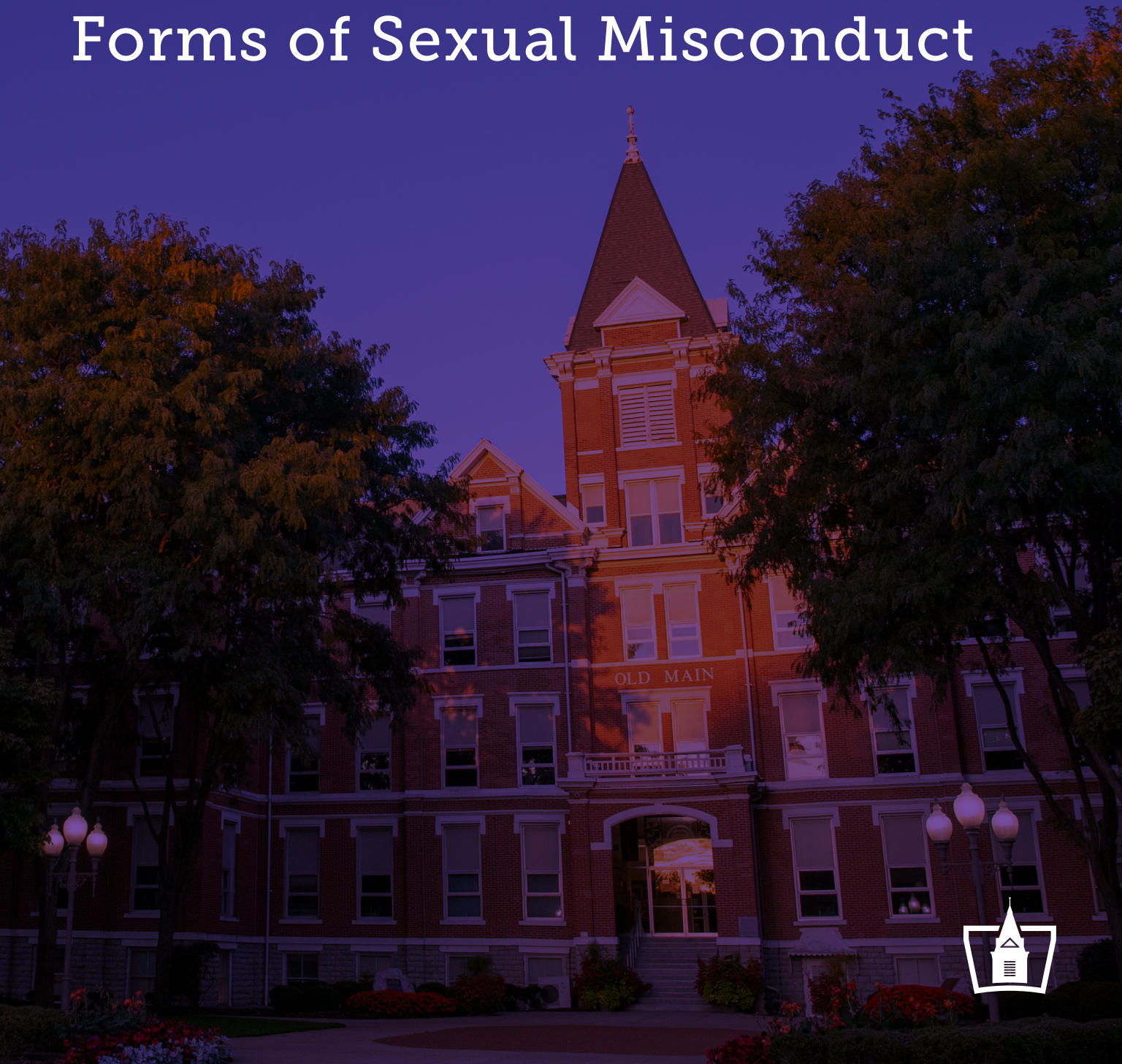


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I. SCOPE OF POLICY

The University of Findlay is committed to providing a safe learning and working environment free from discrimination and harassment on the basis of sex. Title IX of the Education Amendments of 1972 prohibits the University from discriminating on the basis of sex in its education program or activities. Prohibited Conduct under this policy is also prohibited under the Clery Act as amended by VAWA, Title VII of the Civil Rights Act of 1964, and other applicable statutes, regulations and administrative code provisions. Sex discrimination, sexual harassment, and other forms of sexual misconduct are collectively referred to as "Prohibited Conduct" and are defined in more detail below.

This Policy applies to all forms of Prohibited Conduct that occur in relation to the University's academic, educational, extracurricular, athletic, and other programs, as well as Prohibited Conduct that occurs in relation to admission and employment with the University. The University maintains jurisdiction over Prohibited Conduct that occurs on campus, that occurs off-campus in the context of any University programs or activities, or that occurs off-campus and has a continuing effect on campus or on any member of the University community. The Policy applies to all students, staff members, faculty members, Board of Trustees members, guests, visitors, consultants, vendors, and other members of the University Community. All Prohibited Conduct is handled according to this Policy regardless of the identities of the Complainant or Respondent. The University will provide a prompt and equitable resolution of student and employee complaints.

When informed of Prohibited Conduct as defined by this Policy, the University will promptly respond to individuals who experience the Prohibited Conduct by offering supportive measures; follow a fair grievance procedure to resolve Prohibited Conduct allegations when a Complainant requests an investigation or the Title IX Coordinator decides on the University's behalf that an investigation is necessary; and provide remedies to those who experience Prohibited Conduct.

For purposes of the University's process, the subject of the Prohibited Conduct is referred to as the Complainant, and the alleged perpetrator of the Prohibited Conduct is referred to as the Respondent. The Complainant may or may not be the reporter of the Prohibited Conduct. Both the Complainant and the Respondent are referred to as the parties for purposes of this process. In certain circumstances, the University may serve as the Complainant in a formal complaint.

II. NON-DISCRIMINATION NOTICE AND DESIGNATION OF TITLE IX COORDINATOR

Title IX prohibits the University from discrimination on the basis of sex in the education programs or activities that it operates. This prohibition extends to admission and employment. This Policy provides for the prompt and equitable

resolution of complaints alleging any action prohibited by Title IX, and explains the process that the University will use for doing so.

The Title IX Coordinator has been designated and authorized to coordinate the University's efforts to address concerns relating to discrimination and harassment on the basis of sex, gender, gender identity, and sexual orientation. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person who experienced the conduct that could constitute sex discrimination or sexual harassment), at any time including non-business hours by contacting the Title IX Coordinator as follows:

Skylar Mettert

Associate Vice President for Safety & Wellness
Civil Rights/Title IX Coordinator
Old Main #45
1000 N. Main Street
Findlay, Ohio 45840
Telephone: (419) 434-4739
Email: metterts@findlay.edu

Inquiries about Title IX may also be directed to the U.S. Department of Education's Office for Civil Rights by contacting 1-800-421-3481 or emailing ocr@ed.gov.

While this Policy concerns discrimination on the basis of sex, gender, gender identity, and sexual orientation, a complete Notice of Non-Discrimination regarding all protected traits can be found on the University's website: <https://www.findlay.edu/offices/student-affairs/title-ix/non-discrimination>.

III. PROHIBITED CONDUCT UNDER THIS POLICY

This Policy prohibits Sex/Gender Discrimination; Sex/Gender Harassment; Sexual Harassment – Title IX, Sexual Harassment – Non Title IX; Sexual Assault – Non-Title IX; Dating Violence – Non Title IX; Domestic Violence – Non Title IX; Stalking – Non Title IX; Sexual Exploitation; and Retaliation. Together, these are referred to as Prohibited Conduct.

A. Sex/Gender Discrimination

Sex/Gender Discrimination is when an individual is, on the basis of sex/gender, gender identity, or sexual orientation:

- Treated differently in determining whether such person satisfies any requirement or condition for the provision of any aid, benefit, or service
- Provided different aid, benefits, or services
- Provided aid, benefits, or services in a different manner
- Denied any aid, benefit, or service
- Subjected to separate or different rules of behavior, sanctions, or other treatment
- Treated differently concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition
- Discriminated against by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex/gender in providing any aid, benefit, or service to students or employees
- Otherwise limited in the enjoyment of any right, privilege, advantage, or opportunity with regards to aid, benefits, or services
- Treated differently with regard to terms, conditions, or benefits of employment, or in the recruitment, consideration, or selection thereof

Discrimination on the basis of sex/gender in employment is permissible in situations where sex/gender is a bona fide occupational qualification reasonably necessary to the normal operation of the University.

Examples of conduct that may form the basis of a Sex/Gender Discrimination complaint include, but are not limited to:

- Offering higher academic grades to students of a particular sex/gender
- Silencing students of a particular sex/gender in classroom discussion
- Referring to members of a particular sex by a derogatory name related to their sex

Note that the federal regulations regarding Title IX include certain exceptions, such as single-sex housing, athletic participation, and chorus participation, that do not constitute Sex/Gender Discrimination. These limited permissible exceptions, found in Title 34 of the Code of Federal Regulations, Part 106, will be considered when determining whether Prohibited Conduct occurred under this Policy.

B. Sex/Gender Harassment

Sex/Gender Harassment is non-sexual harassment on the basis of one's sex/gender, gender identity, or sexual orientation when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or grade in a program, course, or activity
- Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting an individual
- Such conduct is sufficiently pervasive, offensive, or abusive to have the purpose or reasonable effect of interfering with an individual's work or educational performance, or creating an intimidating, hostile, or offensive work environment, under both an objective and subjective standard. A single incident may create a hostile environment if the incident is sufficiently severe

The determination as to whether a hostile environment exists is based on the totality of the circumstances, including but not limited to:

- The nature and severity of the conduct
- The type, frequency, and duration of the conduct
- The identity of and relationship between the Respondent and the Complainant
- The number of individuals involved
- The age and maturity levels of the Respondent and Complainant
- The location of the conduct and the context in which it occurred

C. Sexual Harassment – Title IX

There are six types of prohibited conduct that qualify as "sexual harassment" under Title IX, each of which is defined more specifically below: (1) quid pro quo, (2) unwelcome conduct, (3) sexual assault, (4) dating violence, (5) domestic violence, and (6) stalking. The definitions used here are required by federal regulations.

For reported behavior to qualify as prohibited conduct under this section, in addition to meeting the elements of the specific type of sexual harassment below, it must meet all of the following threshold requirements, as determined by the Title IX Coordinator and as mandated by federal regulations:

- The conduct must have occurred against a person in the United States.

- The conduct must have occurred within the College's education program or activity. For purposes of this provision, this means that the conduct must have occurred either (a) in a location, event, or circumstances over which the College exercised substantial control over both the Respondent and the context in which the sexual harassment occurs or (b) in relation to a building owned or controlled by a student organization that is officially recognized by the College.
- The Complainant must be participating in or attempting to participate in the education program or activity of the College at the time the formal complaint is filed.

Behavior that ultimately is shown not to meet these threshold requirements is subject to a Title IX Dismissal, but may still be resolved through the Investigative Resolution Process as described in Section VII(G)3.

Sexual Harassment – Title IX is any of the following:

- (1) *Quid Pro Quo* - Conduct on the basis of sex where a University employee conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct
- (2) *Unwelcome Conduct* - Unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity
- (3) *Sexual Assault* – a forcible or non-forcible sex offense as classified under the Uniform Crime Reporting system of the FBI, to include engaging in or attempting to engage in:
 - a. Nonconsensual Penetration – Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
 - b. Fondling – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
 - c. Incest – Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. This varies by state. In Ohio, Revised Code Section 3101.01(A) prohibits marriage between individuals closer in kin than second cousins.
 - d. Statutory Rape – Sexual intercourse with a person who is under the statutory age of consent. This varies by state. In Ohio, no person may have sex with a child under the age of thirteen, nor may a person over the age of eighteen have sex with a child under the age of sixteen. See Ohio Revised Code Sections 2907.02(A)(1)(b), 2907.04(A).
- (4) *"Dating violence"* means violence committed by a person on the basis of sex:
 - a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship
 - ii. The type of relationship
 - iii. The frequency of interaction between the persons involved in the relationship
- (5) *"Domestic violence,"* which is defined to include felony or misdemeanor crimes committed on the basis of sex:
 - a. by a current or former spouse or intimate partner of the victim
 - b. by a person with whom the victim shares a child in common
 - c. by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner

d. by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction

e. by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

(6) *"Stalking"* means engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to:

- a. Fear for his or her safety or the safety of others
- b. Suffer substantial emotional distress

D. Sexual Harassment – Non Title IX

Sexual Harassment – Non Title IX is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, evaluation of academic work, or any aspect of a University program, course, or activity
- Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting an individual
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or creating an intimidating, hostile, or offensive working or educational environment, under both an objective and subjective standard. A single incident may create a hostile environment if the incident is sufficiently severe.

The determination as to whether a hostile environment exists is based on the totality of the circumstances, including but not limited to:

- The nature and severity of the conduct
- The type, frequency, and duration of the conduct
- The identity of and relationship between the Respondent and the Complainant
- The number of individuals involved
- The age and maturity levels of the Respondent and Complainant
- The location of the conduct and the context in which it occurred

Examples of conduct that may form the basis of a Sexual Harassment – Non Title IX complaint include, but are not limited to:

- Making sexual propositions or pressuring for sexual favors
- Touching of a sexual nature
- Writing graffiti of a sexual nature
- Displaying or distributing sexually explicit drawings, pictures, videos, or other materials
- Performing sexual gestures or touching oneself sexually in front of others
- Spreading sexual rumors or rating other students or employees as to sexual activity or performance
- Circulating or showing e-mails or websites of a sexual nature
- Direct or implied threats that submission to sexual advances is a condition of employment, promotion, good grades, recommendations, etc.
- Sexually explicit jokes or statements, questions, or remarks about sexual activity or experience
- Physical assault of a sexual nature

E. Sexual Assault – Non Title IX

Sexual Assault – Non Title IX is defined as conduct that meets the definition of one of the types of Sexual Assault under

Section III(C), but that does not meet the threshold requirements under “Sexual Harassment – Title IX,” above.

For the definition of “consent” and related definitions, see Section IV (Related Definitions), below.

F. Dating Violence – Non Title IX

Dating Violence – Non Title IX is defined as conduct that meets the definition of Dating Violence under Section III(C), but that does not meet the threshold requirements under “Sexual Harassment – Title IX,” above.

G. Domestic Violence – Non Title IX

Domestic Violence – Non Title IX is defined as conduct that meets the definition of Domestic Violence under Section III(C), but that does not meet the threshold requirements under “Sexual Harassment – Title IX,” above.

Domestic Violence – Non Title IX is also defined as conduct that would meet the definition of Domestic Violence under Section III(C), except that it is not on the basis of sex, regardless of whether it meets the threshold requirements under “Sexual Harassment – Title IX,” above.

H. Stalking – Non Title IX

Stalking – Non Title IX is defined as conduct that meets the definition of Stalking under Section III(C), but that does not meet the threshold requirements under “Sexual Harassment – Title IX,” above.

Stalking – Non Title IX is also defined as conduct that would meet the definition of Stalking under Section III(C), except that it is not on the basis of sex, regardless of whether it meets the threshold requirements under “Sexual Harassment – Title IX,” above.

I. Sexual Exploitation

Sexual Exploitation is taking advantage of another’s sexuality in a non-consensual manner. Examples of Sexual Exploitation include, but are not limited to:

- The non-consensual viewing of nudity of another
- The non-consensual streaming of images of sexual activity
- The non-consensual sharing or posting of nude images of another
- The non-consensual recording of individuals in locations in which they have a reasonable expectation of privacy (such as restrooms or locker rooms) even if the images do not capture nudity
- Intentionally exposing one’s genitals to another person in non-consensual circumstances
- Knowingly exposing another to a sexually transmitted disease under circumstances that could reasonably lead to transmission of the disease
- Inducing incapacitation of another via drugs and/or alcohol for purposes of making that person vulnerable to non-consensual sexual conduct or non-consensual sexual contact

J. Retaliation

Retaliation means to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy or Title IX regulations.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, constitutes retaliation.

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

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

IV. Related Definitions

A. Consent

Consent is a knowing, voluntary, and affirmatively communicated willingness to participate in a particular sexual activity or behavior. It must be given by a person who has the ability and capacity to exercise free will and make a rational, reasonable judgment. Consent may be expressed either by words or actions, as long as those words or actions create a mutually understandable permission regarding the conditions of sexual activity. It is the responsibility of the person who initiates the sexual activity to ensure that consent is obtained from the other person or persons involved in the sexual activity before the activity occurs. If consent of one participant is unclear at any time, it is the responsibility of the other participant(s) to ensure that consent is present before beginning or continuing the activity.

Additional considerations include:

- Lack of protest or resistance is not consent. Nor may silence or inaction, in and of itself, be interpreted as consent.
- Previously consensual sexual activity does not imply consent to future sexual activity.
- Consent must be obtained for every sexual activity. Consent to one form of sexual activity does not constitute consent to all forms of sexual activity.
- To give consent, one must be of legal age. Under Ohio law, individuals under the age of 13 cannot give consent. Individuals at least 13 years of age but under the age of 16 cannot give consent to individuals that are 18 or older.
- Consent must be present throughout sexual activity and may be withdrawn at any time. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the participants stop the activity until consent is reestablished.
- Consent cannot be obtained by the use of physical force, threats of physical force, physically intimidating behavior, or coercion.
- Consent cannot be given by an individual that is incapacitated.

B. Coercion

Coercion is unreasonable pressure for sexual activity that significantly compromises the voluntary nature of an individual's participation. Examples of coercion include but are not limited to threatening to harm oneself if the other person does not engage in sexual activity, or threatening to blackmail an individual if they do not engage in sexual activity.

C. Incapacitation

Incapacitation is a state in which an individual's decision-making ability is impaired to the point that the individual is unable to understand the nature or consequences of their actions. Incapacitation may result from:

- Sleep or unconsciousness

- Temporary or permanent mental or physical disability
- The influence of alcohol, drugs, medication, or a combination of any of these substances.

Incapacitation is more than mere intoxication. An individual is incapacitated if they cannot understand the “who, what, where, when, and how” of the sexual activity.

In circumstances involving an incapacitated Complainant who otherwise appears to have consented, the Respondent will not be held responsible for not obtaining consent unless the Respondent knew or reasonably should have known that the Complainant was incapacitated. The relevant standard is whether a sober, reasonable person in the same position should have known that the Complainant was incapacitated. For purposes of an incapacitation analysis, it is irrelevant whether the Respondent was incapacitated.

V. How To Address Prohibited Conduct: Options and Resources

If you or someone you know has experienced Prohibited Conduct, the first concerns to be addressed should be to make sure the individual is safe and has access to medical care if needed. Campus Safety (419-434-4799) can provide a safety transport and assist in obtaining emergency medical assistance. Emergency assistance can also be accessed by dialing 911.

Once the individual is safe, there are three primary considerations that should be addressed:

1. The individual should consider whether they want to access resources, either on campus or off campus, to get assistance. Emergency medical assistance can be reached by dialing 911 or contacting Campus Safety at (419) 434-4799.
2. Evidence should be preserved so that it is available if needed for purposes of a University investigation and/or a criminal investigation.
3. The individual should consider whether to make a report to the University, to law enforcement, both, or neither. Note that employees of the University, unless they have been designated as “Confidential Resources” according to this Policy, are required to report all Prohibited Conduct to the Title IX Coordinator as soon as possible after learning of the incident.

A. Resources To Assist

Individuals who experience Prohibited Conduct may wish to access resources to assist with their personal needs following an incident. There are two primary types of resources: confidential resources and other resources which are not confidential.

1. Confidential Resources

Confidential Resources are not obligated to report Prohibited Conduct to the University. They are also not required to report potential criminal behavior to law enforcement except in certain very limited situations required by the Ohio Revised Code. Confidential Resources include:

On-Campus Confidential Resources

- University of Findlay Counseling Services, 307 Frazer Street, (419) 434-4526 – Provides professional, confidential counseling, advocacy, guidance, and assistance in understanding options, rights, and outcomes with regard to both the University and criminal processes.
- Cosiano Health Center, 120 West Foulke, (419) 434-4550 – Provides medical assistance, including sexual assault response assistance, to students.
- Campus Ministry Counseling, 1049 N. Main Street, (419) 434-5624 – Provides confidential consultation with clergy.

Off-Campus Confidential Resources

- Blanchard Valley Health System; Blanchard Valley Hospital: Emergency Services, 1900 S. Main Street, Findlay, Ohio, (419) 423-4500 and Bluffton Hospital: Emergency Services, 139 Garau Street, Bluffton, Ohio, (419) 358-9010 – Offers on-site Sexual Assault Forensic Exam (SAFE) services through the Emergency Department.
- Open Arms Domestic Violence & Rape Crisis Services 24 Hour Hotline, (419) 422-4766, www.openarmsfindlay.com -- Can assist with emergency shelter, rape crisis, victim advocacy, and obtaining a Civil Protection Order
- Crisis Text Line, text HOME to 741741, crisistextline.org
- National Sexual Assault Hotline, 1 (800) 656-HOPE (4673), www.rainn.org
- National Domestic Violence Hotline, 1 (800) 799-SAFE (7233), www.ndvh.org
- National Teen Dating Abuse Helpline, 1 (866) 331-9474, www.loveisrespect.org
- Ohio Sexual Violence Helpline, 1 (844) OHIOHELP (1-844-644-6435), www.oaesv.org
- Buckeye Region Anti Violence Organization (BRAVO), (866) 862-7286, www.bravo-ohio.org – Focuses on assisting the LGBTQI community
- Trans Lifeline, 1 (877) 565-8860, translifeline.org
- ASHA-Ray of Hope 24-Hour Helpline, (614) 565-2918, asharayofhope.org – Focuses on assisting individuals from South Asia
- Ohio Hispanic Coalition Domestic Violence 24 Hour Hotline, (614) 746-3534 (Spanish and English), ohiohispaniccoalition.org/programs/safety/
- Legal Aid of Western Ohio, 1800 North Blanchard Street, (888) 534-1432, www.lawolaw.org – Provides legal assistance to low-income residents
- Medical personnel, psychologists, counselors, social workers, therapists, attorneys, rape crisis counselors, and clergy members

Note that there are limits to a Confidential Resource's ability to maintain confidentiality. Confidential Resources are required to report child abuse or neglect to Children's Services or local law enforcement. Medical professionals may also have certain legally mandated reporting responsibilities in certain serious cases, although depending on state law, the reporting requirement may only require that the professional share the date, general time, and general location of the incident. Mental health professionals are required to disclose information where there is an imminent threat of harm to self or others. Finally, pursuant to the Clery Act, anonymous statistical information for certain offenses that have been reported as occurring at campus locations must be shared with Campus Safety. The information does not include the names or any other identifying information about the persons involved in such incidents.

In some cases, an individual may not need services through a Confidential Resource immediately following the Prohibited Conduct. However, as time passes, it may be helpful to seek such assistance. Counselors found on-campus at the Counseling Center, advocates at Open Arms, and other service providers listed in this Policy can provide assistance and/or treatment in dealing with physical and emotional concerns as they may arise.

2. Other Resources

Other resources may also provide helpful support in many ways, including assisting individuals with obtaining accommodations or interim protective measures, explaining their options, and connecting them with other appropriate resources. Friends and loved ones may also be important sources of emotional support.

University resources that are not Confidential Resources are expected to handle information in a manner that respects the privacy of those involved in the situation, sharing information only as necessary. However, all employees of the University who are not listed as confidential resources, above, are required to report allegations of Prohibited Conduct to the Title IX Coordinator.

Note that under Ohio law, all individuals (except for those Confidential Resources listed above) have the obligation to report felonies to law enforcement. More information on involvement with law enforcement can be found below.

The primary non-confidential resource for all concerns regarding Prohibited Conduct is the Title IX Coordinator, who can be reached in Old Main Office #45, or by calling (419) 434-4733. In addition to providing information about this Policy, the Title IX Coordinator can provide information on existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid issues, and other services available for individuals as appropriate, regardless of where the Prohibited Conduct occurred. The Title IX Coordinator can also provide assistance in making changes to academic, working, transportation, and living situations; instituting a no-contact order; and instituting other protective measures as may be appropriate. Although the Title IX Coordinator is obligated to report felonies to law enforcement, it is not required that an individual disclose the nature of the Prohibited Conduct to the Title IX Coordinator in order to discuss resources that may be available.

In addition to the Title IX Coordinator, other non-confidential resources include:

- Office of Equity & Title IX, Old Main Office #45, (419) 434-4739
- Office of Student Affairs, 1st Floor Old Main, (419) 434-4570
- Athletic Director, 2nd Floor of Croy Physical Education Center, (419) 434-4651
- Office of Human Resources, 3rd Floor of Old Main, Office #304, (419) 434-6964
- International Admissions, 1214 North Cory Street, (419) 434-4558
- Any University of Findlay employee (aside from those designated as confidential resources, above)
- Campus Security/UF Police Department, 1st Floor Lovett Hall, (419) 434-4799
- Findlay Police, 319 Dorney Plaza, Room 116, 911 or (419) 424-7150
- Hancock County Sheriff, 200 West Crawford Street, (419) 424-7097
- Hancock County Prosecutor's Office, (419) 424-7089
- Hancock County Domestic Relations Court, 300 S. Main Street, (419) 424-7818
- Hancock County Clerk of Court's Office, (419) 424-7037 – Can provide forms for filing a Civil Protective Order
- Hancock County Law Library, (419) 424-7077 – Can provide names of local attorneys and their specific practice areas

B. Preserving Evidence

If an incident of Prohibited Conduct occurs, it is important to preserve evidence so that if the individual later chooses to file a Title IX complaint, to pursue criminal charges, or both, the evidence is able to be used for purposes of the investigation.

1. Sexual Assault Forensic Exams (SAFE)

Individuals who have experienced sexual assault may choose to seek a medical evaluation by a forensic nurse examiner to collect and preserve evidence. A forensic nurse examiner (FNE) or a Sexual assault nurse examiner (SANE) are specially trained professionals who will provide medical care, document the details of the assault, and collect evidence. The nurse can provide prophylactic treatment for sexually transmitted infections and pregnancy prevention. HIV prophylaxis screening and medication will also be discussed and provided. The individual can have a friend, family member, or crisis counselor present during all or parts of the examination. A community advocate may also be present to assist the individual during or after medical care is complete.

Evidence collection may occur up to 96 hours after the assault and occurs only with the consent of the victim. The evaluation includes immediate care of any injuries, a medical history, a head to toe examination, evidence collection, forensic photography, and treatment. The individual may opt out of any part of this evaluation at their own discretion. These evaluations can be obtained through Blanchard Valley Health System, and they are free regardless of whether the individual chooses to pursue criminal charges. More information can be found on their website at: <http://www.bvhealthsystem.org/services/emergency/sexual-assault-services>.

If possible, to prepare for such an evaluation, the individual should not shower, change clothes, bathe, douche, or brush their teeth until the evidence has been collected. Clothing worn during the assault may be collected as evidence; undergarments will be collected as part of the forensic medical examination. New undergarments and clothing are available to victims at on-campus and off-campus service providers free of charge.

It is highly recommended that individuals have a follow-up visit with a healthcare provider within two weeks of the assault. At this visit, the individual will receive follow-up testing, receive treatment if needed, and discuss the recovery process. Additional visits, if necessary, may be recommended by the healthcare provider.

2. Other Evidence Collection

Other physical evidence, such as bedsheets or condom wrappers, may also be important to preserve in case the individual wishes to pursue an investigation. The Title IX Coordinator can facilitate the collection of this evidence through Campus Safety.

Individuals are encouraged to preserve all potentially relevant text messages, emails, voicemails, photographs, videos, social media posts, private messages, letters, and other forms of communication. Assistance with preserving this information can be obtained through the Title IX Coordinator, Campus Safety, or Information Technology Services.

C. Reporting to the Title IX Coordinator and Accessing Supportive Measures

The University encourages all individuals who may have experienced Prohibited Conduct to report the incident(s) to the University. In addition, the University encourages individuals who may have experienced potentially criminal behavior to report the incident(s) to local law enforcement. However, an individual may choose whether to make a report to the University, to law enforcement, both (at the same time or one after the other), or neither. Filing a report does not require the filing of a formal complaint and undergoing an informal or formal resolution.

However, filing a report does assist the Title IX Coordinator in determining whether an individual may be eligible for supportive measures as described more fully below. If a report is filed that does not allege Sexual Harassment – Title IX but alleges other Prohibited Conduct, the Title IX Coordinator may consider the availability of informal resolution pursuant to Section VII(F) of this Policy.

The University is deemed to have actual knowledge of allegations of sexual harassment when notice of such allegations is provided to the Title IX coordinator or any University official who has authority to institute corrective measures on behalf of the University. These officials are the Vice President for Student Affairs, the Vice President of Academic Affairs, the Athletic Director and the Director of Human Resources.

To facilitate the University being able to respond promptly to allegations of sexual harassment, all employees of the University, except for those confidential resources listed in Section V(A)1, are required to report allegations of Prohibited Conduct to the Title IX Coordinator as soon as practicable after learning of the allegations. Upon receiving a mandatory report, the Title IX Coordinator will reach out to the potential Complainant to ask if they would like to meet to discuss supportive measures and other options. Failure to make a mandatory report may result in discipline, up to and including termination of employment.

The University encourages any member of the campus community to report Prohibited Conduct. To encourage such reporting and the honesty of those participating in the process, the University provides disciplinary amnesty for drug and alcohol violations to students who report an incident (as a Complainant or a witness) or otherwise participate in the University's process in good faith. However, amnesty will not be provided to individuals for behavior that causes harm to another person or for the participation in or facilitation of violations of this Policy.

The University will cooperate with investigations by law enforcement and may, at the request of law enforcement, briefly

delay any concurrent investigation by the University. However, the University uses this and other policies to determine what constitutes misconduct, rather than Ohio criminal laws, and therefore does not defer to law enforcement's findings in lieu of administering this Policy.

1. Title IX Coordinator

All individuals are encouraged to report Prohibited Conduct to the Title IX Coordinator, and all University employees (except confidential resources) are required to report Prohibited Conduct to the Title IX Coordinator. Such reports may be made in person at the Office of Equity & Title IX, Old Main Office #45, via email at metters@findlay.edu, or by telephone at (419) 434-4038. More information about reporting to the Title IX Coordinator can be found below.

2. Law Enforcement

All individuals are encouraged to report criminal conduct to Campus Safety at (419) 434-4799. Campus Safety can connect individuals to the appropriate local law enforcement agency to file a police report, and can assist with securing the scene, providing safety transports, and preserving evidence if needed. Reporting to law enforcement does not require an individual to pursue criminal charges.

Anonymous reporting of crimes is available through Campus Safety's Silent Victim/Witness Program online at <https://www.findlay.edu/offices/student-affairs/safety-security/silent-victim-witness-program>. Note that providing information anonymously may impede the University's ability to respond to and investigate the reported incident(s).

VI. Supportive Measures

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

"Supportive measures" may include, but are not limited to:

- Providing access to counseling services and assistance in setting up an initial appointment;
- Issuing and enforcing No Contact Directives, which are usually mutual unless and until a finding of responsibility for a policy violation has been made;
- Providing alternative on-campus housing;
- Assisting with relocation of housing or workspace;
- Providing an escort to ensure safe movement between classes and activities;
- Making changes to behavior, movement on campus, access to buildings or spaces, and/or participation campus activities;
- Modifying academic and extracurricular activities, transportation, and dining arrangements;
- Extending deadlines and assisting with other course-related adjustments;
- Modifying work or class schedules;
- Assisting with obtaining a leave of absence and/or withdrawal from the university;
- Providing alternative course completion options;
- Providing academic support services;
- Assisting in obtaining visa or immigration information;
- Modifying transportation, parking, dining and working situations;
- Implementing access restriction or interim suspension of an individual while a matter is investigated and resolved;

- Imposing other protections or behavioral restrictions as necessary and appropriate.

The University offers supportive measures to both Complainants and Respondents. Upon receipt of a report of an identifiable Complainant, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, and inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint if one is desired.

Upon giving notice to a Respondent of a report raising potential Prohibited Conduct violations against the Respondent, the Title IX Coordinator will notify with the Respondent of the availability of counseling and may notify the Respondent of the availability of other supportive measures, as the Title IX Coordinator deems appropriate.

Throughout any grievance process, the Title IX Coordinator will continually reassess and discuss appropriate supportive measures with the parties as the Title IX Coordinator deems appropriate. If the Title IX Coordinator does not offer supportive measures to the Complainant, the Title IX Coordinator must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of University to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

VII. The University's Grievance Process for Resolving Complaints of Prohibited Conduct

If Prohibited Conduct is reported to the University through a non-confidential resource, the Title IX Coordinator will attempt to contact the reporter to review this Policy and discuss the privacy of the process, amnesty (if appropriate), accommodations, supportive measures, options for informal resolution (if appropriate), and the investigation and adjudication process for formal complaints.

For purposes of the University's process, the subject of the Prohibited Conduct is referred to as the Complainant, and the alleged perpetrator of the Prohibited Conduct is referred to as the Respondent. The Complainant may or may not be the reporter of the Prohibited Conduct. Both the Complainant and the Respondent are referred to as the parties for purposes of this process. In certain circumstances, the University may serve as the Complainant in a formal complaint.

There is a presumption that a Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Each party has the right to bring an advisor of their choosing to any meetings or discussions relating to the formal resolution process. The advisor may advise the party directly and provide support to the party, but may not speak for the party or disrupt the meetings or proceedings. Advisors play a more active role if and when a case is submitted to a Hearing Panel, as detailed further below.

Under this process, any of the Title IX Coordinator's duties may be performed by and discretion may be exercised by a designee.

A. Privacy of the Process

The University recognizes that Prohibited Conduct is a sensitive subject for all individuals involved in the underlying incident(s) as well as the process to resolve such incidents. The University is committed to maintaining the privacy of the parties involved to the fullest extent possible, and information regarding Prohibited Conduct is maintained in a secure manner and is only shared with individuals who have a need to know. Student education records are protected in compliance with the

Family Educational Rights and Privacy Act (FERPA). Medical records are protected by similar state and federal laws. Access to employee personnel records is restricted in accordance with University policies and state and federal law.

Complainants sometimes ask that their name not be disclosed to the Respondent or that no investigation or disciplinary action be pursued to address the Prohibited Conduct. In such situations, honoring the request may limit the University's ability to respond fully to the incident, including investigating and pursuing disciplinary action against the Respondent as appropriate. Complainants worried about such disclosure should remember that the University strongly prohibits retaliation against those reporting Prohibited Conduct and that it will work with the Complainant to take steps to prevent retaliation.

Although the University tries to honor such requests, there are situations in which the University must override such requests for confidentiality in order to meet its obligations under Title IX to provide a safe and nondiscriminatory environment. To determine whether it is necessary to pursue action despite a Complainant's request for anonymity or no action, the University will consider relevant factors such as the following: whether there are circumstances that suggest there is an increased risk of the Respondent committing additional acts of sexual violence or other violence; whether there have been other sexual violence complaints about the same Respondent; whether the Respondent has a history of arrests or records from a prior institution indicating a history of violence; whether the Respondent threatened further sexual violence or other violence against others; whether the sexual violence was committed by multiple Respondents; whether there are circumstances that suggest there is an increased risk of future acts of sexual violence under similar circumstances such as where a report reveals a pattern of perpetration; whether sexual violence was perpetrated with a weapon; the age of the Complainant subjected to the sexual violence; and whether the University possess other means to obtain relevant evidence.

If the University determines that it must disclose a Complainant's identity to a Respondent despite a request for confidentiality, it will strive to inform the reporter prior to making this disclosure and consider whether any supportive measures are necessary to protect the Complainant. The University will also inform the Respondent that it was the University's decision, and not the Complainant's, to address the report.

Making an initial request for anonymity or no discipline does not preclude a Complainant from choosing to proceed with the process at a later date.

If a report discloses an immediate threat to the campus community, the University may issue a Timely Warning of the conduct in the interest of the safety and well-being of the campus community. This warning will not contain personally identifying information about the Complainant.

B. Filing a Formal Complaint

A formal complaint is defined as a written document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the University investigate the allegation of sexual harassment. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator. Additionally, a "document filed by a Complainant" can be in the form of an electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint. In situations, where the Title IX Coordinator initiates or signs a formal complaint, the Title IX Coordinator is not a Complainant and must comply with the guidelines outlined in this section.

The University may consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. The same facts and circumstances means that the multiple Complainants' allegations are so intertwined that their allegations directly relate to all parties.

C. Initial Assessment

Upon receiving a formal complaint, the Title IX Coordinator may conduct an initial assessment to evaluate whether the complaint alleges sufficient information to suggest that Prohibited Conduct may have occurred. This determination may be based on information submitted by the Complainant, as well as information gathered by the Title IX Coordinator during a preliminary investigation.

As part of the initial assessment, the Title IX Coordinator will determine what Prohibited Conduct is properly alleged, whether informal resolution would be appropriate in the case given the allegations, and whether any of the allegations constitute “Sexual Harassment – Title IX” under this Policy.

If the Title IX Coordinator determines that there is insufficient information to suggest that Prohibited Conduct may have occurred, they will notify the Complainant. The Complainant may submit additional information if desired. The process cannot move forward unless and until the Title IX Coordinator receives information sufficient to suggest that Prohibited Conduct may have occurred.

In cases where a Respondent is unable to be identified after the initial assessment, the process will be suspended unless and until there is sufficient information to charge a Respondent.

D. Notice to the Parties

If the Title IX Coordinator determines that the formal complaint alleges sufficient information to suggest that Prohibited Conduct may have occurred, they will provide written notice to all parties of the charges that will be investigated. The charges may include violations of other University policies where such charges are related to the Prohibited Conduct under investigation. In such cases, these policy violations will be addressed pursuant to this Policy and not any other disciplinary process, such as the student conduct process.

The written notice shall include:

- Notice of this Policy;
- Allegations of Prohibited Conduct and any other violations of University policy that will be considered in the same case, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
- The University’s position that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- The right of each party to have an advisor of their choice, who may be an attorney;
- The right of each party to inspect and review evidence;
- The University’s prohibition on knowingly making false statements or knowingly submitting false information during the grievance process;
- The date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings currently scheduled, with sufficient time for the party to prepare to participate;
- The right to suggest witnesses and provide statements and evidence;
- A reminder of the prohibition against retaliation;
- A reminder that each party is eligible to request supportive measures through the Title IX Coordinator;
- The identity of the investigators and a short timeline to object due to any concerns about bias or conflict;
- Whether informal resolution is an option in this case and, if so, how to indicate an interest in informal resolution.

If additional allegations are determined to be appropriate to add to the investigation at a later time, the Title IX Coordinator shall provide notice of such allegations in writing to all parties.

E. Emergency Removal

Upon receipt of a formal complaint, the Title IX Coordinator shall conduct an individualized safety and risk assessment to determine whether the Respondent's presence in the University's education programs and activities poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment. If so, the Title IX Coordinator will determine whether such risk assessment justifies the removal of the Respondent from campus on an emergency basis pending the outcome of the investigation. Threats must pose more than a generalized, hypothetical, or speculative risk to health and safety for emergency removal to be appropriate.

A removed Respondent will receive written notice from the Title IX Coordinator of the emergency removal and will be provided with an opportunity to appeal the decision within writing to the designated Appeal Officer within two (2) calendar days of the removal. The Appeal Officer's decision must be rendered within two (2) calendar days of receiving the appeal. The decision-makers for this appeal will not be otherwise assigned to this case as an investigator, a member of the Hearing Panel, the Title IX Coordinator, or a member of the Appeals Panel.

The Title IX Coordinator, at their discretion, will designate the Appeal Officer.

Non-student employees may be placed on administrative leave during the grievance process without receiving any appeal of such administrative leave.

F. Informal Resolution

The Title IX Coordinator may choose, in their discretion, to offer the option of information resolution to the parties in matters alleging Prohibited Conduct under this Policy. This offer may be made at any time prior to a final determination of the matter through the applicable grievance process. Note that the Title IX Coordinator may not offer informal resolution where Sexual Harassment – Title IX has been alleged against a University employee.

The University does not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, the waiver of the right to an investigation and adjudication of formal complaints of Sexual Harassment – Title IX under the University's grievance process or of matters alleging any other Prohibited Conduct under this Policy. Similarly, the University will never require the parties in a Sexual Harassment – Title IX matter, or any other matter brought under this Policy, to participate in an informal resolution process, as described in VII(F)(3), below.

1. Informal Resolution for Sexual Harassment-Title IX

A formal complaint must be filed in cases that allege Sexual Harassment – Title IX before the informal resolution process can commence. After the initiation of a formal complaint of Sexual Harassment – Title IX, if all parties voluntarily consent in writing, the University will assist the parties in an informal resolution process, as described in VII(F)(3), below.

2. Informal Resolution for Other Allegation

If a case does not allege Sexual Harassment – Title IX but alleges other Prohibited Conduct under this Policy, a formal complaint does not need to be filed before the Title IX Coordinator may offer informal resolution under this Policy. Informal resolution may be offered to the parties at the discretion of the Title IX Coordinator. Before informal resolution can commence, all parties voluntarily consent in writing to participate in the informal resolution as described in VII(F)(3).

3. Informal Resolution Process

This process applies to all cases referred for informal resolution under this Policy, regardless of whether Sexual Harassment – Title IX is alleged.

Before initiating an informal process (regardless of whether Sexual Harassment – Title IX is alleged), the University will: (1) provide the parties a written notice that an informal resolution process is available to them; and (2) obtain the parties’ voluntary, written consent to the informal resolution process. The written notice to the parties will disclose the allegations, the requirements of the informal resolution process, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The University’s informal process enables that, at any time prior to agreeing to a resolution, any party has a right to withdraw from the informal resolution process and resume the applicable grievance process.

When allegations can be resolved through informal resolution by mutual consent of the parties and on a basis that is acceptable to the Title IX Coordinator, the resolution process shall be considered finally decided and there will be no subsequent process or appeal.

G. Formal Resolution

Complainants may choose to pursue a formal resolution, or as discussed above, the University may choose to move forward with the formal resolution process. The formal resolution process has three phases: investigation, live hearing with cross-examination, and appeal.

The University will attempt to complete most investigations within ninety (90) days to one hundred and eighty (180) days. The timeframe for formal investigations will begin upon filing of a complaint and will conclude upon submittal for hearing. Investigations may be delayed and timeframes for investigations may be extended for good cause and with written notice provided by the Title IX Coordinator to Complainants and Respondents including the reason for the delay or extension. Good cause may include considerations such as the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

The University will attempt to accommodate the schedules of parties and witnesses, however, grievance resolution must be completed in a reasonably prompt timeframe, and must proceed to conclusion even in the absence of a party or witness.

Any individual acting as a Title IX Coordinator, investigator, decision-maker, or any person designated by a University to facilitate an informal resolution process must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The following will not be considered evidence of bias:

- The Title IX Coordinator’s initiation of a formal complaint, or;
- An individual’s decision that allegations warrant an investigation.

Complainants and Respondents are provided the opportunity to raise conflict of interest or bias throughout each step of the Formal Resolution Process. Concerns may be submitted, in writing, to the Title IX Coordinator.

The University will apply an objective (whether a reasonable person would believe bias exists), common sense approach to evaluating whether a particular person serving in a Title IX role is biased, and will exercise caution not to apply generalizations that might unreasonably conclude that bias exists. An individual’s current job title, professional qualifications, past experience, identity, or sex will not alone indicate bias.

Use of trauma-informed practices will not be considered evidence of bias when such practices do not:

- Rely on sex stereotypes
- Apply generalizations to allegations in specific cases
- Cause loss of impartiality
- Prejudge of the facts at issue

1. Investigation

The University conducts a prompt, impartial, adequate, reliable, and thorough investigation of charges regarding Prohibited Conduct. Investigations will be carried out by two trained investigators who do not have a conflict of interest or bias for or against either party. The two investigators are assigned by the Title IX Coordinator and are required to keep information obtained in the investigation private except to the extent necessary to conduct the investigation or to protect the health or safety of the parties or others. In cases involving a large number of witnesses or other complex situations, additional trained, impartial investigators may be used to support the investigative team. The Title IX Coordinator reserves the right to assign external investigators who are not employed by the University but otherwise meet the training requirements. The external investigators will not have a conflict of interest or bias for or against either party.

Investigators are charged with conducting interviews of the parties and relevant witnesses who may have information relevant to the investigation (as determined by the investigators), reviewing relevant University records, gathering other relevant information, and keeping the Title IX Coordinator updated on the progress of the investigation. Both parties will be provided the opportunity to suggest witnesses and present information to the investigators. Neither party is required to participate in the investigation, but failure to participate may deprive the investigators of potentially helpful information.

During the course of the investigation, the investigators may propose additional charges for the investigation as they deem appropriate. Both parties must be provided with written notice and an opportunity to respond to such additional charges.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the University and not on the parties.

The University will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent.

The University will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

The University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. A party's communication with a witness or potential witness is considered part of a party's right to meaningfully participate in furthering the party's interests in the case, and not an "interference" with the investigation. However, where a party's conduct toward a witness might constitute "tampering" (for instance, by attempting to alter or prevent a witness's testimony), such conduct also is prohibited as retaliation.

The parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source. The University will not consider or provide for inspection and review evidence which the University knows was illegally or unlawfully created or obtained. The University may impose on the parties and party advisors restrictions or require a non-disclosure agreement not to disseminate any of the evidence subject to inspection and review.

When the investigators believe they are ready to prepare the Investigative Report, the Title IX Coordinator will 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 will have ten (10) calendar days to submit a written response.

The investigators will review the parties' written responses, conduct any follow-up investigation they deem appropriate, and

prepare an investigative report, known as the Investigative Report, that summarizes relevant evidence. The Investigative Report will not include a summary of evidence not considered to be relevant. If the complaint involves multiple Complainants, multiple Respondents, or both, the University may issue a single investigative report.

The Investigative Report will include an assessment as to whether the conduct, if proven, would constitute “Sexual Harassment – Title IX” as defined within this Policy. The Title IX Coordinator will review the assessment and shall notify the parties within two (2) calendar days of receiving the Investigative Report whether the Title IX Coordinator concurs with the assessment of the investigators. If the Title IX Coordinator determines that none of the conduct, if proven, would constitute “Sexual Harassment – Title IX,” the case shall proceed to an Investigative Resolution pursuant to Section VII(G)3. If the Title IX Coordinator determines that at least some of the conduct, if proven, would constitute “Sexual Harassment – Title IX,” the case shall proceed to a Hearing pursuant to Section VII(G)2.”

Discretionary Dismissal may be exercised by the Title IX Coordinator to dismiss a formal complaint or allegations therein if:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein
- The Respondent is no longer enrolled or employed by the University
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein

The Title IX Coordinator’s decision regarding dismissal may be appealed in writing to a trained, unbiased, impartial Appeal Officer designed by the Title IX Coordinator within one (1) calendar day of receipt of the decision. The Appeal Officer’s decision regarding dismissal is final. The decision-maker for this appeal will not be otherwise assigned to this case as an investigator, a member of the Hearing Panel, the Title IX Coordinator, or a member of the Appeals Panel.

Each party and their advisor shall receive a copy of the Statement of Evidence for their review and written response, at least ten (10) calendar days prior to a hearing or other time of determination regarding responsibility. If a party disagrees with an investigator’s determination about relevance, the party may argue relevance in their written response.

2. Hearing

Upon conclusion of the investigation, where it is determined that there are allegations of “Sexual Harassment– Title IX,” the University will conduct a live hearing.

The Title IX Coordinator will appoint three-person Panel to serve as decision-maker during the hearing, with one panel member being appointed as the Chair to oversee the hearing. The Panel will be comprised of a total of three University faculty and/or staff members, and may include external parties if so designated by the Title IX Coordinator. The Panel will not include the Title IX Coordinator, the investigators who investigated the allegations, or the informal resolution officer. The Panel is under an obligation to objectively evaluate all relevant evidence both inculpatory and exculpatory. The Panel has the right to ask questions and elicit information from parties and witnesses on the Panel’s own initiative.

At least five (5) calendar days prior to the hearing, a pre-hearing conference will be held with each party, the party’s advisor, the Title IX Coordinator, and the Chair. At the pre-hearing conference, the party and advisor must disclose the witnesses that will be requested and the evidence that will be submitted for consideration. Evidence and witnesses may only be considered at hearing if they were submitted to the investigators, unless they were previously unknown or unavailable to the party during the investigation. The Chair will address any requests for new evidence and new witnesses at the pre-hearing conference. The Chair will also discuss guidelines for appropriate behavior and decorum during the hearing. The party and advisor are encouraged to ask questions.

Hearings will be conducted with all parties physically present in the same geographic location or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

The University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

At the live hearing, the Panel will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Chair will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

The Chair makes relevancy determinations. The Chair is not required to give a lengthy or complicated explanation of a relevancy determination during the hearing, and may send to the parties after the hearing any revisions to the Chair's explanation that was provided during the hearing.

Cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. All questioning will be relevant, respectful, and non-abusive. No party will be "yelled" at or asked questions in an abusive or intimidating manner.

Decision-makers may consider statements made by the parties and witnesses during the investigation, emails or text exchanges between the parties leading up to the alleged sexual harassment, and statements about the alleged sexual harassment that satisfy the relevance rules, regardless of whether the parties or witnesses submit to cross-examination at the live hearing. A decision-maker may also consider police reports, Sexual Assault Nurse Examiner documents, medical reports, and other documents even if those documents contain statements of a party or witness who is not cross-examined at the live hearing, as long as they are relevant. The Panel will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Parties will have equal opportunities to have others present during the hearing, including the opportunity to be accompanied by the advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of an advisor for Complainant or Respondent in any meeting or grievance proceeding. Advisors are required to abide by University restrictions regarding the extent to which they may participate in proceedings, and any restrictions will apply equally to both parties. If a party's advisor refuses to comply with restrictions set by the University, the University may require the party to use a different advisor.

If a party does not have an advisor present at the live hearing, the University will provide without fee or charge to that party, a trained advisor of the University's choice to conduct cross-examination on behalf of that party.

Relevancy determinations will be made pursuant to Section VII(G)4. Credibility will be considered pursuant to Section VII(G)5. Decisions will be prepared pursuant to Section VII(G)6. Sanctions, if any, will be determined pursuant to Section VII(G)7. Additional remedies, if any, will be determined pursuant to Section VII(G)8.

3. Investigative Resolution

Upon conclusion of the investigation, where it is determined that there are no allegations of "Sexual Harassment – Title IX," an investigative team will decide whether any policy violations have occurred. The investigative team will consist of the two investigators who investigated the case, as well as a third trained, unbiased investigator.

The investigative team shall act as the decision-makers and will review the responses to the Investigative Report and revise it as appropriate.

Relevancy determinations will be made pursuant to Section VII(G)4. Credibility will be considered pursuant to Section VII(G)5. Decisions will be prepared pursuant to Section VII(G)6. Sanctions, if any, will be determined pursuant to Section VII(G)7. Additional remedies, if any, will be determined pursuant to Section VII(G)8.

4. Relevancy

Relevant evidence is evidence that tends to make a fact that is important to the case either more probable or less probable. Relevant questions are those questions that are designed to elicit relevant evidence.

The following may be considered irrelevant:

- Repetitive or duplicative questions or evidence;
- Information that is protected by a legally recognized privilege, such as attorney-client privilege;
- Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior, unless:
 - o Such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or
 - o 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;
- Any party’s medical, psychological, and similar records, unless the party has given voluntary, written consent for their use in the process.

The University will not exclude relevant evidence because such relevant evidence may be unduly prejudicial, concern prior bad acts (unless excluded above), or constitute character evidence. However, the decision-makers may objectively evaluate such evidence by analyzing whether that evidence warrants a high or low level of weight or credibility.

5. Credibility

Credibility is applied the same way for both a hearing panel and investigators.

The decision-makers will evaluate all admissible, relevant evidence for weight or credibility. The degree to which any inaccuracy, inconsistency, or implausibility in a narrative provided by a party or witness should affect a determination regarding responsibility is a matter to be decided by the decision-makers, after having the opportunity to ask questions of parties and witnesses, and to observe how parties and witnesses answer the questions posed by the other party. Corroborating evidence is not required.

Credibility determinations are not based solely on observing demeanor, but also are based on other factors (e.g., specific details, inherent plausibility, internal consistency, corroborative evidence).

A party’s answers to questions can and should be evaluated by decision-makers in context, including taking into account that a party may experience stress while trying to answer questions. Parties will not be unfairly judged due to inability to recount each specific detail of an incident in sequence, whether such inability is due to trauma, the effects of drugs or alcohol, or simple fallibility of human memory.

6. Decisions

The decision-makers will issue a written determination of responsibility using a “preponderance of the evidence” standard. A preponderance of the evidence means that it is more likely true than not that a policy violation occurred. The determination of responsibility will include:

- Identification of the allegations potentially constituting sexual harassment
- 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, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the Respondent (see Section VII(G)7), and whether remedies will be provided by the University to the Complainant (see Section VII(G)8), and;
- The University's procedures and permissible bases for the Complainant and Respondent to appeal (see Section VII(G)9).

The determination will lay out the evidentiary basis for conclusions reached in the case. The nature of remedies, if any, will not be included within the determination. The determination will be provided to the parties simultaneously. The determination becomes final only after the time period for appeal has expired or, if a party does file an appeal, after the appeal decision has been sent to the parties.

7. Sanctions

If any of the charges are substantiated, the written determination of responsibility will also include sanctions against the Respondent. All sanctions are determined fairly and impartially and on a case-by-case basis. In determining the sanctions, the decision-makers may consult with the Title IX Coordinator, the Director of Human Resources, the Vice President for Student Affairs, the President, or other University administrators or supervisors as they deem appropriate in the situation.

Sanctions may include, as appropriate:

- Educational training
- Drug/alcohol assessment
- Mandatory counseling
- Community/campus service
- Revocation of scholarships, honors, or awards
- Housing reassignment/restrictions
- Schedule changes or restrictions
- Job/duty reassignment
- No contact orders
- No trespass orders
- Suspension (for employees, this may be with or without pay)
- Behavioral restrictions
- Restrictions on access to certain facilities or activities
- For student organizations, revocation of recognition by the University, loss of funding, and/or loss of other privileges
- Written warning
- Disciplinary probation
- Dismissal/termination

The decision-maker's written determination of responsibility will go into effect immediately unless the Title IX Coordinator determines, in their discretion, that a temporary stay of sanctions is appropriate pending an appeal due to extraordinary circumstances. The Title IX Coordinator may add, remove, or change the supportive measures that apply after a decision is rendered.

8. Remedies

Where a determination of responsibility for Prohibited Conduct is made, the University will provide remedies to a Complainant designed to restore or preserve equal access to the University's education program or activity. Such remedies may include the same individualized services provided as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. The Title IX Coordinator is responsible for effective implementation of remedies.

Where the final determination has indicated that remedies will be provided, the Complainant can then communicate separately with the Title IX Coordinator or their designee to discuss what remedies are appropriately designed to preserve or restore the Complainant's equal access to education. Remedies for a Complainant which do not affect the Respondent must not be disclosed to the Respondent.

9. Appeals

Any party may appeal the decision-makers' determination regarding responsibility, or the University's dismissal of a formal complaint or any allegations therein. A party must submit a written appeal to the Title IX Coordinator within five (5) calendar days of receipt of the determination of responsibility. The University will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. Both parties will have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. The Title IX Coordinator will appoint a three-person Panel to serve as the decision-maker for purposes of the appeal. Members of the Appeals Panel will be trained, unbiased, and impartial. The Appeals Panel will be comprised of a total of three University faculty and/or staff members, and may include external parties if so designated by the Title IX Coordinator.

The Appeals Panel will 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.

Members of the Appeals Panel will not be the same person(s) as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigators, or the Title IX Coordinator.

Grounds for appeal include:

- Procedural irregularity that affected the outcome of the matter
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter, and
- The Title IX Coordinator, investigators, or Panel members had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter
- Evidence that the sanction received was grossly disproportionate to the conduct for which the party was found responsible
- Evidence that the decision of the investigative team was clearly erroneous based on the evidentiary record

All grounds for appeal will be available to all parties.

If the appeal is not based on one of the above factors, the Title IX Coordinator may reject the appeal with written notice to the appealing party. The appealing party may then submit a revised written request for appeal within five (5) calendar days of the initial rejection notification. If the second request for appeal is rejected, no further appeal requests are permitted.

Upon receipt of the appeal letter, the Title IX Coordinator will forward the appeal letter, along with the written determination of responsibility, to the non-appealing party, who will be provided with five (5) calendar days within which to respond to the appeal in writing. No further reply will be permitted. The Title IX Coordinator will forward the

appeal, the response, the Investigative Report, the written determination of responsibility, and any other relevant information to a trained and impartial Appeals Panel.

The Appeals Panel will be permitted to review all materials associated with the case and may ask questions of the Title IX Coordinator, investigator/s, and decision-makers. The Appeals Panel is not permitted to speak with parties, advisors, or other witnesses about the case. Within ten (10) calendar days of receiving the appeal from the Title IX Coordinator, the Appeals Panel may:

- Affirm the decision
- Reverse the determination as to charge(s) and remove or add sanctions as appropriate
- Affirm the determination as to charge(s) but revise the sanctions
- Request that additional steps to be taken

The Appeals Panel will 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. The decision of the Appeals Panel shall be final.

VIII. Record Retention

The University will retain all records of each investigation instituted under this Policy for seven (7) years. Records will include all documents, recordings, or transcripts from investigations, hearings, appeals, and informal resolutions. The first date of the first record created by the University will begin the seven-year retention period. Records will be maintained for all investigations including investigations that have been dismissed, completed, or otherwise resolved.

IX. Training

The Title IX Coordinator and their designee(s), investigators, decision-makers, appeal officers, and any person who facilitates an informal resolution process, will receive training on the definition of sexual harassment, the scope of the University's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. This includes how to apply the definitions with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with this policy.

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

Decision-makers will receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

Any materials used to train Title IX Coordinators and their designee(s), investigators, decision-makers, appeal officers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

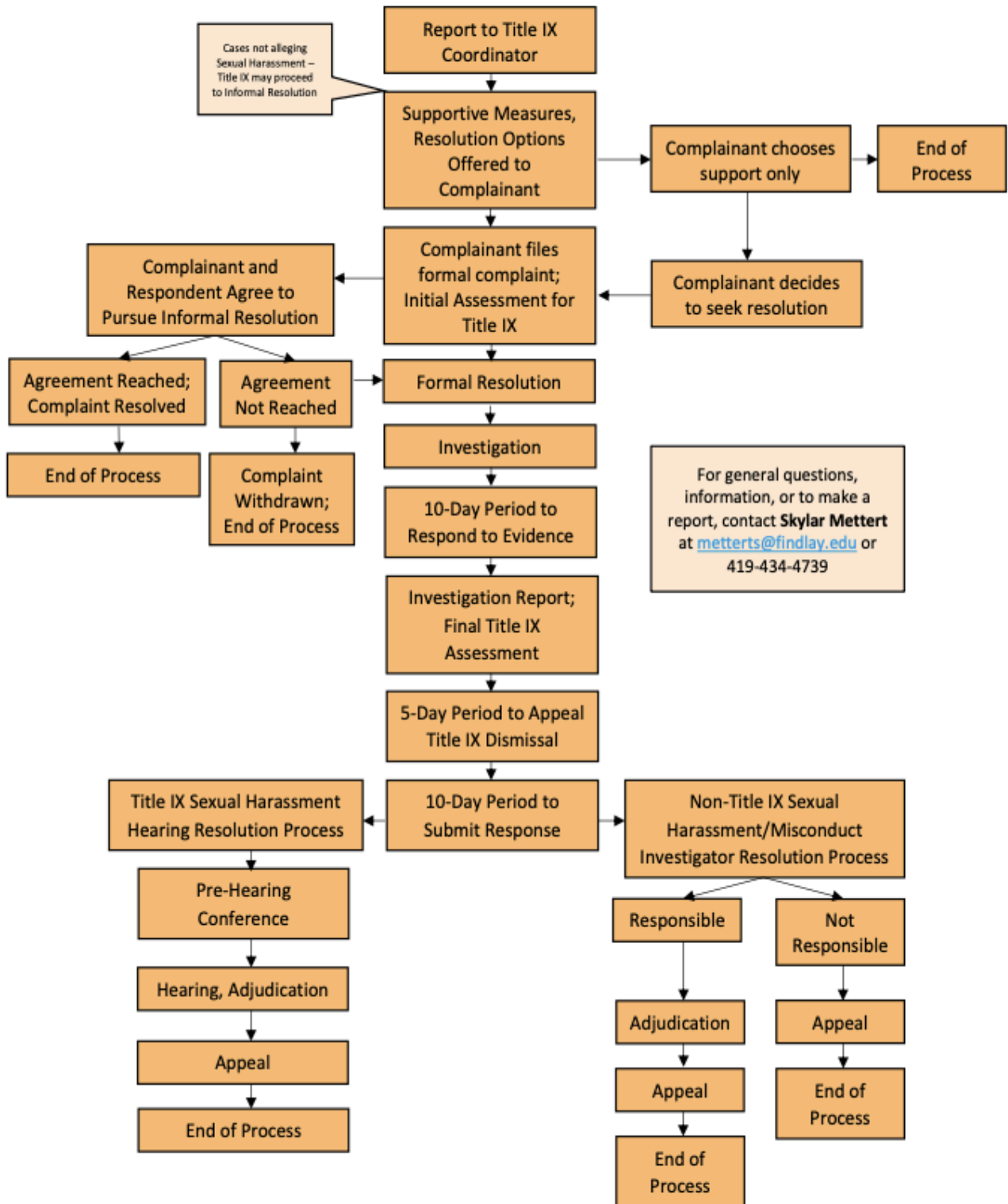
Training under this section is required on an as-needed basis. Training materials for training under this section will be made publicly available through the University's website and can be found here: <https://www.findlay.edu/offices/student-affairs/title-ix/team-training-material>. Published training materials will be up-to-date and reflect the latest training provided.

The Title IX Coordinator and their designee(s), investigators, decision-makers, appeal officers and any person who facilitates an informal resolution process, will receive annual training on issues related to dating violence, domestic violence, sexual

assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of complainants and promotes accountability.

The Title IX Coordinator, the Deputy Title IX Coordinator for Prevention & Education, and the Oilers Changing Campus Culture (OC3) Team will offer prevention/education training to the campus community on an annual basis. Trainings are grounded in theory, data from the bi-annual campus climate survey, and the resources available across campus and in the community. Content areas include training about this Policy, intimate partner violence, sexual violence prevention, sexual exploitation prevention and identity: power and inequality.

UNIVERSITY OF FINDLAY TITLE IX REPORTING PROCESS



 OILERS CHANGING CAMPUS CULTURE

 University of Findlay®