

Title IX Sexual Harassment Policy

The University of Portland (the "University") prohibits all forms of sexual and gender-based harassment. The University provides more details about specific examples of behavior that is considered sexual and gender-based harassment on its Title IX Website, <https://ww1.up.edu/titleix/>.

This Policy addresses sexual harassment that falls within the definition of Title IX of the Education Amendments of 1972. If at any point a report of sexual harassment does not meet the jurisdictional requirements of Title IX, as further described below, the University may address the conduct pursuant to the University's Student Code of Conduct, Faculty Handbook, Human Resources policies, and/or other relevant departmental or University policies.

Title IX Jurisdiction

This Policy addresses Prohibited Conduct as defined below, consistent with Title IX. Prohibited Conduct must occur within the University's program or activity and within the United States to be covered by this Policy.

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

Concerns and reports that fall outside the scope of this Policy may be addressed by a separate applicable policy.

The procedures in this policy are in accordance with the Department of Education's Title IX Regulations, as amended May 19, 2020. They apply only to complaints of sexual harassment as defined in the 2020 amendments, including sexual assault, dating violence, domestic violence and stalking on the basis of sex as defined by this Policy.

The University will have the discretion to refer complaints of misconduct not covered by this Policy to any other appropriate office for handling or resolve other complaints of misconduct under any other applicable University policy or code.

Title IX Coordinator

The University is committed to promoting a diverse, equitable, and inclusive working and learning environment free from sex discrimination. The Title IX Coordinator is charged with monitoring compliance with Title IX; providing education and training; and coordinating the University's

investigation, response, and resolution of all reports of Prohibited Conduct under this policy. The Title IX Coordinator acts with independence and authority and oversees all resolutions under this policy free from bias and conflicts of interest. The Title IX Coordinator is available to meet to discuss this policy or the accompanying procedures and can be contacted at:

Amanda Hanincik

Title IX Coordinator

Phone: 800.745.3261 or 503.943.8982

Email: titleix@up.edu

Email: hanincik@up.edu

The Online Reporting Tool may be accessed here:

https://cm.maxient.com/reportingform.php?UnivofPortland&layout_id=6

Jeromy Koffler, Ed.D

Title IX Administrator

Phone: 503.943.8982

Email: koffler@up.edu

Please note this contact is an on-campus resource and serves as a Title IX administrator.

Delegation of Duties Under This Policy

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

General Definitions

Consent – means informed, freely, and voluntarily given mutual agreement understood by both parties and communicated by clearly understandable words or actions, to participate in each form of sexual activity. Consent will not be assumed by silence, incapacitation due to alcohol or drugs, unconsciousness, sleep, cognitive or mental incapacitation, physical impairment, or lack of active resistance. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Ultimately, consent must be freely and voluntarily communicated, verbally and/or physically, for every sexual act. For more information on the University's definition of consent, please view the content linked here: <https://ww1.up.edu/titleix/consent.html> .

Confidential Resource - someone who can provide a confidential space where you can speak to someone if you, or someone you care about, has experienced gendered or sexual harassment or interpersonal violence. They have been trained to provide trauma-informed support and we are not required to report to Title IX.

Responsible Employee - any campus administrator, faculty member, or staff member who is not specifically designated as a confidential employee and has a duty to report student disclosures of sexual or gender-based harassment, misconduct, or violence to the Title IX Office.

Complainant – The Complainant is an individual who is alleged to have experienced conduct that could constitute sexual harassment. In matters where the Title IX Coordinator files the formal

complaint, the Title IX Coordinator is not the Complainant or otherwise a party.

Respondent – The Respondent is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Party/parties – Referring to complainant(s), respondent(s), or both/all complainant(s) and respondent(s).

Education program or activity – “Education program or activity” includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any buildings owned or controlled by the University or by a student organization that is officially recognized by the University.

Actual Knowledge – Actual knowledge means notice of sexual harassment or allegations of sexual harassment to the University’s Title IX Coordinator or any official of the University who has the authority to institute corrective measures on behalf of the University.

Formal Complaint – A formal complaint is the document signed and filed by the 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 pursuant to the Title IX grievance procedures. Not all reports of sexual harassment will constitute a formal complaint.

Advisor – Each party has the right to choose and consult with an advisor of their choice at their own expense. The advisor may be any person, including a friend, family member, therapist, union representative, or an attorney. The University will not limit their choice of advisor. Parties in this process may be accompanied by an advisor of choice to any meeting or proceeding to which they are required or are eligible to attend.

Except where explicitly stated by this policy, advisors shall not participate directly in the process. The University will provide the parties equal access to advisors; any restrictions on advisor participation will be applied equally.

The advisor may not represent, advocate, or speak on behalf of a complainant or respondent. An advisor may not disrupt or impede any resolution proceeding.

Decision-maker(s) – Trained professional designated by the University to decide responsibility, sanction, or appeals. A Hearing Officer may be one person or a panel of multiple people as determined by the University. The University reserves the right to utilize internal or external decision-makers.

Sanctions – Sanctions are disciplinary actions taken against a Respondent if the Respondent is determined to be responsible for the alleged sexual harassment. The range of potential sanctions includes, but is not limited to, permanent implementation of mutual no contact orders; the expulsion of a student or termination of employment for a faculty or staff member; and permanent bans from campus or other aspects of an education program or activity.

Remedies – Remedies means measures provided, as appropriate, to a complainant or any other

person the University identifies as having had their equal access to the University's education program or activity limited or denied by sex discrimination or other prohibited conduct covered by this policy. These measures are provided to restore or preserve that person's access to the education program or activity after the University determines that sex discrimination occurred. Only the complainant will be informed of any remedies pertaining to them. Some examples are academic support and/or opportunity to retake a class or resubmit work or time extensions on course or degree completion, or non-academic support such as counseling, or changes to work assignments or locations. The Title IX Coordinator is responsible for implementation of remedies.

Days – Any reference to days refers to business days when the University is in normal operation.

Scope- Definition of Title IX Sexual Harassment

Prohibited conduct will be defined as:

1. Conduct on the basis of sex that satisfies one or more of the following:
 - a. A University employee conditioning education or employment benefits on participation in unwelcome sexual conduct (i.e., quid pro quo); or
 - b. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or
 - c. "Sexual assault," "dating violence," "domestic violence," or "stalking" as those terms are defined below.
2. Sexual Assault
 - a. Rape—The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - b. Sexual Contact—The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication.
 - c. Incest—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - d. Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent.
3. Dating Violence: Physical violence committed by a person, 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 will be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

4. Domestic Violence: Felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Oregon, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence law of Oregon.
5. Stalking: Engaging in a course of conduct directed at a specific person, that would cause a reasonable person to fear for the person's safety, or the safety of others, or suffer substantial emotional distress. This policy covers instances of stalking based on sex, including stalking that occurs online or through messaging platforms, commonly known as cyber-stalking, when it occurs in the school's education program or activity.

Retaliation Prohibited

Retaliation is prohibited by university policy. The University strongly encourages individuals to report all incidents of sexual or gender-based harassment, misconduct, or violence. The University will not tolerate any materially adverse action against a person who reports, complains about, or who otherwise participates in good faith in any manner related to this policy. Retaliation includes but is not limited to, confirmed or implied behaviors or actions (including electronic or on-line activity) which intimidate, threaten, or harass, or result in other adverse actions threatened or taken. Retaliation does not include petty slights or trivial annoyances.

An individual reporting sexual misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not substantiated based on the available evidence. Retaliation does not include good faith actions pursued in response to a report of prohibited conduct. Any person who believes they have experienced retaliation under this policy should contact the Title IX Coordinator who will forward any complaint of retaliation to the appropriate office for handling. Retaliation may subject the person who retaliates to disciplinary action up to and including expulsion or termination.

It is critical that a person responding to a claim of harassment or discrimination (the Respondent), and those who may be supportive of the Respondent, recognize that many behaviors may be perceived as retaliatory. When in doubt about whether a certain action, communication, or behavior might be viewed as retaliatory, please consult with the Title IX Coordinator.

Charges against an individual for a policy or code of conduct violation that does not involve sexual harassment but arise out of the same facts or circumstances as a report of 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, constitutes retaliation.

In addition to the prohibitions against retaliation outlined in this process, the University prohibits participants and others from engaging in disrespectful communication, slander, libel, or dishonesty related to any person's reporting of sexual harassment or participation in the Title IX Grievance Process. Those prohibitions are further described in the University's Student Code of Conduct, Faculty Handbook, Human Resources policies, and/or other relevant departmental or University policies. The University will investigate any reports of retaliation and take appropriate disciplinary action. State and federal law also provide protections for whistleblowers who bring allegations of non-compliance with the Clery Act and/or Title IX to the attention of appropriate campus administrators. Any concerns regarding retaliation should be brought to the immediate attention of the campus Title IX Coordinator.

Privacy and Confidentiality

The University values the privacy of its students, employees, and other community members. Community members should be able to seek the assistance they need and access this policy without fear that the information they provide will be shared more broadly.

References to privacy mean University offices and Responsible Employees cannot guarantee confidentiality but will safeguard information to the greatest extent possible. Information will be shared only as necessary to investigate or resolve concerns and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and identifying potential systemic issues. The University will limit the disclosure as much as practicable.

All activities under these procedures shall be conducted with the privacy interests of those involved. While the University will take all reasonable steps to protect the privacy of individuals involved in a report, it may be necessary to disclose some information to individuals or offices on campus in order to address a report or provide for the physical safety of an individual or the campus. Thus, the University cannot, and does not, guarantee that all information related to reports will be kept confidential.

In order to maintain the privacy of evidence gathered as part of any resolution process, access to materials under the procedures in this policy will be provided only by a secure method and parties and advisors are not permitted to make copies of any documents shared or make use of the documents outside of the processes described in this policy. Parties may request to review a hard copy of materials, and the University will make that available in a supervised or monitored setting. Inappropriately sharing materials provided during this process may constitute retaliation under this policy.

Individuals may speak confidentially with a Confidential Resource. Confidential Resources (e.g., licensed mental health care providers, physicians, clergy) may not report to Title IX Coordinator any identifying information about conduct that may violate the University's policies against sex discrimination without the written consent of the individual who supplied the information, unless required by law. Such disclosures will not be reported to the Title IX Coordinator or initiate any process under this policy.

Confidential Resources are:

For students:

- **Confidential Advocates**

More information can be found at: <https://ww1.up.edu/ivp/confidential-advocates.html> .

- **Health & Counseling Center (HCC) Staff and Counselors**

503.943.7134

hcc@up.edu

HCC Services may be found online at the following link:

<https://www.up.edu/student-life/health-wellness/health-and-counseling-center/index.html>

or in person at Orrico Hall in the Lower Level

- **Campus Ministry, Priests and Pastoral Residents**

503.943.7131

ministry@up.edu

Campus Ministry: <https://ww1.up.edu/campusministry/>

Main office at St. Mary's Student Center

A complete list of on and off campus resources can be located online:

<https://ww1.up.edu/titleix/get-help/resources.html> .

For employees:

- Employee Assistance Program: <https://ww1.up.edu/hr/benefits/eap.html>
- A complete list of resources, including Off-campus Resources which may be available to employees, can be located online: <https://ww1.up.edu/titleix/get-help/resources.html>

Employee Reporting Obligations

All UP employees, as well as Resident Assistants working in the Office of Residence Life, must report disclosures to the Title IX Office, unless they are designated as a confidential resource. Confidential resources will only share information if there is risk of harm or a legal duty to report. For more information, visit the "Confidential Advocates" website at: <https://ww1.up.edu/ivp/confidential-advocates.html> .

Any employee with knowledge about sexual harassment as defined in this policy has the duty to report it immediately to the Title IX Coordinator. When providing this information to the Title IX Coordinator, the employee must include their own name and contact information, and all known details about an incident, which may include, if known, the dates, times, locations, names of involved individuals and the nature of the incident.

Aside from this reporting obligation, employees will, to the fullest extent possible, maintain the privacy of an individual's information, consistent with FERPA.

If the Title IX Coordinator or any employee with the authority to institute corrective measures on behalf of the University has knowledge about Title IX Prohibited Conduct, then the University is considered to have actual knowledge of the report and will respond in accordance with this policy.

No Conflict of Interest or Bias

Any individual carrying out this Policy will be free from any actual conflict of interest or demonstrated bias that would impact the handling of this matter. Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator is to immediately notify the Vice President for Student Affairs and Inclusive Excellence, or designee, or the Vice President for Human Resources who will designate the role of Acting Title IX Coordinator for purposes of carrying out the handling and finalization of the matter at issue.

Should any investigator, Hearing Administrator, or Appeals Officer have a conflict of interest, the individual is to notify the Title IX Coordinator upon discovery of the conflict. This policy will note where parties have the opportunity to challenge the participation of any individual implementing this policy based on actual conflict of interest or demonstrated bias.

The Title IX Coordinator or other administrator defined in this policy will determine whether an actual conflict of interest or demonstrated bias is substantiated.

How to Make a Report of Sexual Harassment to the University

All reports of violations of this policy will be taken seriously and in good faith. The Title IX Coordinator will provide information and guidance regarding how to file a formal complaint with the University and/or local law enforcement, as well as information and assistance about what course of action may best support the individual(s) involved and how best to address the report.

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.

Every reasonable effort will be made to maintain the privacy of those making a report to the extent possible. In all cases, the University will give consideration to the party bringing forward a report with respect to how the matter is pursued. The University may, when necessary to protect the community, initiate an investigation or take other responsive actions to a report, even when the person identifying a concern chooses not to participate in a resolution process and/or requests that the University not initiate an investigation.

Employees, students, guests, or visitors who believe that this policy has been violated should promptly contact the Title IX Coordinator or another member of the Title IX Office as follows:

Amanda Hanincik

Title IX Coordinator

Email: titleix@up.edu

Email: hanincik@up.edu

The Online Reporting Tool may be accessed here:

https://cm.maxient.com/reportingform.php?UnivofPortland&layout_id=6

There is no timeline for making a report under this Policy, however, the University encourages the prompt reporting of concerns as the ability of the University to pursue the report to conclusion

may be hindered by the passage of time.

Reports of potential violations of this policy can be made in the following ways:

Amanda Hanincik

Title IX Coordinator

Email: titleix@up.edu

Email: hanincik@up.edu

The Online Reporting Tool may be accessed here:

https://cm.maxient.com/reportingform.php?UnivofPortland&layout_id=6

Timeline for Reporting

The University does not limit the timeframe for reporting an incident regardless of when the incident occurred. However, individuals are encouraged to report as soon as practical, as memories may fade, and evidence may be lost over time.

University Procedures for Responding to Reports of Title IX Sexual Harassment

The following process will be used following the receipt of a report of Prohibited Conduct under this Policy.

More information, including a flow chart of the process, please visit the Title IX website.

Resources for Complainants: <https://ww1.up.edu/titleix/get-help/info-reporting.html>

Resources for Respondents: <https://ww1.up.edu/titleix/get-help/info-responding.html>

Initial Contact

Following receipt of a report alleging a potential violation of this policy, the Title IX Coordinator will contact the complainant to meet with the Title IX Coordinator for an initial intake and assessment meeting, and will provide the following:

- An invitation to meet to offer assistance and explain their rights, resources, and options under this policy;
- Access to this policy;
- Information regarding available campus and community resources for counseling, health care, mental health, or victim advocacy. Upon request, information regarding legal assistance, visa and immigration assistance, student financial aid and other available services may be provided;
- The availability of Supportive Measures regardless of whether a formal complaint is filed and/or any resolution is initiated;
- The options for resolution (no action, prevention, agreement, investigation) and how to initiate such resolution processes;
- The right to notify law enforcement as well as the right not to notify law enforcement;
- The importance of preserving evidence and, in the case of potential criminal misconduct, how to get assistance from Campus Safety or local law enforcement in

preserving evidence;

- The right to an advisor of choice, if applicable, during University proceedings under this policy including the initial meeting with the Title IX Coordinator;
- A statement that retaliation for filing a formal complaint, or for participating in any way in the procedures found in this policy, is prohibited;
- Information on how to initiate the Investigation or Resolution-Based Agreement process.

Initial Intake & Assessment

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

Should the complainant wish to file a formal complaint, the Title IX Coordinator will determine whether this policy applies and, if so, the appropriate process under this policy. The Title IX Coordinator will communicate to the complainant this determination.

If the information provided does not suggest a potential violation of this policy, the Title IX Coordinator will provide the complainant written notice that the matter is being referred for handling under a different policy, and/or to another appropriate office for handling.

Requests for Confidentiality or No Further Action

When a complainant requests that the University not use their name as part of any resolution process, or that the University not take any further action, the University will generally try to honor those requests. However, there are certain instances in which the University has a broader obligation to the community and may need to act against the wishes of the complainant. In such circumstances, the Title IX Coordinator will notify the complainant in writing of the need to take action. The factors the Title IX Coordinator will consider when determining whether to act against the wishes of a complainant include:

1. The complainant's request not to proceed with filing a formal complaint;
2. The complainant's reasonable safety concerns regarding filing a formal complaint;
3. The risk that additional acts of Prohibited Conduct would occur if a formal complaint is not filed;
4. The severity of the alleged Prohibited Conduct, including whether the prohibited conduct, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
5. The age and relationship of the parties, including whether the respondent is an employee of the University;
6. The scope of the alleged prohibited conduct, including information suggesting a pattern,

- ongoing prohibited conduct, or prohibited conduct alleged to have impacted multiple individuals;
7. The availability of evidence to assist a Hearing Officer in determining whether the prohibited conduct occurred;
 8. Whether the University could end the alleged sex discrimination and prevent its recurrence without filing a formal complaint; and
 9. Whether the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other persons, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its education program or activity.

Supportive Measures

The Title IX Coordinator or designee will discuss the individual's rights and options, and will also assess for, and provide, appropriate supportive measures, which are available with, or without, the filing of a Formal Complaint. Supportive measures are non-disciplinary, non-punitive, individualized services. Supportive measures may be offered as appropriate and as reasonably available, and without fee or charge to the Complainant, Respondent, or other impacted individuals, before and after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures are to restore or preserve equal access to the University's educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University as a whole, or to deter sexual harassment. Supportive measures provided to the Complainant and Respondent will be confidential to the extent that maintaining confidentiality would not impair the ability of the University to provide the supportive measures. The Title IX Coordinator or designee shall be responsible for the determination of any supportive measures, including but not limited to:

- Temporary restrictions from contacting specific individuals including mutual no contact orders.
- Safety planning.
- Changes to residence hall living arrangements.
- Changes to class schedules, work assignments, or work schedules.
- Residence hall restriction, and/or restrictions from other specific University locations.
- Academic accommodations.
- Connection to mental, emotional, and/or physical wellness resources.

Students who experienced sexual misconduct may also seek waivers from the GPA requirements related to participating in an institution-sponsored program or activity. Contact the Title IX Coordinator for information on how to seek a waiver.

Emergency Removal Provisions/Interim Safety Measures

If at any time the University determines that the conduct, as alleged, poses a risk of immediate physical harm arising from the sexual harassment, to one or more members of the University community or to the University's educational environment, the University may instruct that a Respondent be removed or placed on leave, on an interim basis, from specific programs or activities.

Any such risk assessment will be made on a case-by-case basis, based on an individualized safety and risk analysis including consideration of applicable disability procedures, less restrictive alternatives and supportive measures, and will be determined by the Title IX Coordinator in consultation with appropriate University officials. The decision to do so will be provided to the Respondent in writing.

Opportunity to Respond

Students should contact the Vice President of Student Affairs and Inclusive Excellence, or designee, within 3 business days of the interim suspension, who will explain the University's process for challenging the emergency removal.

Employee Administrative Leave

The University retains the authority to place an employee Respondent on an administrative leave of absence during a pending formal complaint process or other process under this policy, with or without pay as appropriate. Administrative leave implemented as a supportive measure or as emergency removal is subject to the procedural provisions above, including the right to challenge the decision to implement that measure. Employees should contact the Vice President for Human Resources, within 3 business days to discuss.

The decision to place any Respondent on an interim suspension or administrative leave will not be considered as evidence that any determination has been made regarding potential responsibility for violating this Policy.

Formal Complaints

A formal complaint is required in order to proceed with a resolution process under this Policy except Support-Based Resolution. A formal complaint must be written, in paper form or electronically submitted and either signed or with another indication that it is being filed by the complainant, the complainant's parent or guardian if applicable, or by the Title IX Coordinator, and that alleges a violation of the Policy as defined above, by a covered person, within the University's program or activity, and requesting that the University investigate the allegations.

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

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

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

Dismissal of a Formal Complaint

Before dismissing a formal complaint, the University will make reasonable efforts to clarify the allegations with the complainant.

The University may dismiss a formal complaint brought under this policy, or any specific allegations raised within that formal complaint, at any time during the investigation or hearing, if:

1. The University is unable to identify the respondent after taking reasonable steps to do so;
2. The respondent is not participating in the University's education program or activity, and/or is not employed by the University;
3. If specific circumstances prevent the University from gathering evidence sufficient to reach a determination regarding the formal complaint or allegations within the formal complaint; or
4. The complainant voluntarily withdraws their formal complaint in writing and the Title IX Coordinator declines to initiate a formal complaint.

A formal complaint of Title IX sexual harassment must be dismissed when:

1. The conduct alleged did not occur in the University's education program or activity, or did not occur against a person in the United States; or
2. The complainant voluntarily withdraws some but not all allegations in a formal complaint in writing, and the University determines that the conduct that remains alleged in the formal complaint would not constitute Prohibited Conduct under this policy; or
3. The conduct alleged in the formal complaint, even if proven, would not constitute Prohibited Conduct under this policy.
4. At the time of submitting a Formal Complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the University.

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

The University will notify the parties that a dismissal may be appealed on the basis outlined in the Appeals section.

When a formal complaint is dismissed, the University will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and,

- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that prohibited conduct does not continue or recur within the University's education program or activity.

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

Parties may appeal the dismissal of a formal complaint as included below under Appeal Procedures.

Referrals for Other Misconduct

The University has the discretion to refer reports of misconduct not covered by this policy for handling under any other applicable University policy or code. As part of any such referral for further handling, the University may use evidence already gathered through any process covered by this policy.

Should there be a conflict between the provision of this policy and other University policies, procedures, rules, regulations, or terms or conditions of employment, the provisions of this policy will govern unless specifically stated otherwise.

This policy and these procedures are separate from the University's student disciplinary processes, by which the University may bring a discipline charge against a student for violating University policy according to the provisions found in the University Code of Conduct. *Life on the Bluff*, the student code of conduct, may be accessed here:

<https://www.up.edu/student-life/living-on-campus/community-standards/index.html> .

Consolidation of Cases

The University may consolidate reports under this policy as appropriate: for example, if there are multiple reports where the allegations of Prohibited Conduct arise out of the same facts or circumstances, or there are multiple reports with overlapping parties.

The University also reserves the right to use this policy to adjudicate other allegations and conduct charges as defined by policies outside of the scope of this policy in instances when the conduct is associated with an alleged issue of Prohibited Conduct under this policy. The Title IX Coordinator will address these consolidated reports in collaboration and coordination with other appropriate offices, such as Student Affairs and Human Resources. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this policy.

Employee Respondents – Employee Resignation while Matters are Pending

If an employee respondent resigns from the University with unresolved allegations pending, the University will consider whether and how to proceed with the resolution process. The University 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 Prohibited Conduct.

An employee respondent who resigns with unresolved allegations pending is not eligible for rehire

with the University of Portland and the records retained by the Title IX Coordinator or designee will reflect that status. All University of Portland responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter. Their employee file will be notated to reflect they are not eligible for rehire pending an administrative outcome.

Amnesty

To foster the safety and security of the entire community, the University encourages community members to report all incidents of sexual or gender-based harassment, misconduct, and violence. Students, for instance, are sometimes afraid to report such incidents for fear of being held accountable for other, lesser policy violations such as intervisitation, alcohol, drug, trespassing, or sexual intimacy.

In order to encourage students to obtain resources and report incidents, the University will not pursue the conduct process against a student who reports an incident of sexual and gender-based harassment, misconduct, and violence for lesser policy violations that occur in connection with the reported incident. Students who are interviewed as witnesses in such cases will not be subject to the student conduct process for lesser policy violations that occur in connection with the reported incident. The exception are incidents in which the health and safety of others are put at risk.

Provision of False Information

It is a violation of University policies for anyone to intentionally provide false information to the University. Any employee or student who is found to have done so as part of this process may be subject to appropriate disciplinary or corrective action.

Options for Resolution

There are multiple ways to resolve a report of sexual harassment. Whenever possible, the University will utilize the resolution method chosen by the complainant. During the resolution of a report, the Title IX Coordinator will determine whether to implement reasonable supportive measures designed to assist all parties (complainants and respondents) and community members in maintaining access to and participation in the University's programs, services and activities during the resolution of the report.

This section includes information on support-based resolution, agreement-based resolution, and investigation and hearing procedures.

Support-Based Resolution

A formal complaint is not required for a support-based resolution. A support-based resolution is an option for a complainant who does not wish the University to take any further steps to address their concern, and when the Title IX Coordinator determines that another form of resolution, or further action, is not required. Some types of support that may be appropriate include: adjustments or changes to class schedules; moving from one residence hall room to another; adjusted deadlines for projects or assignments; adjustments to work schedule or

arrangements; escorts to and around campus; or counseling.

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

Agreement-Based Resolution

A formal complaint is required for Agreement-Based Resolution. Agreement-Based Resolution is **not** available to resolve a student complainant's allegation that an employee has engaged in Prohibited Conduct.

Agreement-Based Resolution is an alternative to the investigation and hearing procedures where the Parties each voluntarily agree to resolve the formal complaint in a way that does not include any finding of responsibility. Agreement-Based Resolution is a voluntary, structured interaction between or among affected parties that balances support and accountability. If the University offers Agreement-Based Resolution to the parties, and they voluntarily consent to engage in that process, the Title IX Coordinator must still take other prompt and effective steps as needed to ensure that sexual harassment does not continue or recur within the education program or activity. Parties and the Title IX Coordinator may agree to pause or exit the investigation and hearing resolution procedures to explore Agreement-Based Resolution.

Any party may design the proposed agreement between the parties. The Title IX Coordinator must approve of the use of the Agreement-Based Resolution process and approve the final agreement between the parties. Agreement-Based Resolution may be initiated at any time prior to the release of the final determination. Agreement-Based Resolution does not result in a determination about whether the alleged Prohibited Conduct occurred. The Title IX Coordinator has the discretion to determine that Agreement-Based Resolution is not an appropriate way to address the reported conduct, and that the matter must instead be resolved through the hearing procedures.

Initiating the Agreement-Based Resolution Process

Prior to the initiation of Agreement-Based Resolution, the Title IX Coordinator will provide the Parties written notice that includes:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The requirements of the Agreement-Based Resolution process;
- Any consequences resulting from participating in the Agreement-Based Resolution process, including the records that will be maintained or could be shared, and whether the University could disclose such information for use in a future University resolution process, including an investigation and resolution process arising from the same or different allegations, as may be appropriate.
- Notice that an agreement resulting from the Agreement-Based Resolution process is binding only on the parties and is not subject to appeal.
- Notice that once the Agreement is finalized and signed by the Parties, they cannot

- initiate or continue an investigation procedure arising from the same allegations.
- A statement indicating that the decision to participate in the Agreement-Based Resolution process does not presume that the conduct at issue has occurred.
- A statement that the respondent is presumed not responsible for violating this policy, unless respondent admits to violations of this policy;
- An explanation that all parties may be accompanied by an advisor of their choice, who may be a parent, colleague, friend, or attorney;
- A statement that any party has the right to withdraw from the Agreement-Based Resolution process and initiate or resume investigation and hearing resolution procedures at any time before agreeing to a resolution;
- The date and time of the initial meeting with staff or the Title IX Coordinator, with a minimum of 3 days' notice;
- Information regarding Supportive Measures, which are available equally to the parties; and
- The potential terms that may be requested or offered in an Agreement-Based Resolution agreement.

Facilitating an Agreement

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

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

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

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

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

Finalizing the Resolution Agreement

Once the final terms of the Resolution Agreement have been agreed upon by all parties, in writing, and approved by the Title IX Coordinator, the matter will be considered closed, and no further action will be taken. Once signed, no appeal is permitted. The Agreement-Based Resolution process is generally expected to be completed within thirty (30) days and may be extended by the Title IX Coordinator as appropriate. All parties will be notified, in writing, of any extension and the reason for the extension.

Records of an Agreement-Based Resolution process can be shared with other offices as appropriate.

Any violations of the terms of the Resolution Agreement may result in disciplinary action.

Title IX Investigation and Hearing Process

Assignment of the Investigator and Hearing Officer

The University will assign a trained investigator and Hearing Officer to conduct an adequate, reliable, and impartial investigation and determination, if applicable, in a reasonably prompt timeframe. The University reserves the right to utilize internal or external investigators and Hearing Officers.

All parties have the option to participate in the investigation and hearing, and each have the same rights during the resolution process including the right to an advisor, to submit relevant witness names and evidence, and to review the evidence gathered by the investigator prior to the investigator providing the final report to the Hearing Officer. All parties have the same rights at the hearing, including the right to review any evidence that will be considered by the Hearing Officer prior to the hearing.

The investigator will establish deadlines for submission of names of relevant witnesses and submission of evidence and communicate those deadlines to the parties in writing.

Acceptance of Responsibility

If a respondent accepts responsibility for all or part of the Prohibited Conduct alleged, the Coordinator or designated sanctioning officer will issue an appropriate sanction or responsive

action as to those violation(s) and continue processing any remaining allegations of Prohibited Conduct, if any.

Conflict of Interest or Bias

After a Notice of Investigation is issued to all parties, any party may object to the participation of the Title IX Coordinator or designated investigator on the grounds of a demonstrated bias or actual conflict of interest. All parties will have three (3) days from the date of the Notice of Investigation to object to the selection of the investigator or the Title IX Coordinator. Objections to the Title IX Coordinator are to be made, in writing, to the Vice President for Student Affairs and Inclusive Excellence, or designee. Objections to the appointment of the investigator are to be made in writing, to the Title IX Coordinator. All objections will be considered, and changes made as appropriate. If the objection is substantiated as to either the Title IX Coordinator or the Investigator, that individual shall be replaced. Any change will be communicated in writing.

Timeline

The University will complete the investigation process within sixty (60) days from the date of the Notice of Investigation and complete the hearing within thirty (30) days of the Notice of Hearing.

The timeline for any part of the resolution process may be extended for good cause by the Title IX Coordinator. All parties shall be notified, in writing, of any extension to the timeline that is granted, the reason for the extension, and the new anticipated date of conclusion of the investigation and/or hearing. Good cause reasons for extension may include ensuring availability of witnesses and other participants and ensuring participants have sufficient time to review materials.

The University shall not unreasonably deny a student party's request for an extension of a deadline related to a formal complaint during periods of examinations or school closures.

The investigator and/or Title IX Coordinator shall provide the Parties with periodic status updates, in writing.

Burden and Standard of Review

The University has the burden of conducting an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred. This burden does not rest with any party, and any party may decide to limit their participation in part or all of the process, or to decline to participate. This does not shift the burden of proof away from the University and does not indicate responsibility. The standard of proof used in any determination process is the preponderance of the evidence standard, which means more likely than not.

Written Notice of Meetings

The University will provide to a party or witness whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with

sufficient time to prepare to participate.

Evidence Gathering

Interviews

The investigator will interview all parties and relevant witnesses and gather relevant and directly related documentary evidence provided by the parties and any identified witnesses. Interviews may be conducted in person, or via video conference. When a party meets with an investigator, the investigator will ask questions related to the allegations in the formal complaint and a party is given the opportunity speak to the allegations and related events. Parties may identify fact witnesses and provide evidence that is relevant or directly related to the allegations. This will include inculpatory evidence (that tends to show it more likely that someone committed a violation) and exculpatory evidence (that tends to show it less likely that someone committed a violation). The investigator ultimately determines whom to interview to determine the facts relevant to the formal complaint.

Irrelevant Evidence

The following are not relevant, as per applicable federal law. This means this information will not be accessed or considered, except by the University to determine whether one of the exceptions listed below applies.

1. Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
2. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in its resolution procedures; and
3. Evidence and questions about the complainant's sexual predisposition or prior sexual behavior unless:
 - o They are offered to prove that someone other than the Respondent committed the conduct alleged by the complainant, or
 - o They concern specific incidents of the complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Notice of Investigation

Prior to the start of an investigation, the Parties will be provided a written Notice of Investigation communicating the initiation of an investigation. Should additional allegations be brought forward, or information regarding location or date of the incident(s), a revised written Notice of Investigation shall be provided to all parties.

The Notice shall include, at a minimum:

1. The University's investigation and hearing procedures, including a link to the applicable

- policies;
2. Information about the agreement-based resolution, with a link to the full procedures;
 3. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), a description of the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
 4. A statement that retaliation is prohibited;
 5. Expected length of the major stages of the resolution process, as well as any applicable deadlines;
 6. The Notice will inform the parties that the investigator will establish and communicate, in writing, all investigation deadlines, including the final deadlines for submitting names of witnesses, evidence, and relevant questions to ask a party or witness. These deadlines may be extended by the Title IX Coordinator for good cause, and any changes will be provided, in writing, to the parties, along with the rationale for the revised deadline(s);
 7. The process for raising a challenge to the appointed investigator, Hearing Officer, or Title IX Coordinator, and the deadline for doing so;
 8. A statement that the respondent is presumed not responsible for Prohibited Conduct until a determination is made at the conclusion of the resolution process. Prior to such a determination, the parties will have an opportunity to present relevant and directly related evidence to a trained, impartial Hearing Officer;
 9. A statement that the parties may have an advisor of their choice who may be a friend, parent, therapist, colleague, or attorney;
 10. The parties are entitled to an equal opportunity to access the relevant and directly related evidence;
 11. A statement that the University's policies prohibit knowingly making false statements or knowingly submitting false information during resolution procedures; and
 12. The date and time of the initial interview with the Investigator, with a minimum of five (5) days' notice.

Individual Interviews

The investigator will hold individual interviews with parties and witnesses to ask relevant questions and follow-up questions, including questions exploring credibility, and to request of the parties the names of relevant witnesses and relevant evidence. Only the investigator and the party or witness may attend each individual interview, and a party may be accompanied by their advisor. Additional attendees may be permitted at the discretion of the Title IX Coordinator in connection with an approved disability-related accommodation. All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of the resolution process, and may be subject to further discipline for failure to do so.

The investigator will then gather from parties, witnesses, and other sources, all relevant and directly related evidence.

The University will share expectations of decorum to be observed at all times in any meeting or proceeding under this policy. These expectations are applied equally to all parties and advisors. The University has the discretion to remove, with or without prior warning, from any meeting or

proceeding an involved party, witness, or advisor who does not comply with these expectations and any other applicable rules.

The individual interviews may be conducted with all participants physically present in the same geographic location, or, at the University's discretion, with all participants joining virtually through a video conferencing option. The investigator will determine, in their sole discretion, whether parties and witnesses are likely to provide relevant information about the allegations, and has the sole discretion to determine which parties and witnesses to call to an interview. The investigator may conduct follow-up interviews as they deem appropriate.

Investigator Determination of Relevance

The investigator will determine whether parties and witnesses are likely to provide relevant information about the allegations and has the sole discretion to determine which parties and witnesses to call to individual follow-up meetings.

The investigator will review all evidence gathered through the investigation and determine what evidence is relevant, directly related, or irrelevant. Character evidence that is not relevant will not be considered.

Evidence Review

At the conclusion of all fact-gathering, the investigator will provide each party and their advisor the opportunity to review all relevant and directly related evidence gathered. In the event that an audio or audiovisual recording is shared, the recording will only be made available at an in-person and monitored meeting on campus, and will not otherwise be transmitted for review, so as to maintain the privacy of those participating in the process.

The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation and to submit any additional relevant evidence, questions for parties or witnesses, or the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence or names of witnesses. Evidence not provided during the investigation process will not be considered by the Hearing Officer. Given the sensitive nature of the information provided, the University will facilitate this review in a secure manner. None of the parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

The parties will have a minimum of 10 days to inspect and review the evidence and submit a written response to the investigator. The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence.

When deemed appropriate by the investigator, the investigator shall then conduct any additional fact-gathering as may be necessary. If new, relevant evidence was submitted as part of evidence review or is gathered during this second fact-gathering period, the new relevant evidence will be made available for review by the parties and their advisors. The parties shall have 5 days to provide

a response to the newly-gathered evidence. No new evidence will be accepted as part of any response, except that the investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

The investigator will consider the parties' written responses before finalizing the investigation report.

Investigation Report

The investigator will prepare a written report summarizing all of the relevant evidence gathered and all steps taken during the investigation process. The investigator will also include as an attachment all relevant evidence gathered during the investigation, as well as all interview notes.

Conclusion of Investigation, Notice of Hearing

Once the investigation report is final, the report together with all attachments shall be provided to each party and to their advisor, if any, in a secure manner (e.g., by providing digital copies of the materials through a protected, "read-only" web portal). Each party shall have ten (10) days to provide a response. The response, if any, shall be provided to the Hearing Officer.

Following conclusion of the investigation, each party shall be provided with a Notice of Hearing, which shall include information regarding the date of the hearing, the identity of the Hearing Officer, the process to be used at the hearing, deadlines for submission of evidence, names of witnesses, or questions to be reviewed by the Hearing Officer to ensure they are relevant to the allegations. The hearing shall be scheduled no less than ten (10) days from the date of the Notice of Hearing.

Within three (3) days of receipt of the Notice of Hearing, either party may object to the Hearing Officer on the basis of a demonstrated bias or actual conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the Hearing Officer and appoint another.

Hearing Procedures

The purpose of a hearing is for a Hearing Officer to determine whether the conduct occurred as alleged, and if so, whether that conduct violates this policy. The University expects that all individuals who participate in the hearing process do so truthfully and that all who have a responsibility for carrying out one or more aspects of the hearing process do so fairly and without prejudice or bias. Hearings may be conducted in person or via videoconferencing. The Title IX Coordinator may determine that the hearing will continue in the absence of any party or any witness.

The University will appoint a Hearing Officer, who will determine whether a violation of university policy has occurred. The Hearing Officer shall have the authority to determine the relevance of evidence submitted, and of questions asked, to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing. The Hearing Officer

shall not draw an inference about the determination regarding responsibility based solely on a party's absence from the hearing or refusal to answer questions posed.

Each hearing shall be recorded by the University and this recording will be considered the only official recording of the hearing. No other individual is permitted to record while the hearing is taking place. The recording is the property of the University but shall be available for listening until the conclusion of the appeals process to complainant, respondent, their respective advisors, Hearing Officer, and Appeal Officer by contacting the Title IX Coordinator.

Prior to the Hearing

The parties and the Hearing Officer all have the right to call witnesses. Witnesses participating in the hearing must have information relevant to the allegations. Parties who wish to call witnesses must submit the name of the witness at least five (5) days in advance of the hearing.

Only witnesses who participated in the investigation will be permitted to participate in the hearing, unless the witness was otherwise unknown or not known to have relevant information during the course of the investigation. If the witness did not participate in the investigation, the party must also provide the reason the witness was not interviewed by the investigator, and what information the witness has that is relevant to the allegations. The Hearing Officer will then determine whether the witness has relevant information and if there is sufficient justification for permitting the witness to participate. The Hearing Officer may instead send the case back to the investigator to interview the newly proffered witness prior to the hearing taking place.

A list of witnesses approved by the Hearing Officer will be provided to the parties at least three (3) days prior to the hearing.

Three (3) days prior to the hearing, each party shall submit to the Hearing Officer a preliminary list of questions they wish to pose to the other party, or to a witness. If the Hearing Officer determines that any questions are not relevant the Hearing Officer shall exclude the question and explain the reason for the exclusion of the question at the hearing. Questions that are unclear or harassing of the party or witness being questioned will not be permitted.

Advisor

Each party is entitled to be accompanied by one advisor at the hearing. The role of the advisor is to assist the party with understanding and navigating the proceedings, and at the direction of the Hearing Officer, pose questions developed by their advisee to the other party or witnesses. The advisor may not represent, advocate for, respond for, or otherwise speak on behalf of, the party during the hearing.

In the event that a party does not appear for the Hearing, the advisor for that party may not participate in the hearing on behalf of the advisee.

An advisor of the University's choosing shall be provided for any party who does not have an advisor.

Hearing Participation Guidelines

The Hearing Officer shall have the authority to maintain order and decorum at the hearing, including responding to disruptive or harassing conduct, and when necessary to adjourn the hearing or exclude the disruptive person. In the event the Hearing Officer removes an advisor, the Hearing Officer will have the discretion to appoint another advisor for the remainder of the hearing. The Hearing Officer also has the authority to determine whether any questions are not relevant, abusive, intimidating, or disrespectful, and will not permit such questions. The Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing.

Statements, Questioning and Presentation of Evidence

During the hearing, each party will be permitted to provide an introductory statement. Following introductory statements, the Hearing Officer will call parties and witnesses for questioning. The order of questioning shall be determined by the Hearing Officer. The Hearing Officer will pose questions to the parties and witnesses and provide each party an opportunity to pose questions to the other party or witnesses through their advisor. If the Hearing Officer determines that any questions are not relevant to the allegations, the Hearing Officer shall not permit a response to the question and explain the reason for excluding a response to the question. Neither party may directly question the other party or witnesses.

Following the questioning of parties and witnesses, each party will be permitted to provide a closing statement. An advisor is not permitted to provide a closing statement on behalf of their party.

Hearing Officer's Report

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

The determination report will include:

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

The Hearing Officer's report shall be provided to the Title IX Coordinator. If the Hearing Officer

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

The Hearing Officer's Final Determination, including sanctions (if applicable), together with the procedures for appeal, will be provided to the parties, the Title IX Coordinator, and as appropriate to the Vice President for Student Affairs and Inclusive Excellence, or the Vice President for Human Resources and Employee Respondent's supervisor.

Title IX Appeals

Dismissals of formal complaints and determinations made in the investigation and hearing processes may be appealed in writing by either party. Appeals will be sent to the Title IX Coordinator, who will then send the appeal to the Appeals Officer assigned to conduct a written review of the appeal(s) and to make a final determination. Appeals must be in writing and filed within five (5) days following the issuance of the outcome letter.

When an appeal is filed, the other party shall be notified and provided with a copy of the filed appeal within one (1) day and have five (5) days to respond to the appeal in writing. Any party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal.

Within three (3) days of an Appeal Officer being assigned, either party may provide written objection to the Appeal Officer on the basis of an actual bias or conflict of interest. Any objection is to be sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator will appoint another Appeal Officer.

The University allows both parties to appeal on the following grounds:

- Procedural irregularity that affected the outcome of the matter. A description of the error and its impact on the outcome of the case must be included in the written appeal; or
- New evidence that was not reasonably available at the time the determination was made and that could affect the outcome of the matter. Information that was known to the party during the resolution process but which they chose not to present is not considered new information. The new evidence, an explanation as to why the evidence was not previously available or known, and an explanation of its potential impact on the investigation findings must be included in the written appeal.; or
- The Title IX Coordinator, Investigator (s), or decision-maker(s) 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. Sanctions and remedies, if any, will be applied and will remain in effect throughout the appeal process.

Recordkeeping

The University will maintain for a period of seven years:

- Each sexual harassment Investigation including any determination regarding responsibility.
- Any audio or audiovisual recording or transcript of the Live Hearing.
- Any disciplinary actions/sanctions imposed on the Respondent.
- Any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity.
- Any appeal and the result therefrom.
- Any informal resolution and the result therefrom.
- All materials used to train the Title IX Coordinator, Investigators, decision-makers, any person who facilitates an informal resolution process.
- Records of any action, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.

Title IX Training

Title IX Training will be required of all persons designated as a Title IX Coordinator, Investigator, lead hearings officer or hearings officer, or any person designated by a recipient to facilitate an informal resolution process or to decide an appeal.

Title IX Training includes training on the definition of sexual harassment for purposes of Title IX; 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, as applicable; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The University will ensure that decision-makers 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, except as described further in the Live Hearing section of this policy. Investigators will also receive training on issues of relevance in order to create an Investigative Report that fairly summarizes relevant evidence. Any person serving in these roles must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

Compliance with Federal and State Law

The University intends to comply with all applicable requirements under federal and Oregon law. If there are any inconsistencies between the University's policies/procedures and such requirements, the University will follow federal and Oregon requirements.

To the extent federal law requires statistical disclosures and warnings to the community, the University will ensure that parties' names and other identifying details are not disclosed.

Additional Resources

Additional resources regarding amnesty, confidential resources, and non-confidential resources may be found on the Title IX Website, <https://ww1.up.edu/titleix/>.

Effective Date

This Policy is effective as of August 14, 2020, and will be applied to conduct that occurs on or after August 14, 2020.

* This policy is effective as of August 14, 2020.

** This policy was approved by the PLC as of August 14, 2020.

*** This policy was amended and approved by the PLC on January 7, 2022.

**** This policy was amended and clarified by the President's Leadership Cabinet (PLC) on November 16, 2023.

*****This policy was revised and approved by the Vice President for Student Affairs and Inclusive Excellence and the Provost on August 13, 2026.