

SEXUAL DISCRIMINATION GRIEVANCE PROCEDURE

GRIEVANCE ISSUES

The Sexual Discrimination Grievance Procedure applies to all allegations of sexual discrimination including sexual harassment, sexual assault, sexual violence, stalking, domestic violence, and dating violence.

REPORT OF SEXUAL DISCRIMINATION

Any employee, student, or visitor who believes he or she has been subjected to sexual discrimination should report the incident to the Title IX Coordinator utilizing the grievance form available on the Human Resources or Student Conduct web sites. Employees with supervisory responsibilities and university police personnel must report incidents of sexual discrimination either observed by them or reported to them to the Title IX Coordinator. In the event the sexual discrimination allegation is against the Title IX Coordinator, the report form should be submitted to the Office of University Counsel. In order to ensure timely investigation and remedy, a sexual discrimination grievance should be activated within sixty (60) days from the time the events leading to the complaint occurred. All complaints are investigated; however, delay in reporting impedes the ability to achieve prompt resolution. All efforts will be made to honor a request for confidentiality but confidentiality cannot be ensured. Reports of sexual assault, sexual violence, stalking, domestic violence and dating violence will be reported to law enforcement authorities.

Criminal investigations by any law enforcement agencies or investigations conducted under the Faculty, Staff, or Student Handbooks may occur simultaneously with a sexual discrimination grievance and do not affect the grievance process.

TITLE IX COORDINATOR'S RESPONSE

Within twenty (20) working days after receipt of a written grievance form, the Title IX Coordinator, or designee, will conduct a full and impartial investigation including interviewing the complainant, the accused, and any witnesses identified as well as reviewing any documentary evidence submitted by either party. As early as possible in the investigation, the Title IX Coordinator should determine whether temporary remedial measures are warranted such as suspension from employment with or without pay, suspension from classes, issuance of a no contact directive, reassignment of job duties, or changing class or classroom assignments. If immediate action is required to protect the complainant, the Title IX Coordinator shall work with the appropriate administrator to implement temporary remedial measures.

The past sexual history or sexual character of a party will not be admissible by the other party in the investigation or any subsequent hearing unless the party was found to be responsible, the previous incident was substantially similar to the present allegation, and the past actions indicate a pattern of behavior consistent with the current allegations.

After studying all the pertinent facts and documents, carefully examining any policies involved, and discussing the issue with the parties and witnesses, the Title IX Coordinator shall either (1) propose an informal resolution to the parties which, if accepted, shall be documented in writing and shall conclude the investigation or (2) prepare a formal written report making a finding, based on the preponderance of the evidence, as to whether sexual discrimination occurred, and if so, recommending a remedy which will end the discrimination, prevent its recurrence, and remove its effects on the complainant and the university community. The report shall be transmitted simultaneously to the complainant and the accused and implemented immediately. If both parties agree with the report, the grievance shall be closed and the remedies continued. If either party does not agree with the finding of the Title IX Coordinator and desires to appeal, that party must submit, within five (5) working days of the date of the report, a written request to the Department of Human Resources for a hearing before the Sexual Discrimination Hearing Committee. The written request will detail the alleged error of the Title IX Coordinator and the requested remedy. The Department of Human Resources will provide the party not appealing with a copy of the request. Within five (5) working days of the date of the letter from the Human Resources Department, the party not appealing may submit a written response to the request for hearing countering any allegations in that document. Copies will be provided to the Title IX Coordinator for placement in the case file. Timelines may be extended by the Title IX Coordinator in extenuating circumstances.

SEXUAL DISCRIMINATION HEARING COMMITTEE COMPOSITION

The Sexual Discrimination Hearing Committee is composed of members selected by the Chancellor from the Academic Hearing Committee, the Student Conduct Hearing Committee, and the Staff Hearing Committee for that campus. The Sexual Discrimination Hearing Committee is composed of seven (7) members. When a student is the complainant, three (3) members of the committee shall be students, two (2) members faculty, and two (2) members staff; when the complainant is a staff member the committee shall be composed of three (3) staff members, two (2) faculty members, and two (2) students; when the complainant is a faculty member the committee shall be composed of three (3) faculty members, two (2) students, and two (2) staff. The committee elects a chair once convened. The Sexual Discrimination Hearing Committee shall have specific training on sexual discrimination

A member of Human Resources or Human Resources' designee sits as an ex-officio, non-voting member of the Sexual Discrimination Hearing Committee, offering technical assistance on procedural and policy matters.

SEXUAL DISCRIMINATION HEARING COMMITTEE FUNCTIONS

The Sexual Discrimination Hearing Committee reviews the findings of the Title IX Coordinator to determine, based on the preponderance of the evidence, whether institutional error has occurred and, if so, to recommend an appropriate corrective action. Institutional error occurs when no legitimate reason exists for the action taken. Decisions which require the exercise of judgment or discretion cannot constitute institutional error. The committee has twenty (20) working days to prepare a written response after it has received a complaint. All proceedings shall be in closed session. Because the committee will have received the entire file from the Title IX Coordinator including all witness statements, the hearing will not include the grievant, the party complained against, or other witnesses unless either (1) the Committee requests their oral testimony or (2) either party requests to testify and/or present witnesses. In the event that oral testimony is requested, the grievant and the party complained against may be present and question the witnesses. If the grievance is one alleging sexual assault, sexual violence, stalking, domestic violence, or dating violence the parties will not question the other. Instead, the party testifying before the committee shall be screened so that they may be heard by the other party but not seen. The non-testifying party shall have the opportunity to provide written questions to the committee to be asked of the testifying witness based on his or her testimony. The committee may also question any person testifying. Each party may have an advisor present during the testimony who may provide personal consultation but may not actively participate in the hearing. The parties must disclose to the Chair of the Sexual Discrimination Hearing Committee the identity of any testifying witness or any advisor at least two (2) working days before any hearing. The Chair shall provide the list of witnesses to each party upon receipt. No audio or video recording is permitted.

In reviewing a case two options are open to the Committee:

1. It may find no institutional error has occurred and recommend that no further action be taken.
2. It may find that institutional error has occurred and recommend a remedy different than that proposed by the Title IX Coordinator.

SEXUAL DISCRIMINATION HEARING COMMITTEE FINDINGS

In all instances the committee shall make a record of its findings, a statement of its conclusion, including the reason or policy criteria used in reaching a decision, and its recommendations for resolution of the grievance. The Committee decision shall be forwarded to the Chancellor of the campus for action. Copies will be filed with the Title IX Coordinator as a part of the complaint record and sent to the grievant and the accused. Within ten (10) working days of receipt of the Committee recommendation, the Chancellor will accept or reject the Committee recommendation in writing after review of all file materials. The Chancellor's decision is final. A copy of the decision shall be provided to the Title IX Coordinator for distribution to both the complainant and the accused. The Department of Human Resources or Student Conduct (as appropriate) will coordinate the implementation of any remedies resulting from the grievance.

DOCUMENT COLLECTION

When a sexual discrimination grievance proceeding has been closed, all material relating to that case shall be retained on file by the Title IX Coordinator for seven years. Care will be taken to ensure that no incomplete or inaccurate information pertaining to the grievance is retained in the file. Sexual discrimination grievance proceedings are considered confidential and no person involved with the grievance may make the documents public except as required by law.