

Reminder: All Title IX Complaints Must Be Resolved in a Prompt Manner.

The following procedure is recommended for processing complaints filed by or on behalf of a student or staff member:

Step 1. Assess the Situation-Immediately

1. Review the written complaint and ask the complainant any clarifying questions you feel are necessary. If the complaint is verbal, ask the complainant to put it in writing. If the complainant refuses to put his/her complaint in writing, prepare a written statement of what you were told.
2. Notify the Title IX Coordinator of the complaint or incident that was brought to your attention if you have not already. Consult with the Title IX Coordinator and determine:
 - > Who should conduct the investigation (Note: the investigator of Title IX complaints may NOT also be the decision-maker determining responsibility in Title IX cases)
 - > Initial investigation strategy.
3. Determine mandatory and discretionary reporting obligations.
 - o > If there is a reasonable suspicion of child abuse or neglect, call Child Protective Services immediately and file a written report within 36 hours, if not already done.
 - o > Consider contacting law enforcement, if there is potential criminal activity.
 - o > Notify the complainant of their right to contact law enforcement.
4. Consider whether the accused is a danger to others and should be removed from school grounds.
 - o > For complaints involving employees, if the employee is a danger to others, or should otherwise not be on school grounds, contact Human Resources regarding placement on administrative leave while the investigation is pending.
 - o > For complaints involving other students, note that disciplinary sanctions may not be imposed on the respondent before investigation and handling of the formal complaint. However, non-disciplinary “supportive measures” are allowed which include, but are not limited to, mutual restrictions on contact between parties (i.e., complainant and respondent) and leaves of absence.
5. Allegations in any formal complaint must be investigated, and written notice of the allegations must be sent to both parties (complainants and respondents) upon receipt of a formal complaint.

Step 2. Evaluate Appropriate Interim Measures – Immediately and on an Ongoing Basis

1. In consultation with the Title IX Coordinator, determine whether interim non-disciplinary, non-punitive measures should be put into place, before the investigation is completed, to protect or support the complainant and/or respondent. Interim measures should be considered on a case-by-case basis. Interim measures should not unfairly penalize the complainant or the respondent. Interim measures should consider both the complainant's and the respondent's rights to access educational programs and activities.
2. Appropriate "supportive measures" to consider include, but are not limited to, the following:
 - > Physical separation of the complainant and the respondent;
 - > Offer medical, counseling or other support services to the complainant;
 - > No contact orders;
 - > Support services for bringing forth and defending allegations of sexual harassment/misconduct; and
 - > Any other measures requested by the complainant or respondent.

Step 3. Establish Timelines and Initiate an Investigation

1. Notify the complainant of the School policy that you will be following to process his/her complaint, as well as the timeline for completing the investigation.
2. Notify the respondent that a complaint has been filed against him/her along with additional information, as appropriate.
3. Send written notice to the parties (complainant and respondent) of any investigative interviews, meetings, or hearings.
4. Update the timeline, as needed, and keep the parties apprised of any delays or extensions.
5. Document any delays in the investigation.
6. Keep the Title IX Coordinator updated on the timelines and any delays.

Step 4. Interview the Complainant

1. Interview the complainant first.
 - > Carefully determine who should interview the complainant. You may wish to consider the age, gender, and existing comfort level of the complainant in choosing from potential interviewers.
 - > Obtain all facts regarding the incident.
 - > Allow the complainant to narrate without interruption; follow up with clarifying open-ended questions. This strategy may need to be modified depending upon the complainant's age and willingness to cooperate.
 - > Preserve evidence and documentation provided by witnesses. This may include emails, screen shots, pictures, or physical evidence.
 - > Ask for the names of other potential witnesses.

- > Allow the complainant to have an advisor (who may be an attorney) or support person present.
 - > Maintain neutrality.
 - > Be compassionate and sensitive.
2. Depending on the circumstances, you may want to request a written statement. If so, make sure it is signed and dated.
 3. Remind the complainant that the School prohibits retaliation and what to do if they feel retaliated against.
 4. Do *not* promise confidentiality. However, every effort should be made to keep the identity of the involved parties confidential to avoid retaliation.
 5. Do not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Step 5. Interview Other Witnesses

1. Witnesses should not be interviewed together.
2. Obtain all facts regarding the incident.
 - > Ask broad, open-ended questions to narrow questions.
 - > Ask for the names of other potential witnesses.
3. Preserve evidence and documentation provided by witnesses. This may include emails, screen shots, pictures, or physical evidence.
4. Depending on the circumstances, you may want to request a written statement. If so, make sure it is signed and dated.
5. Remind witness(es) that the School prohibits retaliation and what to do if he/she feels retaliated against.
6. Do *not* promise confidentiality. However, every effort should be made to keep the identity of the involved parties confidential to avoid retaliation.

Step 6. Interview the Respondent

1. Allow the respondent to have an advisor (who may be an attorney) or support-person.
2. Obtain all facts regarding the incident.
 - > Ask broad, open-ended questions to narrow questions.
 - > Ask for the names of other potential witnesses.
3. Preserve evidence and documentation provided by the respondent. This may include emails, screen shots, pictures, or physical evidence.
4. Depending on the circumstances, you may want to request a written statement. If so, make sure it is signed and dated.
5. Caution the respondent against retaliation.

6. Do *not* promise confidentiality. However, every effort should be made to keep the identity of the involved parties confidential to avoid retaliation.
7. Ensure that you communicate to the respondent that there is a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Step 7. Prepare a Summary or Report

1. The School must send the parties, and their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence.
2. The School must send the parties, and their advisors, an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to respond.
3. After the School has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.
4. Discuss your conclusions and next steps with the Title IX Coordinator.

Step 8. Issue Investigation Findings

1. Prepare an investigation findings letter for the complainant and respondent.
2. Detail the steps taken during your investigation and the evidence considered, including:
 - > How the issue was brought to your attention and what actions you took.
 - > Describe who you interviewed and what they told you.
 - > Describe the documents you reviewed.
 - > Assess the credibility of each witness.
3. Further, the letters should include the following:
 - o > The findings of fact based on the evidence gathered, using the preponderance of the evidence set forth in your policy
 - o > Conclusions of law about whether the alleged conduct occurred;
 - o > Disposition of the complaint;
 - o > Rationale for the disposition as to each allegation;
 - o > Corrective actions taken, including disciplinary actions taken against the respondent
 - o > whether remedies will be provided to the complainant; and
 - o > Notice to both parties of their right to appeal the decision.

4. Seek approval from the Title IX Coordinator before mailing your finding letters to the complainant and accused.
5. Forward a copy of your findings to the Title IX Coordinator and Human Resources and/or Student Services, if necessary.

Step 9. Record Keeping

1. Title IX regulations require the School to keep the following records for 7 years:
 - > Sexual harassment investigation documents, including any determination regarding responsibility, any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the respondent, any remedies provided to the complainant
 - > Appeals and results therefrom
 - > Informal resolution and results therefrom
 - > All materials used to train coordinators, investigators, decision-makers, and persons who facilitate an informal resolution process (such materials must also be made available on school website)
2. The School should meticulously keep records in case it must ever document how its behavior was not “deliberately indifferent” in a Title IX proceeding.