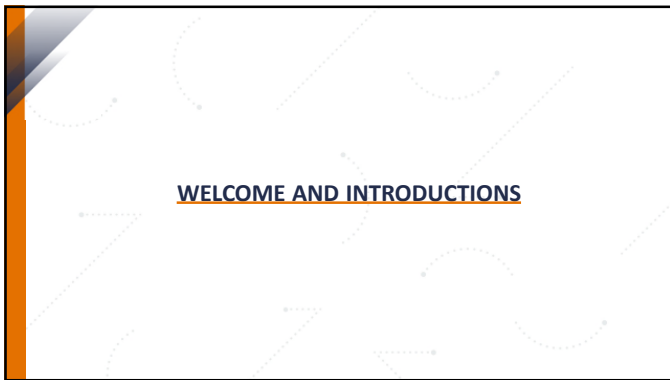




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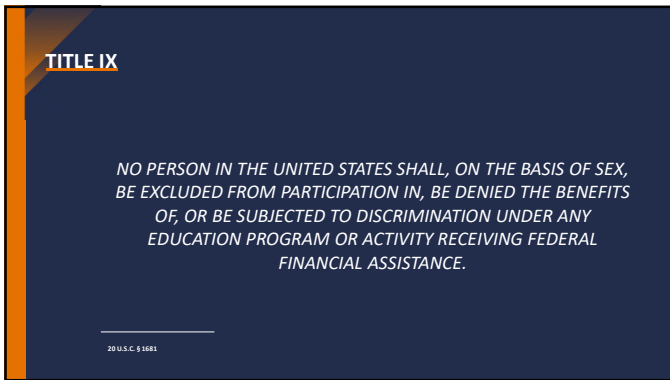
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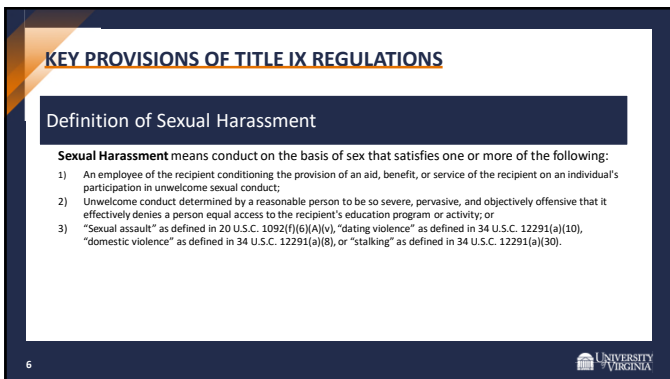
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KEY PROVISIONS OF TITLE IX REGULATIONS

Response to Sexual Harassment

A recipient with actual knowledge of sexual harassment in an **education program or activity** of the recipient against a person in the **United States**, must respond promptly in a manner that is not deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances... A recipient's response must **treat complainants and respondents equitably** by offering **supportive measures** as defined in § 106.30 to a complainant, and by following a **grievance process** that complies with § 106.45 before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in § 106.30, against a respondent.


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KEY PROVISIONS OF TITLE IX REGULATIONS

Education Program or Activity


For the purposes of this section, §§ 106.30, and 106.45, "education program or activity" includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.


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KEY PROVISIONS OF TITLE IX REGULATIONS

Title IX Jurisdiction



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FEDERAL STATUTORY AND REGULATORY FRAMEWORK

- Title IX**
 - Title IX of the Education Amendments of 1972
 - Prohibits sex discrimination in educational institutions that receive federal funds
- CLERY**
 - The Jeanne Clery Act (1990)
 - Requires reporting of crimes, timely warnings, education/prevention programs, and policies and procedures for sexual assault
- VAWA**
 - The Violence Against Women Reauthorization Act of 2013
 - Amends Clery to expand sexual assault requirements and include dating violence, domestic violence, and stalking; applies to students and employees

10 UNIVERSITY OF VIRGINIA

10

OVERVIEW OF THE APPEALS OFFICER'S ROLE

11

WHY YOU ARE HERE


- Required Training Under the New Title IX Regulations
- To Understand the Important Role that Appeals Officers Play in the University's Grievance Process & Misconduct Procedures

12 UNIVERSITY OF VIRGINIA

12

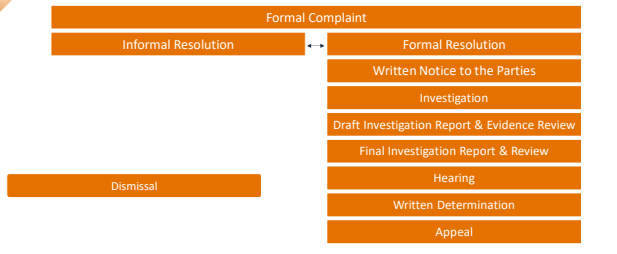
REQUIRED TRAINING FOR APPEALS OFFICERS

- The new Title IX regulations require specific training for Title IX Coordinators, investigators, decision-makers (including appeal decision-makers), and any other person designated to facilitate an informal resolution process.
- Appeals Officers *must* be trained on:
 - The definition of sexual harassment under 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 process, as applicable;
 - How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
 - Any technology to be used at a live hearing; and
 - 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.

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PROCESS ONCE A FORMAL COMPLAINT IS FILED



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graph TD
    FC[Formal Complaint] --> IR[Informal Resolution]
    FC --> FR[Formal Resolution]
    IR --> D[Dismissal]
    FR --> WNP[Written Notice to the Parties]
    FR --> I[Investigation]
    FR --> DIER[Draft Investigation Report & Evidence Review]
    FR --> FIRR[Final Investigation Report & Review]
    FR --> H[Hearing]
    FR --> WD[Written Determination]
    FR --> A[Appeal]
  
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FOUR BASES FOR APPEAL

- Procedural irregularity** that affected the outcome of the Formal Complaint.
- New evidence** that was not reasonably available at the time the Written Determination was made that could affect the outcome of the Formal Complaint.
- The Title IX Coordinator, Investigator(s), or Decision Maker had **bias or actual conflict of interest** for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the Formal Complaint
- Inappropriate disciplinary sanction.**

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THE UNIVERSITY'S POLICY ON SEXUAL AND GENDER-BASED HARASSMENT AND OTHER FORMS OF INTERPERSONAL VIOLENCE

16

TO WHOM THE POLICY APPLIES

Students	Employees	Third Parties
<ul style="list-style-type: none"> Registered or enrolled For credit or non-credit bearing coursework 	<ul style="list-style-type: none"> Full-time and part-time Faculty, University staff, student employees, Medical Center employees, wage (including temp), professional research staff, and post-doctoral fellows 	<ul style="list-style-type: none"> Contractors, vendors, visitors, applicants, guests, or other third parties


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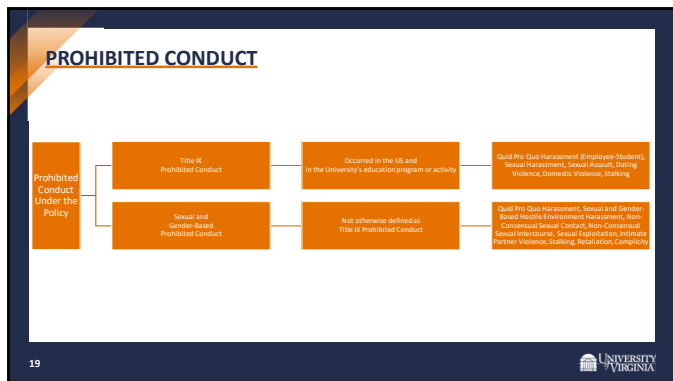
DEFINITIONS

Complainant
A "Complainant" is an individual who is reported to be the subject of conduct that could constitute Prohibited Conduct regardless of whether such person makes a report or files a complaint.

Respondent
A "Respondent" is any individual who has been reported to be the perpetrator of conduct that could constitute Prohibited Conduct.

18 

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19

TITLE IX PROHIBITED CONDUCT


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- TITLE IX PROHIBITED CONDUCT**
- Quid Pro Quo Harassment (Employee-Student)
 - Sexual Harassment
 - Sexual Assault
 - Dating Violence
 - Domestic Violence
 - Stalking

21

QUID PRO QUO HARASSMENT (EMPLOYEE-STUDENT)


- *Quid Pro Quo* Harassment (Employee-Student) is conduct where an employee of the University conditions the provision of an aid, benefit, or service on a student's participating in unwelcome sexual conduct.
 - "this for that"
- *Quid Pro Quo* Harassment (Employee-Student) applies whether the condition proposed by the employee is communicated expressly or impliedly.
- Examples of *Quid Pro Quo* Harassment (Employee-Student) include but are not limited to:
 - A professor offers a student a higher grade in a class in exchange for having sex with or going on a date with the professor.
 - An employee offers a student an employment opportunity in exchange for having sex with or going on a date with the employee.
 - A student is offered a research opportunity by an employee in exchange for a sexual relationship.

22 

22

SEXUAL HARASSMENT


- Sexual Harassment is:
 - Unwelcome conduct
 - On the basis of sex
 - 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 programs or activities.
- Such conduct includes unwelcome conduct of a sexual nature and may include unwelcome conduct based on sex or sex stereotyping.

23 

23

SEXUAL HARASSMENT

- In evaluating whether the unwelcome conduct is so severe, pervasive, and objectively offensive that it effectively denies a person equal access, the University uses a reasonable person standard that takes into account the totality of known circumstances in a particular situation, including but not limited to:
 - The frequency, nature, and severity of the conduct;
 - The age, disability status, and other characteristics of the parties;
 - Whether the conduct was physically threatening;
 - The effect of the conduct on the Complainant's mental or emotional state;
 - Whether the conduct was directed at more than one person;
 - Whether the conduct arose in the context of other discriminatory conduct; and
 - Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or University programs or activities.

24 

24

SEXUAL ASSAULT


- Sexual Assault includes the following forcible and nonforcible sex offenses:
 - Forcible Rape
 - Forcible Sodomy
 - Sexual Assault with an Object
 - Forcible Fondling
 - Incest
 - Statutory Rape

25 

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FORCIBLE RAPE AND FORCIBLE SODOMY


- Forcible Rape is:
 - Penetration,
 - No matter how slight,
 - Of the vagina or anus with any body part or object,
 - Or oral penetration by a sex organ of another person,
 - Without the consent of the Complainant.
- Forcible Sodomy is:
 - Oral or anal sexual intercourse with another person,
 - Forcibly
 - And/or against that person's will (non-consensually) or
 - Not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

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SEXUAL ASSAULT WITH AN OBJECT


- Sexual Assault with an Object is:
 - The use of an object or instrument to penetrate,
 - However slightly,
 - The genital or anal opening of the body of another person,
 - Forcibly,
 - And/or against that person's will (non-consensually)
 - Or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

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FORCIBLE FONDLING


- Forcible Fondling is:
 - The touching of the private body parts of another person (buttocks, groin, breasts),
 - For the purpose of sexual gratification,
 - Forcibly,
 - And/or against that person's will (non-consensually),
 - Or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

28 

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INCEST AND STATUTORY RAPE


- Incest is:
 - Nonforcible sexual intercourse,
 - Between persons who are related to each other within the degrees wherein marriage is prohibited by Virginia law.
- Statutory Rape is:
 - Nonforcible sexual intercourse,
 - With a person who is under the statutory age of consent in the Commonwealth of Virginia, which is 17.

29 

29

AFFIRMATIVE CONSENT


- For all forms of Sexual Assault set forth under the University's Policy, consent is defined as "Affirmative Consent."
- Affirmative Consent is:
 - Informed (knowing)
 - Voluntary (freely given)
 - Active (not passive), meaning that, through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed-upon sexual activity
- A person who wants to engage in specific sexual activity is responsible for obtaining Affirmative Consent.

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AFFIRMATIVE CONSENT


- What is NOT Affirmative Consent:
 - Lack of protest
 - Lack of resistance
 - Silence and/or passivity
 - Consent to a different form of sexual activity
- Affirmative Consent cannot be obtained by Force. Force includes:
 - The use of physical violence,
 - Threats,
 - Intimidation, and/or
 - Coercion.

31 

31

AFFIRMATIVE CONSENT - INCAPACITATION

- Affirmative Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.
- Incapacitation means that a person lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity.
- The University asks two questions:
 - (1) Did the person initiating sexual activity know that the other party was incapacitated? and if not,
 - (2) Should a sober, reasonable person in the same situation have known that the other party was incapacitated?
- If the answer to either of these questions is "YES," Affirmative Consent was absent and the conduct is likely a violation of the Policy.

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AFFIRMATIVE CONSENT - INCAPACITATION

- A person who is incapacitated is unable, temporarily or permanently, to give Affirmative Consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place.
- A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition.
- Incapacitation is a state beyond drunkenness or intoxication.
- A person is not necessarily incapacitated merely as a result of drinking or using drugs. The impact of alcohol and other drugs varies from person to person.


Being impaired by alcohol or other drugs is no defense to any violation of the Policy.

33 

33

AFFIRMATIVE CONSENT - WITHDRAWAL


- Affirmative Consent may be withdrawn at any time.
- An individual who seeks to withdraw Affirmative Consent must communicate, through clear words or actions, a decision to cease the sexual activity.
- Once Affirmative Consent is withdrawn, the sexual activity must cease immediately.

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DATING VIOLENCE


- Dating Violence is conduct defined as violence on the basis of sex committed by a person
 - Who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
 - Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - Length of relationship,
 - Type of relationship, and
 - Frequency of interaction between the persons involved in the relationship.

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DOMESTIC VIOLENCE


- Domestic Violence is defined as violence on the basis of sex 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, by a person who is cohabitating with or who 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 Virginia, 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 laws of Virginia.

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STALKING

- Stalking is conduct on the basis of sex defined as engaging in a course of conduct directed at a specific person (e.g., the Complainant) that would cause a reasonable person to (A) fear for their safety or the safety of others or (B) suffer substantial emotional distress.
 - "Course of conduct" means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any actions, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.
 - "Substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.
- Stalking includes "cyber stalking," in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

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SEXUAL OR GENDER-BASED PROHIBITED CONDUCT

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SEXUAL OR GENDER-BASED PROHIBITED CONDUCT


- Includes:
 - Quid Pro Quo Harassment
 - Sexual or Gender-Based Hostile Environment Harassment
 - Non-Consensual Sexual Contact
 - Non-Consensual Sexual Intercourse
 - Sexual Exploitation
 - Intimate Partner Violence
 - Stalking
 - Retaliation
 - Complicity
- When such conduct does not meet the definition of Title IX Prohibited Conduct; and
- When the Prohibited Conduct occurs:
 - On University Grounds or other property owned or controlled by the University;
 - In the context of a University employment or education program or activity;
 - At the permanent or temporary local residence of a University student, faculty member, employee, visitor, or in the City of Charlottesville, Albemarle County, or the city or county of any University campus; or
 - Off Grounds our outside of a University employment or education program or activity, but has continuing effects on or create hostile environment for Students, Employees, or Third Parties while on University Grounds or other property owned or controlled by the University or in any University employment or education program or activity.

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QUID PRO QUO HARASSMENT


- *Quid Pro Quo* (i.e., this for that) Harassment (Employee-Employee or Student-Employee) is conduct where an employee or student of the University conditions the provision of an aid, benefit, or service on an individual's participating in unwelcome sexual conduct.
- *Quid Pro Quo* Harassment (Employee-Employee or Student-Employee) applies whether the condition proposed by the employee or student is communicated expressly or impliedly.
- Examples of this type of *Quid Pro Quo* Harassment include, but are not limited to:
 - An employee offers another employee an employment opportunity in exchange for having sex with or going on a date with them.
 - A student is offered a research opportunity by a fellow student in exchange for a sexual relationship.
 - A student offers a fellow student a leadership opportunity in an organization in exchange for a sexual relationship.

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SEXUAL AND/OR GENDER-BASED HOSTILE ENVIRONMENT HARASSMENT


- Sexual or Gender-Based Hostile Environment Harassment that is not covered under the definition of Title IX Sexual Harassment is:
 - Conduct on the basis of sex, sexual orientation, gender identity or expression, or pregnancy
 - That is sufficiently severe, persistent, or pervasive
 - That it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the University's programs and/or activities.
- Conduct must be deemed severe, persistent, or pervasive from both a subjective and objective perspective.

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SEXUAL AND/OR GENDER-BASED HOSTILE ENVIRONMENT HARASSMENT


- In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including but not limited to:
 - The frequency, nature and severity of the conduct;
 - Whether the conduct was physically threatening;
 - The effect of the conduct on the Complainant's mental or emotional state;
 - Whether the conduct was directed at more than one person;
 - Whether the conduct arose in the context of other discriminatory conduct;
 - Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or University programs or activities; and
 - Whether the conduct implicates concerns related to academic freedom or protected speech.

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NON-CONSENSUAL SEXUAL CONTACT


- Non-Consensual Sexual Contact is:
 - Any intentional (not incidental or accidental),
 - Sexual, touching,
 - However slight,
 - With any object or body part (as described below),
 - Performed by a person upon another such person, without Affirmative Consent.
- Non-Consensual Sexual Contact includes (a) intentional touching of the breasts, buttocks, groin, or genitals, whether clothed or unclothed, or intentionally touching another with any of these body parts; and (b) making another touch you or themselves with or on any of these body parts.

43 

43

NON-CONSENSUAL SEXUAL INTERCOURSE


- Non-Consensual Sexual Intercourse is:
 - Any penetration,
 - However, slight,
 - With any object or body part (as described below),
 - Performed by a person upon another person,
 - Without Affirmative Consent.
- Non-Consensual Sexual Intercourse includes (a) vaginal penetration by a penis, object, tongue, or finger; (b) anal penetration by a penis, object, tongue, or finger; and (c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person.

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SEXUAL EXPLOITATION


- Sexual Exploitation is taking non-consensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited, when that conduct does not otherwise constitute Prohibited Conduct under the Policy.
- Examples of Sexual Exploitation include, but are not limited to:
 - Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give Affirmative Consent to sexual activity;
 - Allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., Skype or livestreaming of images);
 - Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing another person's intimate parts (including genitalia, groin, breasts or buttocks) in a place where that person would have a reasonable expectation of privacy);
 - Recording or photographing private sexual activity and/or a person's intimate parts (including genitalia, groin, breasts or buttocks) without consent;
 - Disseminating or posting images of private sexual activity and/or a person's intimate parts (including genitalia, groin, breasts or buttocks) without consent;
 - Prostituting another person; or
 - Exposing another person to a sexually transmitted infection or virus without the other's knowledge.

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INTIMATE PARTNER VIOLENCE


- Intimate Partner Violence includes any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship.
- Intimate Partner Violence includes "dating violence" and "domestic violence," as defined by VAWA.
- Consistent with VAWA, the University will evaluate the existence of an intimate relationship based upon the Complainant's statement and taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

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STALKING


- Stalking occurs when a person engages in a course of conduct directed at a specific person, on the basis of sex that is not covered under the definition of Title IX Stalking, under circumstances that would cause a reasonable person to fear bodily injury or to experience substantial emotional distress.
 - "Course of conduct" means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.
 - "Substantial emotional distress" means significant mental suffering or anguish.
- Stalking includes "cyber-stalking," in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

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RETALIATION AND COMPLICITY

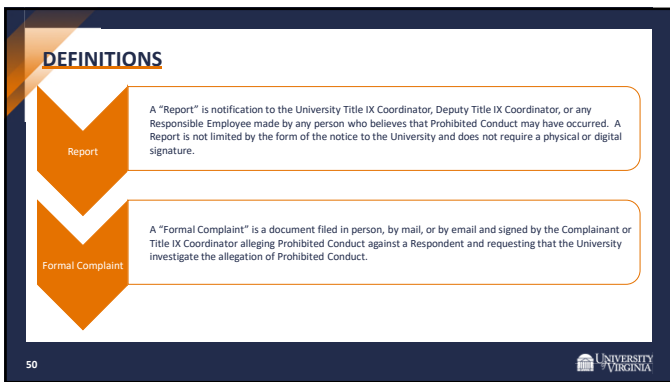
- Retaliation means any adverse action, or any action likely to deter a reasonable person from engaging in future protected activity, taken against a person for making a good faith report of Prohibited Conduct, participating in any proceeding under the Policy, and/or acting in good faith to oppose conduct that constitutes a violation of the Policy.
 - Retaliation includes threatening, intimidating, harassing, coercing or discriminating against an individual because the person made a report or complaint, testified, assisted, participated in, or refused to participate in any manner in an investigation, proceeding, and/or hearing.
 - Retaliation may be present even where there is a finding of "no responsibility" on the allegations of Prohibited Conduct.
 - Retaliation does not include good faith actions lawfully pursued in response to a report of Prohibited Conduct or the exercise of rights protected under the First Amendment.
- Complicity is any act taken with the purpose of aiding, facilitating, promoting or encouraging the commission of an act of Prohibited Conduct by another person.

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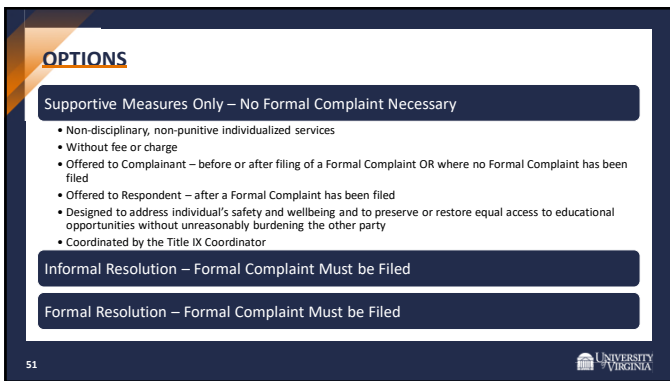
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FORMAL COMPLAINT


- A Formal Complaint must be:
 - Filed in person, by mail, or by email (not by telephone);
 - Signed by the Complainant or Title IX Coordinator (with a physical or digital signature);
 - Allege Prohibited Conduct against a Respondent; and
 - Request that the University investigate the allegation of Prohibited Conduct.
- A Formal Complaint cannot be submitted anonymously.
- Submission through *Just Report It* is not a Formal Complaint without a physical or digital signature.

52 

52

FILING OF A FORMAL COMPLAINT BY THE TITLE IX COORDINATOR


- Title IX Coordinator may also file a Formal Complaint.
- Where the Complainant has not filed a Formal Complaint, the Title IX Coordinator:
 - Will seek to honor the resolution preferences of the Complainant whenever possible and
 - Will consider the following factors:
 - Totality of the known circumstances;
 - Presence of any Risk Factors;
 - Potential impact of such action(s) on the Complainant;
 - Any evidence showing that Respondent made statements of admission or otherwise accepted responsibility for the Prohibited Conduct;
 - The existence of any independent information or evidence regarding the Prohibited Conduct; and
 - Any other available and relevant information.

53 

53

NOTICE TO PARTIES OF UNIVERSITY ACTIONS


<p>The Title IX Coordinator will promptly inform the Complainant of any action(s) undertaken by the University to respond to a health or safety threat to the Complainant or the University Community.</p>	<p>The Title IX Coordinator will promptly inform the Respondent of any action(s), including any Supportive Measures or Emergency Removal, that will directly impact the Respondent, and will provide the Respondent an opportunity to respond to such actions.</p>	<p>The Title IX Coordinator retains the discretion to impose and/or modify any Supportive Measures based on all available information. Supportive Measures will remain in effect until the resolution of the Formal Complaint unless new circumstances arise which warrant reconsideration.</p>
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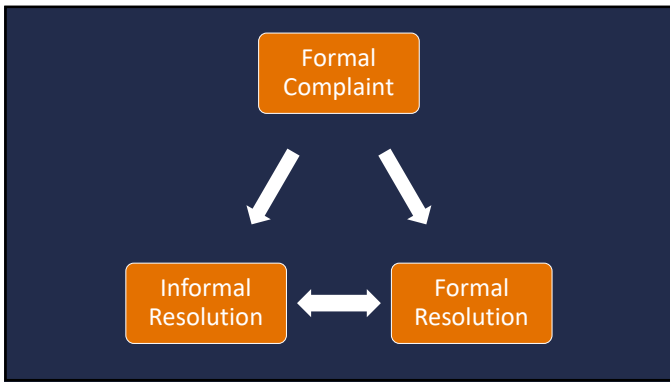
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WRITTEN NOTICE TO PARTIES OF ALLEGATIONS

- Identify the Complainant(s) and the Respondent(s)
- Specify the date, time, location, and nature of the alleged Prohibited Conduct and any other relevant conduct
- Identify the potential policy violation(s)
- Identify the assigned Investigator(s)
- Include information about the parties' respective expectations under the Sexual Misconduct Policy and the Grievance Process and/or Procedures
- Explain the prohibition against Retaliation
- Instruct the parties to preserve any potentially relevant evidence in any format
- Inform the parties how to challenge participation by the Investigator(s) on the basis of bias or conflict of interest
- Provide a copy of the Sexual Misconduct Policy and Grievance Process and/or Procedures
- Describe the requirements of the Informal Resolution process and any consequences resulting from participating in the Informal Resolution process, including records that will be maintained or could be shared
- Instruct the parties how to express preferences related to Formal and/or Informal Resolution processes
- State that the Respondent is presumed to be not responsible and describe the standard of evidence required to result in a finding of responsibility
- Describe both parties' right to an advisor of their choice and describe the process for requesting an advisor be appointed by the University
- Inform both parties that if they do not have an advisor of their choice at the time of the Hearing, the University shall provide an advisor of the University's choice to assist with cross-examination
- Provide notice that the parties may inspect and review all incriminatory and exculpatory evidence that is not protected by a recognized privilege
- State that all parties and witnesses are prohibited from making false statements
- State that both parties will receive advance, written notice of any meetings associated with the Grievance Process and/or Procedures including the Hearing

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56

INFORMAL RESOLUTION

57

INFORMAL RESOLUTION

- A Formal Complaint must be filed
- Both parties must give voluntary written consent
- The University has discretion to determine
 - whether Informal Resolution is appropriate considering the allegations in the Formal Complaint
 - the type of Informal Resolution that may be appropriate;
 - whether the Formal Complaint should be referred to Formal Resolution at any time
- Administered by trained facilitators who avoid prejudgment of the facts at issue and are free from conflicts of interest and bias
- Informal Resolution is not available where an employee is alleged to have engaged in Title IX Prohibited Conduct directed at a student

58 


58

INTERSECTION OF INFORMAL & FORMAL RESOLUTION

The parties may request to engage in Informal Resolution at any point after the Written Notice of the Allegations and Investigation is received by the parties and before the commencement of the Hearing, subject to the approval of the Title IX Coordinator.

At any point prior to the resolution of the Informal Resolution, either party may withdraw from the Informal Resolution or the Title IX Coordinator may terminate the Informal Resolution, at which point Formal Resolution will resume.

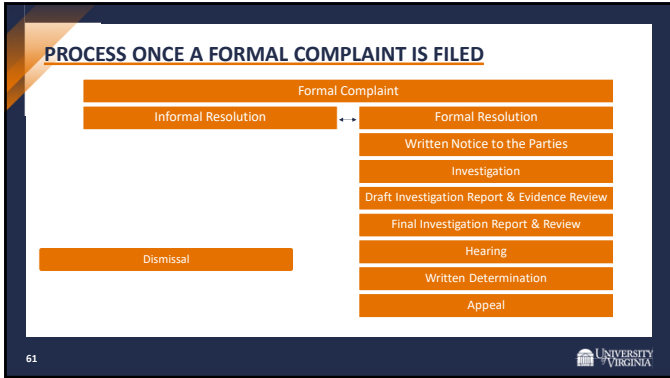
Any information gathered during the Informal Resolution that is not independently discovered during the Formal Resolution may not be considered by the Decision Maker.

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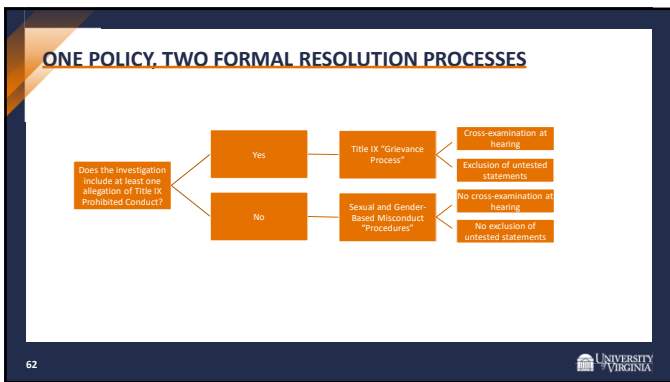
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FORMAL RESOLUTION

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61



62

OTHER FORMS OF DISCRIMINATORY OR HARASSING CONDUCT

- If a Formal Complaint of Title IX Prohibited Conduct also implicates other forms of discriminatory and/or harassing conduct prohibited by other University policies, the Title IX Coordinator will:
 - Evaluate allegations to determine whether the alleged Title IX Prohibited Conduct and the alleged additional discriminatory or harassing conduct may be appropriately investigated together without unduly delaying the resolution of the Title IX Prohibited Conduct.
- Other University policies:
 - Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence
 - Preventing and Addressing Discrimination, Harassment, and Retaliation (PADHR) Policy
 - Standards of Conduct
 - Faculty Conflicts of Interest Policy

63

INVESTIGATION

64

UNIVERSITY VIRGINIA

64

ADVISORS

- Parties have a right to advisor of choice.
- May be any person and may be, but is not required to be, an attorney.
- Parties may be accompanied by advisor for any meeting or proceeding related to investigation or resolution.
- Advisors may provide support and advice, but may not speak on behalf of the parties, submit statements not attributed to the party, or otherwise participate in, or in any matter disrupt, the proceedings except to conduct cross-examination at the hearing (in Title IX Grievance Process).
- The Title IX Coordinator, Investigators, and Decision Makers should communicate directly with the party through their University-provided email address and copy the advisor on all communications.

65

UNIVERSITY VIRGINIA

65

WHAT IS RELEVANT?

66

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66

WHAT IS RELEVANT?

Prior or Subsequent Conduct

- Prior or subsequent conduct may be considered in determining pattern, knowledge, intent, motive, or absence of mistake.
- Determination of relevance based on assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct.

Prior Sexual History

- Sexual history or sexual predisposition of a party will never be used to prove character or reputation.
- Evidence related to the prior sexual history of Complainant is not generally relevant to a determination of a Policy violation.
- It will only be considered when offered to prove:
 - Someone other than Respondent committed the conduct described in the Formal Complaint; or
 - To prove consent in light of specific incidents of prior sexual history between the parties.


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WHAT IS RELEVANT?

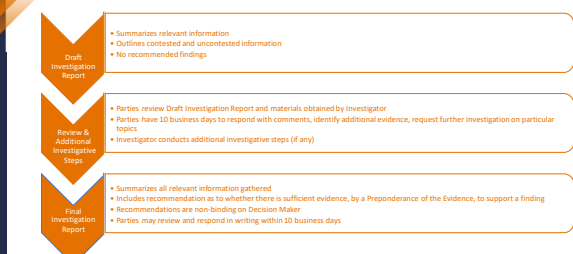
Privileged Information

- Information protected by a recognized privileged relationship may not be relied upon WITHOUT written permission of the party about whom the record pertains.
- Examples of Privileged Information: attorney-client communications, information relating to medical care

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INVESTIGATION REPORT PROCESS



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graph TD
    A[Draft Investigation Report] --> B[Review & Additional Investigative Steps]
    B --> C[Final Investigation Report]
  
```

Draft Investigation Report


- Summarizes relevant information
- Outlines contested and uncontested information
- No recommended findings

Review & Additional Investigative Steps

- Parties review Draft Investigation Report and materials obtained by investigator
- Parties have 10 business days to respond with comments, identify additional evidence, request further investigation on particular topics
- Investigator conducts additional investigative steps (if any)

Final Investigation Report


- Summarizes all relevant information gathered
- Includes recommendation as to whether there is sufficient evidence, by a Preponderance of the Evidence, to support a finding
- Recommendations are non-binding on Decision Maker
- Parties may review and respond in writing within 10 business days

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ACCEPTANCE OF RESPONSIBILITY


- The Respondent may, at any time, elect to resolve the Formal Resolution process by accepting responsibility for the Prohibited Conduct.
- Title IX Coordinator will refer the matter to the Decision Maker to conduct a hearing, or to Informal Resolution at the parties' requests.
- If the Respondent subsequently retracts this acceptance, declines to accept responsibility under cross-examination during a Hearing, or Informal Resolution is unsuccessful, Formal Resolution will be resumed.

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IMPACT AND MITIGATION STATEMENTS


- After transmission of the Final Investigation Report, each party may submit an impact or mitigation statement to the Title IX Coordinator
- Complainant impact statements may contain:
 - Impact of the Prohibited Conduct on the Complainant
 - Preference about the sanctions to be imposed
 - Any other information relevant to remedies and sanctions
- Respondent mitigation statements may contain:
 - Factors Respondent believes should mitigate or otherwise be considered in determining remedies or sanctions
- Impact and mitigation statements will ONLY be considered by the Decision Maker if determination of sanctions is necessary
- No witnesses or witness statements regarding impact or mitigation allowed without approval of Title IX Coordinator

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HEARING BASICS


- Title IX Coordinator appoints a Decision Maker from standing pool of trained/experienced individuals.
- Decision Maker receives Final Investigation Report and all evidence collected which is not protected by privilege.
- Opportunity for the parties to address the Decision Maker about issues relevant to the determination of responsibility.
- Each party has the opportunity to be heard (in opening & closing statements and when subject to cross-examination), respond to any questions of the Decision Maker, and have the party's advisor cross-examine other parties and witnesses (Title IX Grievance Process only).
- New evidence and/or new witnesses will generally not be considered.
- The presumption of not responsible continues until Decision Maker concludes that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding that the Respondent violated the Policy.
- The hearing can be conducted in a physical hearing room/rooms or virtually with real-time audio and video participation.

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APPOINTMENT OF THE DECISION MAKER

- Decision Maker must be:
 - Impartial
 - Free from actual bias or conflict of interest
- Decision Maker cannot be the assigned Investigator or the Title IX Coordinator
- Must receive training on:
 - Issues related to Prohibited Conduct, including definition of sexual harassment under 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 process, as applicable;
 - How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
 - Any technology to be used at a live hearing; and
 - 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.

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UNIVERSITY-APPOINTED ADVISORS


- Party may make a written request to the Title IX Coordinator to be provided an advisor of the University's choice.
- University obligated to provide an advisor for the parties at the hearing but may provide an advisor prior to the hearing.
- A party may not proceed at hearing without an advisor.
- If a party's advisor will not conduct cross-examination, the University will appoint an advisor who will do so, regardless of the participation or non-participation of the party in the hearing.

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PRE-HEARING CONFERENCE

- At the discretion of the Decision Maker, the Decision Maker may convene a pre-hearing conference with the parties (and their advisors) during which preliminary matters related to the hearing are discussed and/or resolved.
- The parties will be provided advance written notice of the date, time, and location of the pre-hearing conference.

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PARTICIPATION IN THE HEARING

Always


- Decision Maker
- Court Reporter
- Party Advisors – Participate in cross-examination (Title IX Grievance Process only), even if the parties do not attend

Sometimes

- Parties – Not required to participate in order for the hearing to proceed
- Investigators
- Witnesses

If parties or witnesses decline to appear at the hearing or to subject themselves to cross-examination, the Decision Maker cannot consider their statements (Title IX Grievance Process only).


If neither party nor the Decision Maker requests the presence of a witness at the hearing, then any information submitted by that witness may be considered without cross-examination (Title IX Grievance Process only).

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RULES OF ORDER AND DECORUM


- Apply equally to both parties, to any witnesses, advisors, or to other participants.
- Hearing participants are prohibited from:
 - Interrupting other participants;
 - Using profanity directed toward another participant;
 - Objectively offensive or aggressive actions or gestures;
 - Harassment of other participants;
 - Yelling, screaming, or badgering;
 - Taking action reasonably seen as intended to intimidate a participant or meaningfully modify a person's participation in the process; or
 - Engaging in any other behavior to deliberately disrupt the hearing process.
- The Decision Maker has the sole discretion to determine if an individual's actions during a Hearing are disruptive to the process or otherwise inconsistent with these Rules.
- Upon a second or further violation of these Rules, the Decision Maker has the discretion to remove the offending person or allow them to continue participating in the hearing or process.

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HEARING FORMAT


- Decision Maker has the discretion to determine the format of the hearing.
- Typical Format in Title IX Grievance Process
 - Brief opening remarks by the parties
 - Direct examination of the parties, investigator, and any witnesses by the Decision Maker
 - Cross-examination of the parties, investigator, and any witnesses by the parties' advisors
 - Brief concluding remarks by the parties
- Typical Format in Sexual and Gender-Based Misconduct Process
 - Brief opening remarks by the parties
 - Direct examination of the parties, investigator, and any witnesses by the Decision Maker
 - Parties may submit questions to be asked by Decision Maker
 - Brief concluding remarks by the parties
- An audio or audiovisual recording, or transcript, will be created for each hearing and made available to the parties for inspection and review.

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DIRECT EXAMINATION


- Conducted by the Decision Maker only
- The Decision Maker may ask questions in order to aid in:
 - findings of fact
 - conclusions regarding the application of the policies to the facts
 - the determination of responsibility
 - sanctions or remedies

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CROSS-EXAMINATION


- Title IX Grievance Process only!
- Conducted by the parties' advisors
- Conducted directly, orally, and in real time
- The parties' advisors may ask all relevant questions and follow-up questions designed to test the veracity and accuracy of party and witness statements, including those challenging credibility
- Before a party or witness answers any question, the Decision Maker must:
 - Determine whether the question is relevant; and
 - Explain any decision to exclude a question as not relevant.

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RELEVANCE DETERMINATIONS


- Relevance is determined in real time by Decision Maker.
 - Determined by logic and common sense, not rules of evidence.
- Examples of irrelevant questions include:
 - Questions calling for privileged information
 - Questions calling for medical information without consent
 - Questions regarding sexual predisposition or behavior except as described in Grievance Process
 - Questions calling for one witness to testify about statements excluded due to another witness' failure to submit to cross-examination
 - Repetitive questions
- Where a question is relevant but concerns a party's character or prior bad acts, the Decision Maker cannot exclude or refuse to consider the relevant evidence but may proceed to objectively evaluate that relevant evidence by analyzing the weight or credibility that should be ascribed to that statement.

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RELEVANCE DETERMINATIONS

- Decision Maker has the discretion to determine the specific process for making objections to the relevance of questions posed in a hearing.
- Decision Maker is not required to give a lengthy or complicated explanation of a relevance determination.
- Decision Maker may also revise or supplement any explanation of a relevance determination after the conclusion of the hearing.
- When an otherwise relevant question is asked in a manner which violates the Rules of Order and Decorum, Decision Maker may provide an opportunity for the advisor to re-ask the question at issue in a respectful, non-abusive fashion.

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PROCESS FOR RELEVANCE DETERMINATIONS AT THE HEARING

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FAILURE TO SUBMIT TO CROSS-EXAMINATION


- Only statements tested for credibility through cross examination will be considered by Decision Maker in reaching a responsibility determination (Title IX Grievance Process only)
- If a party or witness does not submit to cross-examination, the Decision Maker will not rely on any statement of that individual in reaching a determination regarding responsibility for a violation of the Policy.
 - This includes any statements in the Formal Complaint; any written or verbal statement to the Investigator, Title IX Coordinator, or another party or witness; any interview transcript; any written evidence, such as text messages or social media posts, medical reports, police reports.
 - Does not apply where the statements themselves constitute the conduct forming the basis of the alleged violation.
 - **THIS IS A BRIGHT LINE RULE.**
- Decision Maker cannot draw an inference about the determination regarding responsibility based solely on the decision of a party or witness not to participate at the hearing or to submit to cross-examination.

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EXCLUSION OF NEW INFORMATION


- In the absence of good cause, information, including identification of witnesses, that is discoverable through the exercise of due diligence, will NOT be considered at the hearing if it was not provided to the investigator during:
 - the investigation phase,
 - in response to the Draft Investigation Report,
 - or as part of the supplemental statements submitted in response to the Final Investigation Report.
- For good cause:
 - the Decision Maker may agree to the admission of new evidence at the hearing
 - the Decision Maker may delay the hearing and instruct that the investigation needs to be re-opened to consider any new evidence.

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POST-HEARING

- After the conclusion of the hearing, Decision Maker objectively evaluates all relevant evidence, both inculpatory and exculpatory, and independently reaches a determination regarding responsibility and, if applicable, any appropriate remedies or sanctions.
 - Must make a determination regarding responsibility for each allegation under investigation.
- No deference is given to the recommended findings in the Final Investigation Report.
- If the Decision Maker decides that additional investigative steps are needed before a determination may be made, the Decision Maker may remand the matter for further investigation or other action.
- If the Decision Maker determines there is sufficient evidence to support a finding of responsibility, the Decision Maker must then determine the appropriate sanction(s) and/or remedies.
- If the Decision Maker determines there is insufficient evidence to support a finding of responsibility, the Decision Maker must then determine whether remedies are appropriate.

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WRITTEN DETERMINATION


- The Decision Maker will simultaneously issue a Written Determination to the parties and the Title IX Coordinator, within 10 business days of the hearing (with extensions for good cause).
- The Written Determination will include:
 - Identification of the allegations potentially constituting Prohibited Conduct (and violation of any other University policy, if applicable);
 - Description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
 - Findings of fact supporting the determination;
 - Conclusions regarding the application of the Policy (and, if applicable, other policies) to the facts;
 - Description of any impact or mitigation statements, or other information obtained and/or considered in determining the appropriate disciplinary sanctions and/or remedies;
 - A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on Respondent, and whether remedies will be provided by the University to the Complainant; and
 - The University's procedures and permissible bases for the parties to appeal.

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SANCTIONS AND REMEDIES

- Decision Maker may impose one or more disciplinary sanctions on the Respondent and/or provide remedies to the Complainant.
- Sanctions and remedies are designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and legal obligations.
- Remedies are designed to restore or preserve the Complainant's equal access to the University's education program or activity.
- In determining sanctions and remedies, the Decision Maker may consider the following additional information:
 - Any impact and mitigation statements
 - Information regarding the Respondent's criminal and University disciplinary history
- Decision Maker may also consult with appropriate University officials in considering appropriate sanctions and/or remedies.
- Decision Maker must independently determine the appropriate sanctions and/or remedies.

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POTENTIAL SANCTIONS FOR STUDENTS

- Expulsion
- Suspension
- Suspension held in abeyance
- Restitution
- Disciplinary probation
- Reprimand
- Informal or formal coaching
- Training
- Warning Notice
- Withholding diploma
- Revocation of degree
- Organisational Sanctions

POTENTIAL SANCTIONS FOR EMPLOYEES

- Termination of Employment
- Suspension
- Demotion
- Removal of Administrative Appointment
- Transfer of Position
- Progressive Disciplinary Action
- Informal or formal coaching
- Training/Education

89

RANGE OF POTENTIAL REMEDIES

Imposition or extension of a No-Contact Directive

Reimbursement for counseling or other medical expenses related to the Prohibited Conduct

Imposition or extension of academic, extracurricular, University housing and/or University employment modifications

Imposition or extension of increased monitoring, supervision and/or security where Prohibited Conduct occurred or is likely to reoccur

Targeted or broad-based educational programming or training

Restorative remedies to encourage the Respondent to develop insight about Prohibited Conduct

Any other remedial or protective measures

90

KEY CONSIDERATIONS IN DETERMINING SANCTIONS & REMEDIES


- The severity, persistence, or pervasiveness of the Title IX Prohibited Conduct and any related Sexual and Gender-Based Prohibited Conduct, conduct under the PADHR Policy and/or Standards of Conduct;
- The degree of violence (if any) associated with the Title IX Prohibited Conduct and any related Sexual and Gender-Based Prohibited Conduct, conduct under the PADHR Policy, and/or Standards of Conduct;
- The impact of the Title IX Prohibited Conduct and any related Sexual and Gender-Based Prohibited Conduct, conduct under the PADHR Policy, and/or Standards of Conduct on the Complainant;
- The impact or implications of the Title IX Prohibited Conduct and any related Sexual and Gender-Based Prohibited Conduct, conduct under the PADHR Policy, and/or Standards of Conduct within the University community;
- Prior misconduct by the Respondent, including the Respondent's relevant prior disciplinary history, at the University or elsewhere, and any criminal convictions;
- Whether the Respondent has accepted responsibility for the Title IX Prohibited Conduct or any related Sexual and Gender-Based Prohibited Conduct, conduct under the PADHR Policy, and/or Standards of Conduct;
- The maintenance of a safe, nondiscriminatory, and respectful living, learning, and work environment; and
- Any other mitigating, aggravating, or compelling factors.

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OTHER POSSIBLE ACTIONS: EMERGENCY REMOVALS


- Emergency Removal
 - Interim Suspension
 - Suspension from employment
- University will:
 - Undertake an individualized safety and risk analysis to determine whether an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct justifies removal, and
 - Provide the Respondent with notice and an opportunity to challenge the removal decision with 48 hours following the removal decision.

92 

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OTHER POSSIBLE ACTIONS: MANDATORY DISMISSALS


- Under the Title IX Grievance Process, the University shall dismiss a Formal Complaint, or any allegations therein, when the alleged conduct, even if proved:
 - Would not constitute Title IX Prohibited Conduct as defined in the Policy;
 - Did not occur in the University's education program or activity;
 - Did not occur against a person in the United States; or
 - The Complainant was not participating in or attempting to participate in a University education or activity at the time the Formal Complaint was filed.
- Under the Sexual and Gender-Based Misconduct Procedures, the University shall dismiss a Formal Complaint, or any allegations therein, when the alleged conducted, even if proved:
 - Would not constitute Sexual and Gender-Based Prohibited Conduct as defined in the Policy.

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OTHER POSSIBLE ACTIONS: DISCRETIONARY DISMISSALS


- The University may dismiss a Formal Complaint, or any allegations therein, if at any time in the Formal or Informal Resolution Process:
 - The Complainant notifies the Title IX Coordinator that they would like to withdraw the Formal Complaint or any allegations;
 - The Respondent is no longer enrolled or employed by the University; or
 - Specific circumstances prevent the University from gathering evidence sufficient to reach a determination.
- Specific circumstances include, but are not limited to, instances where:
 - The Formal Complaint is made many years after the Prohibited Conduct allegedly occurred;
 - A Complainant stops participating in the investigative process or refuses to participate in the process; or
 - A Formal Complaint contains allegations that are precisely the same as allegations the University has already investigated and adjudicated.

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OTHER POSSIBLE ACTIONS: DISMISSALS

- Dismissal Procedure
 - Title IX Coordinator determines when dismissal is required or appropriate and sends a Dismissal Letter containing:
 - Written notice of the dismissal;
 - The reasons for the dismissal; and
 - An explanation of the appeals process.
- The University may dismiss under the Title IX Grievance Process but continue to take action under the Sexual Misconduct Procedures.
- Both parties have the right to appeal the dismissal to a Dismissal Appeal Officer.

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FAIRNESS & IMPARTIALITY, BIAS, CONFLICTS OF INTEREST

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BASIC REQUIREMENTS

Treat parties fairly!

- Treat parties equitably
- All rights and opportunities will be made available to parties on equal terms
- Be neutral

Be professional!

- Calm, appropriate, polite demeanor
- Maintain balance in approach with each party
- Maintain appropriate sensitivity to presentation of difficult information
- Be mindful of your non-verbal communication

Be prepared!


- Ensure process complies with Grievance Process/Procedures
- Review all materials and policies/procedures

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AVOIDING BIAS AND PREJUDGMENT

- Be impartial.
- Do not pre-judge the allegations or facts.
- Be careful to avoid making assumptions as to how a person "should" react.
- Avoid questions that imply a value judgment.
- Avoid putting oneself in the shoes of the Complainant or Respondent.
- Avoid gendered assumptions, such as seeing men as perpetrators and women as victims.
- Do not allow emotion to impact fair and impartial fact-finding.


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EVIDENTIARY CONSIDERATIONS

- All relevant evidence evaluated objectively
- Consider inculpatory and exculpatory evidence
- Apply evidentiary rulings equally

Is the information relevant? → Is the information credible? → Is the information convincing?

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EVALUATING CREDIBILITY

The ability of the speaker to perceive the event	The power to perceive the event	The capacity to recall what was perceived
Motive and timing Demeanor	Interest	Detail
Plausibility	Other corroboration	Common sense!

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OTHER CONSIDERATIONS

- Parties may be affected by emotional component of allegations – emotional reactions and behaviors may vary significantly!
- Consider context and history of relationships
- Did the witness have any bias, prejudice, interest in the outcome that could impact statement?
- Consider inherent plausibility of statements in context of known information – does this make sense?

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APPEALS

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APPEALS – KEY POINTS

- Both parties have the right to appeal.
- Appeal is limited to four bases.
- Internal Appeal Officer(s) review all appeals.
- Any sanction issued by the Decision Maker will not take effect until the conclusion of the appeal process or the expiration for filing an appeal.

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103

APPEALS OFFICERS

Student Respondent	• Vice President for Student Affairs and Chief Student Affairs Officer, or designee
Employee Respondent Reporting Directly to an Executive Vice President	• Executive Vice President, or designee
Employee Respondent in the Academic Division (not Reporting Directly to Executive Vice President)	• Executive Vice President and Chief Operating Officer, or designee
Academic Faculty Respondent	• Executive Vice President Provost, or designee
Medical Center Staff Member Respondent	• Executive Vice President for Health Affairs, or designee

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104

APPEALS TIMELINE

- The appeal must be submitted in writing to the Title IX Coordinator within 5 business days of the receipt of the Written Determination.
- The Title IX Coordinator will promptly notify the other party and the Appeals Officer and provide a copy of the appeal to the other party.
- The written appeal must clearly cite the base(s) for the appeal and the evidence supporting the appeal.
- The non-appealing party has 5 business days to provide a written response to the appeal.

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APPEALS PACKET

- Upon expiration of the deadline for the non-appealing party's written submission, the Title IX Coordinator will provide the Appeals Packet to the Appeals Officer.
- The Appeals Packet includes:
 - the appeal;
 - the non-appealing party's response, if provided;
 - the Final Investigation Report;
 - the Decision Maker's Written Determination;
 - any information reviewed and considered by the Investigator or Decision Maker;
 - all inculpatory and exculpatory evidence submitted to the Investigator or Decision Maker; and
 - a transcript of the hearing.

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107

FOUR BASES FOR APPEAL

- Procedural irregularity** that affected the outcome of the Formal Complaint.
- New evidence** that was not reasonably available at the time the Written Determination was made that could affect the outcome of the Formal Complaint.
- The Title IX Coordinator, Investigator(s), or Decision Maker had **bias or actual conflict of interest** for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the Formal Complaint
- Inappropriate disciplinary sanction.**

The appeal is limited to these four bases.

The appeal is NOT an opportunity for a party to reexamine each aspect of the Decision Maker's decision or seek a de novo (i.e. from the beginning) review.

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108

PROCEDURAL IRREGULARITY

- The appeal must specify the procedural provision(s) that were violated and how it affected the outcome of the Formal Complaint.
- Procedural or technical irregularities will not be sufficient to sustain an appeal **unless found to have affected the outcome** of the Formal Complaint.
- Examples of procedural irregularity that may be sufficient to sustain an appeal include:
 - the Decision Maker's failure to objectively evaluate all relevant evidence, including inculpatory and exculpatory evidence; or
 - any erroneous relevance determinations made by the Decision Maker if the relevance determination affected the outcome of the Formal Complaint.

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109

PROCEDURAL IRREGULARITY

KEY DIFFERENCES BETWEEN GRIEVANCE PROCESS AND PROCEDURES

RULES ON PARTY/WITNESS PARTICIPATION	AVAILABILITY OF CROSS-EXAMINATION	CONSIDERATION OF STATEMENTS MADE BY PARTIES AND WITNESSES WHO DID NOT PARTICIPATE IN THE HEARING/BE SUBJECT TO CROSS-EXAMINATION
<ul style="list-style-type: none"> • GRIEVANCE PROCESS: The Investigator, Decision Maker, and Appeals Officer will not base a finding of responsibility solely on a party's decision not to participate. • PROCEDURES: The Investigator, Decision Maker, and Appeals Officer will not draw any adverse inference from a decision by either of the parties or any witness not to participate. 	<ul style="list-style-type: none"> • GRIEVANCE PROCESS: Advisors may conduct cross-examination of parties, witnesses, and investigator. • PROCEDURES: Parties may submit questions to Decision Maker to ask of another party, any witnesses, and/or investigator. Decision Maker will review submitted questions and determine whether they are relevant and, if so, ask the questions. 	<ul style="list-style-type: none"> • GRIEVANCE PROCESS: Statements from parties and witnesses who decline to subject themselves to cross-examination are excluded from Decision Maker's consideration. • PROCEDURES: The Decision Maker can consider information submitted by a party or a witness who does not participate in the hearing or who declines to answer a question(s).

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NEW EVIDENCE

- An appeal on this basis is limited to new evidence that was not reasonably available at the time the determination regarding responsibility was made that **could affect the outcome** of the Formal Complaint.
- The appeal must specify (1) the new evidence that was not reasonably available at the time of the determination, (2) why the evidence was unknown or unavailable, (3) and how the new evidence could affect the outcome of the Formal Complaint.
- The following does **not** constitute new evidence for purposes of an appeal:
 - Evidence submitted in response to the Draft Investigation Report or Final Investigation Report;
 - Evidence or testimony that was submitted during the investigation but not subject to cross examination at the hearing, and thus not considered by the Decision Maker; and
 - A party's statement or testimony that was not provided prior to the issuance of the Written Determination.

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BIAS ACTUAL CONFLICT OF INTEREST

- The appeal must specify:
 - The basis on which the party believes the Title IX Coordinator, Investigator(s) or Decision Maker had an actual conflict of interest or bias and
 - How it affected the outcome of the Formal Complaint.

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INAPPROPRIATE DISCIPLINARY SANCTION

- A party appealing on this basis must (1) identify the reason(s) they believe the Decision Maker's decision related to disciplinary sanctions is inappropriate and/or not commensurate with the finding of responsibility, or the underlying facts determined by the Decision Maker, and (2) propose an alternative disciplinary sanction or remedy the appealing party believes should be implemented.
 - Any party may appeal on this basis – Complainants and Respondents.
- The Appeals Officer may utilize all reasonable factors in reviewing an appeal on this basis, including but not limited to the following factors:
 - Whether the disciplinary sanction(s) imposed by the Decision Maker are authorized under the Sexual Misconduct Policy;
 - Whether the disciplinary sanction(s) identified by the Decision Maker are sufficient to prevent recurrence of similar conduct by the Respondent or others; and
 - Whether the disciplinary sanction(s) are commensurate with the conduct that occurred.
- The Appeals Officer's determination will be specific to the circumstances of each matter and need not be identical to a disciplinary sanction(s) applied in prior, similar Formal Complaints involving different Respondents.

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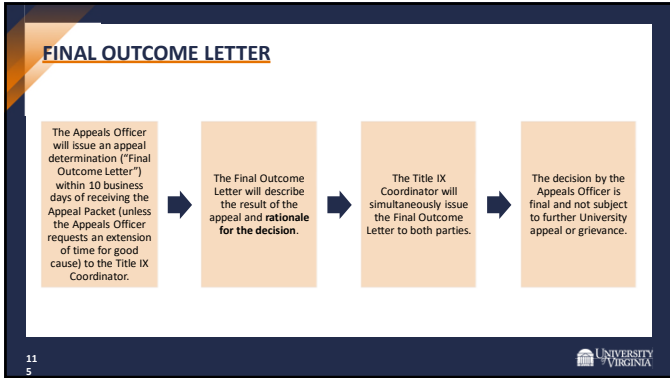
POSSIBLE OUTCOMES OF AN APPEAL

Appeal denied	The Appeals Officer issues a Final Outcome Letter and the determination regarding responsibility becomes final.
Appeal granted because of procedural irregularity	The matter may be remanded for further action to remedy the error, depending upon the nature of the procedural error.
Appeal granted because of discovery of new evidence	The matter may be returned to the Decision Maker for reconsideration of the determination considering the new evidence.
Appeal granted because of bias or conflict of interest	The matter may be remanded for further action depending on the particular finding of bias or conflict of interest.
Appeal granted because of inappropriate disciplinary sanction	The Appeals Officer, in consultation with appropriate University employees as necessary to obtain information necessary to make a fully informed decision, determines an appropriate disciplinary sanction and issues a Final Outcome Letter and the determination regarding responsibility becomes final.

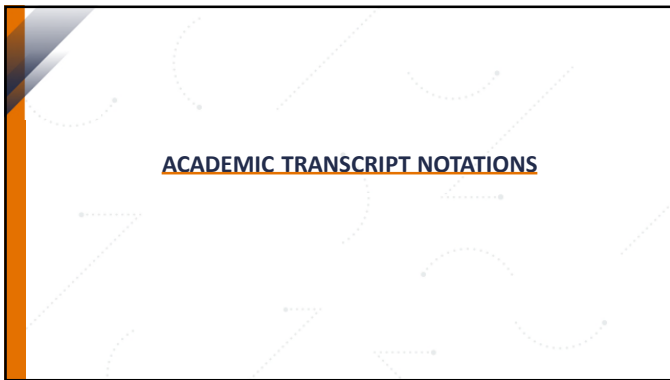
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Academic Transcript Notations

Va. Code § 23.1-900

The Title IX Coordinator will direct the University Registrar to include a notation on the academic transcript of any student who has (1) been suspended, (2) been expelled, or (3) withdrawn from the University while under investigation for Prohibited Conduct pursuant to the Sexual Misconduct Policy.

The Title IX Coordinator will direct the University Registrar to remove any such notation where (1) the student is subsequently found not responsible for committing an act of Prohibited Conduct pursuant to the Sexual Misconduct Policy, and/or (2) a student who has been suspended for Prohibited Conduct pursuant to the Sexual Misconduct Policy, has (i) completed the terms of the suspension and any conditions thereof, and (ii) has been determined by the University to be in good standing pursuant to all applicable University academic and non-academic standards.

11
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117

CASE STUDIES

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QUESTIONS?

119
