



UNIVERSITY POLICY P-14.05-07/26

TO: The University of West Florida Community

FROM: President Manny Diaz, Jr.

SUBJECT: Sexual Harassment and Misconduct (Title IX matters)

RESPONSIBLE OFFICE: Title IX Programs

I. Purpose:

As a recipient of Federal funds, the University of West Florida (the "University") is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* ("Title IX"), which prohibits discrimination on the basis of sex in education programs or activities. The University is committed to providing programs, activities, and an educational environment free from sex-based discrimination.

This policy primarily explains the grievance process for Sexual Harassment and Retaliation as those terms are defined in this policy and as defined under the Title IX regulations. If an allegation of misconduct does not match this policy's definition of Prohibited Conduct, the University may still consider the allegation under University Policy P-13, Prohibition of Discrimination, Harassment and Retaliation, or University Regulation 3.010, Student Code of Conduct, as each may be amended.

II. Definitions:

Actual Knowledge – notice of Sexual Harassment or allegations of Sexual Harassment to the University's Title IX Coordinator or other University Official.

Advisor – any support person, advocate, union representative, or legal representative engaged to advise a Complainant or Respondent before, during, or after a meeting or hearing.

Complainant – any person who is alleged to be the victim of conduct that could constitute Prohibited Conduct. A Complainant must be participating in, or attempting to participate in, a University program or activity at the time of filing a complaint. If a parent or guardian has a legal right to act on a Complainant's behalf, the parent or guardian may file a Formal Complaint on behalf of the Complainant.

Consent – an affirmative act or statement by each person for each sexual act that is informed, freely given, and mutually understood. Consent cannot be gained by Force, or from an individual who is incapacitated.

DSA – Division of Student Affairs.

Dating Violence – as defined in 34 U.S.C. 12291(a), violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim 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.

Day – a business day unless otherwise noted.

Decision Maker – a University Official authorized by the University President or their designee to administer Title IX proceedings, including administrative meetings and hearings, to determine if this policy has been violated, and to recommend applicable sanctions. At the University's discretion, the Decision Maker may be an individual or a committee comprised of University Officials or designees.

Domestic Violence – as defined in 34 U.S.C. 12291(a), includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim, which includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who (a) is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim; (b) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (c) shares a child in common with the victim; or (d) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of Florida.

Force – physical force, violence, threat, intimidation, or coercion.

Formal Complaint – a written document filed by the Complainant or signed by the Title IX Coordinator requesting that the University investigate alleged Prohibited Conduct.

Good Standing – a conduct status describing a Student who is not on conduct-related probation and does not have pending, incomplete, or overdue misconduct sanctions.

Incapacitation – a temporary or permanent state in which a person cannot make informed, rational judgments because the person lacks the physical or mental capacity to understand the nature or consequences of their words or conduct, or the person is unable to physically or verbally communicate Consent. An individual can be incapacitated by voluntary or nonvoluntary use of drugs (legal, illegal, or prescription) or alcohol, illness, mental impairment/disability, or by a state of being asleep or unconscious. Incapacitation is a state beyond drunkenness or intoxication.

Intake Meeting – initial meetings, taken separately, of the Complainant and the Respondent with the Title IX Coordinator or designee for the purpose of gathering basic information and providing and reviewing this policy, Title IX procedures, and available resources.

Investigator – the individual(s) designed by the Title IX Coordinator to conduct investigations of alleged Prohibited Conduct under this policy.

Mandatory Reporter – an employee who has the duty to report the alleged Prohibited Conduct to a University Official.

Prohibited Conduct – Sexual Exploitation, Sexual Harassment, or Retaliation.

Respondent – an individual who has been alleged of engaging in Prohibited Conduct.

Retaliation – threats, coercion, or unlawful discrimination against any individual for the purpose of interfering with any right or privilege secured by this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Conduct automatically constitutes Retaliation under this policy when it includes threats, coercion, or unlawful discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by this policy.

Sexual Assault – an offense classified as a forcible or nonforcible sex offense under the Uniform Crime Reporting System of the Federal Bureau of Investigation. A “sex offense” is generally any sexual act directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent. Without limiting that definition of Sexual Assault, the following are examples of Sexual Assault:

- A. Fondling - The intentional touching of another person’s clothed or unclothed genitals, buttocks, groin, breasts, or other body parts, or causing or directing the intentional touching of another person, without Consent, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This definition explicitly applies when the victim is incapable of giving Consent due to age, mental or physical impairment (temporary or permanent).
- B. Incest – non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- C. Rape – the anal, oral, or genital penetration of a person, no matter how slight, , with any object or body part of another person, without Consent. This offense applies to acts committed by any person, regardless of sex, against any other person.

- D. Statutory Rape – non-forcible sexual intercourse with a person who is under the statutory age of Consent. There is no Force or coercion used in statutory rape; the act is not an attack.

Sexual Exploitation –taking sexual advantage of another person without Consent, which includes, but is not limited to, causing or attempting to cause the Incapacitation of another person so as to gain or facilitate a sexual advantage over such other person; causing the prostitution of another person; recording, photographing, transmitting, or distributing intimate or sexual utterances, sounds, images, or identifiable depictions of sexual activity or intimate body parts, whether authentic or digitally-altered or -generated without the Consent of all parties involved; allowing third parties to observe sexual acts without the Consent of all participants; engaging in voyeurism; exposing one’s genitals to another without Consent; or knowingly or recklessly exposing other persons to a significant risk of a sexually transmitted infection, including HIV.

Sexual Harassment – conduct on the basis of sex that meets one or more of the following scenarios:

- A. University employee who conditions the provision of University aid, benefit or service on an individual’s participation in unwelcome sexual conduct. This conduct is commonly known as quid pro quo harassment;
- B. Unwelcome conduct determined by a reasonable person to be 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 in this section.

Stalking – as defined in 34 USC 12291(a), engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for that individual’s safety or the safety of others or suffer substantial emotional distress. Examples include, willfully, maliciously, and repeatedly following, or cyberstalking another person where the victim was targeted due to the victim’s sex.

Student – includes all persons enrolled at the University, either full-time or part-time, degree seeking or non-degree seeking, and persons who are not officially registered for courses for a particular term but who are expected to have a continuing relationship with the University, including Students who have been suspended from the University and do not require readmission to the University, and Students admitted but not yet enrolled at the University.

Title IX Coordinator – a University employee with the responsibility of administering this policy, including identifying and addressing any patterns or concerns that arise during the review of Title IX Complaints.

University Official – includes any person employed by the University performing assigned administrative or professional responsibilities.

VP-DSA – the Vice President of DSA. This term includes any vice president presiding over DSA, including a vice president with the title of Assistant Vice President, Associate Vice President, and those serving in an interim capacity, or VP-DSA’s designee.

III. Policy:

A. Accommodations for Persons with Disabilities

This policy does not alter any University obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Complainants and Respondents may request reasonable accommodations from the Title IX Coordinator for disclosed disabilities at any point before or during the Title IX grievance process that do not fundamentally alter the procedures herein. Complainants and Respondents must specifically request disability accommodations from the Title IX Coordinator, even when they are already receiving accommodations in other University programs and activities.

B. Reporting Prohibited Conduct

The University will promptly respond when the University has Actual Knowledge of Prohibited Conduct occurring in a University program or activity. The University will have Actual Knowledge when a University Official receives a report of Prohibited Conduct. University Officials include, but are not limited to, the Title IX Coordinator and Deputy Title IX Coordinators.

Individuals who feel that they have experienced or witnessed Prohibited Conduct by a Student or University employee should report this information to a Mandatory Reporter or the Title IX Coordinator as soon as possible.

1. Mandatory Reporters

At the University, all University employees (with the exception of the confidential resources listed below) are considered Mandatory Reporters and must report information received regarding Prohibited Conduct to the Title IX Coordinator.

If someone wishes to speak confidentially with someone on campus about alleged Prohibited Conduct, the individual may contact a confidential resource. Confidential resources include Counseling and Psychological Services (CAPS), Employee Assistance Program (EAP), and the University Ombudspersons.

Every effort will be made to respect the private and sensitive nature of disclosures. However, any report of alleged Prohibited Conduct made to a Mandatory Reporter requires notification to the University’s Title IX office.

2. Filing a Report with Title IX Programs

Reports of Prohibited Conduct may be made by a Complainant or any other individual to a University Official. The reported conduct must have occurred within the University's programs or activities, which include locations, events, or circumstances in which the University exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurred and any building owned or controlled by a student organization that is officially recognized by the University. Reports can be made using the online reporting form found on the Title IX Programs website or by directly contacting the Title IX Programs staff.

3. Related Misconduct Charges

The University will not pursue disciplinary action against a Complainant for violations of separate University policies or regulations at the time the alleged Prohibited Conduct occurred. For example, if a Complainant under the age of 21 alleges Sexual Assault while under the influence of alcohol and seeks assistance under this policy, the University will not pursue disciplinary action against the Complainant related to underage drinking.

The University may, however, charge an individual for making a false statement in bad faith during the course of the grievance process. If the University charges an individual for making a materially false statement in bad faith in the course of a grievance proceeding under this policy, that charge does not constitute Retaliation. A determination regarding responsibility is, by itself, insufficient to conclude that any party made a materially false statement in bad faith.

4. Effect of Criminal Investigation/Proceeding

Because Prohibited Conduct may constitute both a violation of this policy and criminal law, the University encourages Complainants to report alleged criminal conduct promptly to law enforcement. The standards, procedures, and timelines for criminal law differ from Title IX, and the processes are independent of one another. The outcome of a process under this policy is likewise independent of the outcome of a related criminal process.

C. Title IX Grievance Process

1. Intake Meetings

Once an allegation is made, the Complainant will be invited to participate in an Intake Meeting. Intake Meetings include the review and explanation of this policy and the University's Title IX procedures, available campus resources, and supportive measures. The Intake Meeting will also serve to provide information about the investigation process and informal resolution options. If a Formal Complaint is filed or if certain supportive measures are requested and deemed appropriate, the

Respondent will be notified of the allegation(s) and also be invited to participate in an individual Intake Meeting for the same purposes described above.

2. Written Notice of Allegations and Investigation

If a Formal Complaint is filed, the University will provide written notice of an investigation to the Complainant and Respondent. When available, the notice will include:

- a. Details on the identities of the parties involved;
- b. The alleged violation;
- c. The conduct constituting the alleged violation;
- d. The date and location of the alleged violation;
- e. Notice of the procedures set forth in this policy;
- f. A statement that the Respondent is presumed not responsible for the alleged conduct;
- g. Notice that a determination regarding responsibility will be made at the conclusion of the grievance process;
- h. Notice that the parties may utilize an Advisor of their choice;
- i. Notice that the parties may inspect and review evidence collected during the investigation at an appropriate time; and
- j. A notice that this policy prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the University decides to investigate allegations about the Complainant or Respondent that are not included in the written notice, the University will provide notice of the additional allegations to the parties.

3. Supportive Measures

Regardless of whether or not a Formal Complaint is filed, the University may provide supportive measures. Supportive measures are designed to restore or preserve equal access to a University program or activity without unreasonably burdening a party. Supportive measures are non-disciplinary, non-punitive, individualized services offered when appropriate and reasonably available without fee or charge to the Complainant or Respondent.

In cases where a Formal Complaint is not filed and supportive measures are requested, some supportive measures may require the disclosure of the Complainant's identity to the Respondent; however, when supportive measures do not require such a disclosure, every attempt will be made to keep the Complainant's identity confidential.

Depending on the circumstances, the supportive measures that may be available to both parties include, but are not limited to:

- a. No Contact Order – the The University may issue no-contact orders between the Respondent, the Complainant, and others. No-contact orders between the Complainant and Respondent are issued as dual no-contact orders, meaning neither party may contact the other.
- b. Administrative Leave – the The University may place an employee on paid administrative leave while an investigation is conducted.
- c. On-campus Housing Reassignment – the University may complete an administrative housing reassignment in order to separate the Complainant and the Respondent. This may include reassigning the Complainant, the Respondent, or others. Reassignments may be temporary or permanent.
- d. Academic Measures – the University may work with a Complainant or Respondent to assist that individual in completing their academic coursework. Depending on the circumstances, this may include working with instructors related to missed classes, assigning the Complainant or the Respondent to a new course section as scheduling permits, allowing either party to finish the course requirements via distance learning or independent study, or providing either party with a withdrawal from one or more courses if applicable.
- e. Employment Measures – the University may work with either party in the context of the individual's employment on campus, including student employment. Depending on the circumstances, this may include assigning the employee to work alternative hours, assigning the employee to a different work location, or assigning the employee to a different department during, and sometimes beyond, the duration of the investigation. Employment measures will be taken in accordance with University employment policies and applicable collective bargaining agreements.

4. Appeal of Supportive Measures

In the event supportive measures are requested but not granted or supportive measures are implemented but are unsatisfactory to either party, either party may request that the decision related to supportive measures be reviewed. The request for review must be made in writing to the Title IX Coordinator. The Title IX Coordinator will designate another University Official to review the supportive measure decision.

The designated reviewer will provide the other party five days to submit a response to the request for supportive measure review. The designated reviewer will consider the documents provided by the parties and may request an interview with either or both of the parties individually. The designated reviewer has the authority to uphold, modify, or withdraw the supportive measures.

5. Emergency Removal

The University may remove the Respondent from an education program or activity if:

- a. The University conducts an individualized safety and risk analysis;
- b. The University determines that the Respondent poses an imminent threat arising from the allegations of Prohibited Conduct to the physical health or safety of any Student or individual justifying removal; and
- c. The University provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

To challenge the removal, within three days of receiving notice of the emergency removal, the Respondent must inform the Title IX Coordinator in writing of the basis of the challenge. The Title IX Coordinator will provide a copy of the challenge to the Complainant.

The University will then hold a hearing as soon as possible given the circumstances, but no later than five days after the Title IX Coordinator's receipt of the challenge. The University will provide written notice to the parties of the following: the date and time of the hearing, that both parties may have their Advisor present, that both parties will have an opportunity to be heard at the hearing, and that a written decision about the outcome will be issued to the parties no later than three days after the hearing. The emergency removal will remain in effect during any appeal.

If a Respondent is removed pursuant to this emergency removal procedure, that individual retains all rights to an investigation and hearing as set forth in this policy prior to any ultimate finding of responsibility and sanctions.

Nothing in this section precludes the University from placing a non-student employee on paid administrative leave during the pendency of the grievance process.

6. Title IX Advisor

At any point during the grievance process, the parties may use an Advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of an Advisor for either the Complainant or Respondent in any meeting or hearing. Any Advisor serves at the requestor's own expense and initiative, except that if a party does not have an advisor at a hearing, the University will provide

one without fee or charge to the party for purposes of questioning and cross-examination of a party or witness. All Advisors must follow appropriate rules of decorum. The Advisor may be present to advise the Complainant or Respondent and may participate in the hearing, including the presentation of relevant information and asking questions and cross examination of witnesses, however, the Advisor may not serve in any other role in the grievance process, including Investigator, Decision Maker, or review of any appeal. The name and role of the Advisor must be provided to the University in writing at least three days prior to the scheduled meeting or hearing. If the Advisor is an attorney, this must be disclosed at that time, as the University attorney must also be present at the meeting or hearing.

7. Formal Complaint Investigation

If a Formal Complaint is filed, an Investigator will be assigned to complete an investigation and write an investigative report. Prior to completion of the investigative report, the University will provide the Complainant, Respondent, and their Advisors, if any, an opportunity to review all evidence collected related to the Formal Complaint. The Complainant and the Respondent will be provided a period of no less than ten days to submit written comments. The Investigator will consider any written responses prior to completion of the investigation report. Once the Investigator completes the investigative report, copies will be provided to the parties and Advisors, and the parties will be provided a minimum of ten days to respond prior to a hearing.

8. Protected Information

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

The University will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

If a party chooses to provide evidence that would otherwise be excluded under this subsection, it will be considered directly related evidence subject to the parties' inspection.

9. Complaint Dismissal

There are circumstances under which the University must dismiss or may dismiss a Formal Complaint prior to the conclusion of the grievance process. Dismissals may occur at any time during the investigation and hearing phases of the grievance process.

- a. The University **must** dismiss a Formal Complaint of Sexual Harassment if the alleged misconduct:
 - i. Would not constitute Sexual Harassment even if proved;
 - ii. Did not occur during a University program or activity; or
 - iii. Occurred outside the United States.
- b. The University **may** dismiss a Formal Complaint of Sexual Harassment if:
 - i. A Complainant requests, in writing, to withdraw the Formal Complaint;
 - ii. A Respondent is no longer enrolled at or employed by the University; or
 - iii. Specific circumstances prevent the gathering of evidence sufficient to reach a determination (such as a party passing away during the course of the investigation).
- c. If a Formal Complaint is dismissed, the parties will receive written notice of the dismissal, which will include the reason(s) for the dismissal. Allegations may still be reviewed against other University regulations, policies, or collective bargaining agreements, as applicable.

10. Appeal of Dismissal

If a Formal Complaint is dismissed, either party may appeal the dismissal decision within five days of notification of the dismissal. The appeal must be made in writing and submitted to the Title IX Coordinator. Once one party has appealed, the other party will be notified in writing. The Title IX Coordinator will designate a University Official who is independent of the Title IX Programs to review the dismissal decision. The party not appealing the dismissal will be provided five days to submit a response to the appeal. The designated reviewer will consider the documents provided by the parties and may request an interview with either or both of the parties individually. The designated reviewer has the authority to reverse the dismissal. A written decision that includes the rationale for the result will be issued to both parties simultaneously.

An appeal of the dismissal of the Formal Complaint may only be made on one or more of the following bases:

- a. A procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available during the intake or investigation phases that could affect the outcome of the matter; and/or

- c. Evidence of a conflict of interest or bias of the Title IX Coordinator, the Investigator(s), or the Decision Maker that affected the outcome of the matter.

10. Informal Resolutions

If a Formal Complaint has been filed, the University has the discretion to offer and facilitate informal resolution options at any time prior to reaching a determination regarding responsibility. The parties must give voluntary and informed written Consent to attempt informal resolution. Informal resolution is not available when a Complainant is a Student alleging that a University employee has engaged in Sexual Harassment.

In offering an informal resolution process, the University will provide the parties:

- a. A written notice disclosing the allegations;
- b. The requirements of the informal resolution process, including the circumstances under which, upon reaching an agreed resolution, it precludes the parties from resuming a Formal Complaint arising from the same allegations; and
- c. An explanation of any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The Informal Resolution process must be completed within 15 days of the parties agreeing to pursue such a process unless an extension is mutually agreed upon by the parties and granted by the Title IX Coordinator. The Formal Complaint will continue to be investigated and prepared for a hearing if an informal resolution is not reached in that time. At any time prior to agreeing to a resolution, any party may withdraw from the informal resolution process and resume the grievance process.

11. Formal Grievance Hearings

After the investigative report and comment period concludes, the next step in the Formal Complaint process is based upon whether the Respondent is a Student or employee.

If the Respondent is a Student, the University, through its Title IX Programs, will complete the following pre-hearing and hearing procedures for misconduct allegations that meet the policy's definition of Prohibited Conduct. Not all misconduct allegations will meet the policy's definition of Prohibited Conduct. Those cases that do not meet this threshold will follow the procedures in University Regulation 3.010, Student Code of Conduct, as it may be amended. The University may not charge a Student with a violation of Prohibited Conduct more than one year after a Formal Complaint is filed. University Officials, however, may exercise discretion when applying the time provision to account for circumstances that warrant an extension of the one-year time limit. Circumstances that may warrant an extension include, but are not limited to, when a Student's continued presence on campus may adversely affect the health, safety, or welfare of the University community.

If the Respondent is an employee, it will be referred to Human Resources, which will consult with the Office of the Provost if the matter concerns faculty. The following procedures also apply to employee Title IX hearings.

For employees, the investigative report, evidence that has been disclosed to both parties, any comments of the Complainant and the Respondent, and any other relevant information will be forwarded to Human Resources. Human Resources shall organize and facilitate the hearing process.

12. Pre-Hearing Conference

The University will notify the Complainant and Respondent via email of an individual pre-hearing conference at least seven days prior to the conference. The notice will include scheduling information for the pre-hearing conference. If the time or date of the pre-hearing conference is not convenient, the Student must notify the University within two days of the date of the notice to reschedule. The Respondent's notice will include the charges and the allegations upon which the charge(s) is(are) based, citing the specific provision(s) of this policy.

The pre-hearing conference is not a hearing. The purpose is to review the allegations and charges, the hearing forum options, the process, possible sanctions, and to answer questions. During the Respondent's pre-hearing conference, the Respondent will be given the opportunity to accept responsibility or not accept responsibility for the charges.

- a. If the Respondent accepts responsibility for the charges:
 - i. The Respondent will be asked to sign a form indicating the individual's acceptance of responsibility and that the individual is waiving their right to a hearing.
 - ii. An email documenting the Respondent's responsibility and the discipline notice will be sent concurrently to the Respondent as well as the Complainant within ten days.
 - iii. If the Respondent agrees with the proposed sanctions, the Respondent will sign the resolution agreement and return it to the Title IX Office within three days. If the Respondent does not agree with the proposed sanctions, the Respondent will indicate this on the resolution agreement and indicate a preference for the type of Decision Maker for the sole purpose of determining sanctions.
- b. If the Respondent does not accept responsibility for the charges:
 - i. The Respondent will be asked to sign a form indicating that the Respondent does not accept responsibility for the charges and may request a hearing option.

- ii. The University will schedule the hearing and provide the Respondent and Complainant with a minimum notice of seven days.
- iii. If the Respondent fails to attend the pre-hearing conference or complete the form, the matter will proceed for a hearing.

13. Hearing Options

The Respondent may indicate a preference for the type of Decision Maker that will be used for the hearing. The University will take the Respondent's preference into consideration; however, the University, in its discretion, will select the Decision Maker for the hearing. The University will consider the following factors to make a determination about the Decision Maker:

- a. Severity of the allegations;
- b. Complexity of the case;
- c. Acceptance of responsibility by the Respondent during the investigation; and
- d. Role of the parties within the University.

14. Hearing Procedures

Throughout the hearing process, Complainants and Respondents shall be treated equitably. Hearings are conducted to consider the totality of evidence available from all relevant sources. All information presented by the Complainant and Respondent will be objectively evaluated by the University. The parties will have equal opportunities to present evidence, including fact and expert witnesses and other inculpatory and exculpatory evidence. The University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

The hearing is not a criminal process and is not legal in nature. Formal rules of process, procedure, and technical rules of evidence such as are applied in criminal or civil court do not apply in these proceedings. However, information protected under a privilege recognized by state or federal law cannot be disclosed, used, or relied upon unless the person who holds the right to exercise the privilege waives said privilege.

At the discretion of the University, virtual participation via videoconference or other technology of parties, witnesses, Advisors, or others is permitted, provided participants can simultaneously see and hear each other and confidentiality of the proceedings is not compromised.

- a. Hearing Notification

The University will notify the parties via email of the date, time, and location of the hearing no less than seven days in advance of the hearing. This notification will also advise the parties of their rights in the conduct process. If the time or date of the hearing is not convenient to the parties they must submit a written request to reschedule the hearing within two days of the date of the notice.

b. Pre-Hearing Information

The parties must provide the University with a list of potential witnesses and copies of any records that individual will present at the hearing (hereafter, collectively referred to as “pre-hearing information”) at least seven days in advance of the hearing. The University will provide the following to the parties at least five days in advance of the hearing:

- i. Pre-hearing information,
- ii. Hearing procedures, and
- iii. Any other inculpatory or exculpatory evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence upon which the University does not intend to rely in reaching a determination regarding the responsibility, whether obtained from a party or other source.

c. Failure to Appear

If either the Respondent or the Complainant fail to appear, the hearing will proceed in their absence.

d. Closed Hearings

Hearings are closed to the public and only the Respondent, Complainant, Advisors, and University attorney may attend. Witnesses may not be present in the proceedings except to provide information when called upon.

e. Role of the Decision Maker

The Decision Maker will preside over the hearing, be responsible for the order and decorum of the hearing, and ensure that hearing procedures are followed. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision Maker must first determine whether the question is relevant and provide their reasoning for excluding a question as not relevant. At their discretion, the Decision Maker may:

- i. Accept information for consideration.

- ii. Make determinations regarding requests for postponements.
- iii. Make determinations as to procedural questions.
- iv. Make procedural modifications for purposes of expediting a process or in the interest of fairness or safety.
- v. Exclude repetitious or irrelevant information.
- vi. Dismiss any person who is disorderly, disruptive, or non-compliant.
- vii. Take any other appropriate action deemed necessary.

f. Self-Incriminating Statements

The Complainant and the Respondent will not be compelled to make self-incriminating statements. Any information shared by the Respondent or Complainant during a pre-hearing conference may be presented during a hearing. Failure of the Respondent or Complainant to make a statement or to answer questions shall not be considered in the determination of whether or not a Respondent is responsible for violating University policy or a collective bargaining agreement.

g. Information

The University, the Respondent, and the Complainant will each be given an opportunity to provide information at the hearing. This may include, but is not limited to, witness testimony, pertinent records, documents, written or oral statements, and investigative reports. The Respondent and the Complainant will also be given an opportunity to review records provided by the University in advance of the hearing.

h. Questioning of the Parties and Witnesses

All cross-examination of the parties and witnesses must be conducted by a party's Advisor. Only relevant questions may be asked of a party or witness. The Decision Maker will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

i. Separation of Complainant, Respondent, or Witness

At the request of either party, the University will provide for the entire hearing to occur with the parties located in separate rooms with technology enabling the

parties and Decision Maker to see and hear the party or witness answering questions.

j. Past Behavior

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.

k. Recording of Hearing

Hearings will be recorded by the University. There shall be a single recording of all hearings. This recording is the official record, is the property of the University, and will be considered part of the Respondent's disciplinary record. The Respondent may submit a written request for a copy of the recording, which will be provided after receipt of the hearing decision letter.

l. Standard of Proof for Hearings

A Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. The burden to prove disciplinary cases rests with the University. The University uses the preponderance of the evidence standard. This means that the information presented supports the finding that it was more likely than not that the violation occurred.

m. Multiple Parties or Allegations Involved

- i. Where an allegation of Prohibited Conduct involves more than one Complainant or more than one Respondent, references to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.
- ii. In cases involving multiple Respondents from the same incident, each Respondent will have a separate hearing. Information obtained at one hearing may be used in another hearing, provided that each Respondent involved has the opportunity to review and respond to the information at that Respondent's hearing.
- iii. The University may, at its discretion, consolidate Formal Complaints where the allegations arise out of the same factual circumstances, including cases involving multiple Complainants, multiple Respondents, or cross-Complaints, while ensuring that all parties are afforded full due process protections.

n. Deliberations

Deliberations are closed and the decision making shall include only the Decision Maker.

o. Determination of Responsibility

The Decision Maker shall determine whether the Respondent has violated this policy. A finding of “responsible” or “not responsible” shall be made for each charge. The Decision Maker will determine sanctions in those cases where the Respondent is found responsible for violating the policy.

p. Hearing Decision Notification

The determination of responsibility shall be in writing, provided simultaneously to the parties, and include the following elements:

- i. Identification of the allegations allegedly constituting Sexual Harassment.
- ii. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including notification to parties, interviews, gathering of evidence, and hearings held.
- iii. Findings of fact.
- iv. Conclusions regarding the application of the relevant policy to the facts.
- v. As to each allegation, a statement of, and rationale for, the determination of responsibility.
- vi. A description of any disciplinary sanctions imposed upon the Respondent.
- vii. A description of any remedies designed to restore or preserve equal access that will be provided to the Complainant.
- viii. A statement of procedures and bases for appeal of the decision.

q. Respondent Voluntary Separation

If a Respondent (employee or student) voluntarily separates from the University with Title IX charges pending against them, the process may continue with or without the Respondent’s participation.

r. Student Status During Title IX Process

The Respondent’s permanent status on campus will remain unchanged pending the final decision of the hearing process or any appeal. However, in cases where the sanction(s) determined by the University in the disciplinary decision include either

suspension or expulsion, the Student's privileges at the University, including the ability to attend classes and engage in University activities, may be revoked and the Student's permanent status on campus will change. Nothing in this section prevents the University from continuing to offer or implement supportive measures, including no-contact orders or emergency removal.

15. Sanctions

A Respondent found responsible for violations shall be subject to sanctions commensurate with the offense. Consideration may be given to an impact or character statement, aggravating and mitigating circumstances, and prior Student conduct records or admissions clearance restrictions, if applicable. An impact statement may include a description of how the Complainant was impacted by the conduct violation and recommendations for sanctions, penalties, or restitution. The Decision Maker is not bound by these recommendations. The impact statement, character statement, and evidence regarding aggravating or mitigating circumstances will be subject to questioning and cross-examination prior to being considered by the Decision Maker.

The Decision Maker will determine sanctions when the Respondent is found responsible based on the totality of the circumstances. One or more of the following sanctions may be imposed for any single violation.

a. Expulsion or Separation

A Respondent who is expelled or separated is permanently deprived of that individual's privilege to continue at the University in any capacity. The Respondent may not visit or come onto the University's campus without specific written permission of the VP-DSA or Chief Human Resources Officer. Expelled student Respondents are not in Good Standing. A permanent notation will be placed on the student Respondent's transcript indicating an expulsion.

b. Suspension

A Respondent who is suspended is required to leave the University for a specified period of time. The Respondent must comply with all sanctions and complete all requirements prior to re-admission. During the suspension period, the Respondent may not visit or come onto the University's campus without specific written permission of the VP-DSA or the Chief Human Resources Officer. While serving a suspension a student Respondent is not in Good Standing. A permanent notation will be placed on the student Respondent's transcript indicating any period of disciplinary suspension.

c. Disciplinary Probation

A Respondent on disciplinary probation is not in Good Standing at the University as a result of behavior that is in serious violation of University standards. Any

additional violations occurring during a probationary period may result in more serious sanctions. In addition, one or more restrictions may be placed on a Respondent's activities. Restrictions that may be imposed during a probationary period may include, but are not limited to:

- i. Participation in student activities or in student organizations;
 - ii. Representation on University athletic teams, or in other leadership positions;
 - iii. Access to University housing facilities or other areas on campus;
 - iv. Use of University resources and/or equipment; or
 - v. Contact with specified person(s).
- d. Disciplinary Reprimand

A written disciplinary sanction notifying a Respondent that the behavior did not meet University standards. All disciplinary reprimands become a part of a Respondent's record for the applicable record retention period and will be taken into consideration if further violations occur.

- e. Loss of University Privileges

Temporary or permanent loss of University privileges may include use of University facilities, resources, equipment, attendance at athletic functions, University Commons access, library use, parking privileges, University computer usage, and/or residence hall or other visitation.

- f. Restitution

The Respondent is required to pay for damages and/or loss of an individual's property or University property. Payment is limited to the actual cost of repair or replacement of such property.

- g. Community/University Service

A Respondent is required to complete a specified number of hours of service to the campus or general community.

- h. Education Requirements

A Respondent is required to complete a specified educational sanction related to the violation committed. Such educational requirements may include, but are not limited to, completion of a seminar, report, alcohol or drug assessment, presentations, and/or counseling.

i. University Housing Assignment Change or Removal

A Respondent is required to (a) relocate to a new University housing assignment; (b) leave University housing for a specified period of time; or (c) leave University housing permanently.

j. No Contact Order

A directive informing the Respondent that the Respondent is not to have any contact, direct or indirect, with one or more designated persons or group(s) through any means, including but not limited to personal contact, e-mail, telephone, text messaging, social media, or via third parties.

k. Withholding Degrees

The University may withhold issuing a degree, diploma, or transcript pending compliance with University regulations or policies or pending completion of the process set forth in this policy, including the completion of all imposed sanctions.

16. Hold on Student Records

The University may place a hold on the records or registration of any Respondent who fails to respond to sanctions issued by the University. The University may take other action necessary for resolution of a case prior to the Respondent's graduation or enrollment in a subsequent semester. All pending matters must be resolved prior to a Respondent's graduation or continued education at the University.

17. Employee Discipline

A Respondent who is a University employee and who is found responsible for violations shall be subject to discipline commensurate with the offense. Consideration may be given to aggravating and mitigating circumstances as well as prior discipline, if applicable. If, after the grievance process, a determination is made that disciplinary action is appropriate, such action will follow the guidelines set forth in HR-22, Standards of Conduct, as it may be amended, or in the applicable collective bargaining agreement for in-unit employees.

18. Appeals of Hearing Results

Both the Complainant and the Respondent may appeal the decision or sanctions. The appeal must be in writing and received by the Title IX Coordinator within ten days of the date of the decision letter.

If either the Complainant or Respondent submits an appeal, the other party will be notified and provided with a copy of the appeal. The other party will have ten days to respond to the appeal in writing. If the Respondent is a student, the VP-DSA or designee will review

the appeal, including all information provided by all parties. If the Respondent is an employee, the Chief Human Resource Officer or designee will review the appeal, including all information provided by the parties. Grounds for appeal are limited to the following:

- a. Procedural irregularity that affected the outcome of the matter;
- b. New evidence that could affect the outcome of the matter that was not reasonably available at the time the determination regarding responsibility or dismissal was made; or
- c. The Title IX Coordinator, Investigator(s), or Decision Maker 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.

The University may uphold the discipline decision, modify the decision, remand the case to the same Decision Maker for reconsideration of the discipline decision, or remand the case to a new Decision Maker for a new hearing. Unless the appeal decision is to remand the case for a new hearing, the appeal decision is considered the final decision of the University. A copy of the decision of the University shall be simultaneously forwarded to both Complainant and Respondent.

If the final decision of the University for a Student is a sanction of suspension or expulsion, the Respondent may seek judicial review of the final decision pursuant to Florida Rule of Appellate Procedure 9.190(b)(3), which is applicable to review of quasi-judicial decisions of an administrative body not subject to the Administrative Procedure Act, by filing a petition for certiorari review with the circuit court for Escambia County within 30 days of the final decision of the University. If a party seeks review with the court, that individual must also provide a copy of the petition for certiorari review to the Office of the Vice President of Academic Engagement and Student Affairs, University of West Florida, Building 11, 11000 University Parkway, Pensacola, Florida 32514, and to the Office of General Counsel, University of West Florida, Building 10, 11000 University Parkway, Pensacola, Florida 32514.

19. Conflict of Interest

During any portion of the Title IX process, if an individual who, because of that individual's position would ordinarily participate in the administration or disposition of a Formal Complaint under this policy, becomes involved in a case as a Complainant, Respondent, or witness, the University will assign an alternate individual to participate in the administration and/or disposition of the matter. Depending on the roles of the parties involved, either The VP-DSA or the Chief Human Resources Officer will make the assignment unless conflicted; if the VP-DSA or the Chief Human Resources Officers are conflicted, then the President will make the assignment; and, if the President is conflicted, then the General Counsel will make the assignment. Any individual designated by the University as a Title IX Coordinator, Investigator, Decision Maker, or any person designated by the University to facilitate an informal resolution process must not have a

conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

20. Grievance Process Timeline

Regardless of the deadlines set forth herein, the University may allow for the temporary delay of the process or the limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action.

21. Title IX Records

Title IX records will be maintained for seven years or the duration required by the State of Florida General Records Schedules, whichever is longer. However, records of cases that result in suspensions or expulsions of Student Respondents are kept permanently. Statistical and database information for Student Respondents may also be kept permanently at the University.

Approved by: 
President Manny Diaz, Jr.

Date: 7/22/26

Authority: Title IX of the Higher Education Amendments of 1972

Cross Ref.: University Regulation 3.010 Student Code of Conduct; University Policy HR-22 Standards of Conduct; University Policy P-13 Prohibition of Discrimination, Harassment, and Retaliation

History: Approved November 2013; amended March 2015, May 2015, August 2020, October 2020, March 2025, and July 2026.

Last Review: July 2026