UNIVERSITY POLICY P-14.02-02/15

Policy Title: Sexual Misconduct, Sexual Violence, Gender-Based Discrimination and Retaliation

Originator: Dr. Kevin Bailey, Vice President for Student Affairs

Responsible Office: Division of Student Affairs

Reason for Policy/Purpose:

This Policy covers complaints of alleged “Sexual Misconduct and Sexual Violence,” “Gender-Based Discrimination” and “Retaliation” made at the University of West Florida (“UWF” or the “University”) by individuals who are students, employees, or participants in University sponsored-programs at the time of the alleged incident.

SECTION 1 - INTRODUCTION

A. Overview and Purpose

The University of West Florida is committed to providing an environment that is free of Sexual Misconduct and Sexual Violence, Gender-Based Discrimination and Retaliation, as those terms are defined in this Policy. “Sexual Misconduct and Sexual Violence,” as defined by this Policy comprises a broad range of behavior that is prohibited in the UWF community including “Sexual Exploitation,” “Non-Consensual Sexual Contact and Non-Consensual Intercourse,” “Dating Violence,” “Domestic Violence,” “Sexual Harassment,” “Stalking” and “Violence Based on Gender.” In addition, this Policy covers “Gender-Based Discrimination,” which is differential treatment because of an individual’s sex/gender, and “Retaliation” which is a materially adverse action taken against someone who has participated in a complaint made under this Policy, or opposed practices prohibited by this Policy.

Sexual Misconduct and Sexual Violence, Gender-Based Discrimination and Retaliation (hereinafter “Prohibited Conduct”) are prohibited under this Policy and State and Federal law and regulations.

As a recipient of Federal funds, 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. Sexual Misconduct and Sexual Violence, Gender-Based Discrimination, and Retaliation are forms of discrimination prohibited by Title IX. The University of West Florida is committed to providing programs, activities and an educational environment free from such Prohibited Conduct. The University of West Florida is committed to fostering a community that
promotes prompt reporting of all types of Prohibited Conduct. Creating a safe environment is the responsibility of all members of the University community.

This Policy is designed to provide an equitable process through which an affected individual can report Prohibited Conduct. Through this Policy, the University strives to provide fairness to both the Complainant and the Accused while ensuring protection for the Complainant under Title IX and providing applicable process rights to the Accused.

B. Definitions

For the purposes of this Policy, the following definitions apply:

(1) **Accused** - the Accused is an individual(s) who allegedly violated this Policy. Where the Accused is not a current student or employee, this policy may not apply; however, other University policies may be used to investigate the matter reported and/or to take remedial action.

(2) **Complainant** - the Complainant is an individual who is a UWF student, as defined by the Student Code of Conduct, is a University employee (including a volunteer), or who was a participant in a University sponsored program at the time of the alleged incident, and who files a complaint under this Policy.

(3) **Complaint** – a complaint based on Prohibited Conduct as defined by this Policy.

(4) **Dating Violence** - any assault, aggravated assault, battery, aggravated battery, sexual battery, stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature as defined by Florida Law. For the State of Florida definition of Dating Violence see Section 784.046 (1)(d) Florida Statutes.

(5) **Dean** – the Dean of Students or his/her designee. Dean’s Office – means the Office of the Dean of Students, Building 18, Room 150B.

(6) **Domestic Violence** - any assault, aggravated assault, battery, aggravated battery, sexual battery, stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. For the State of Florida definition of Domestic Violence see Section 741.28(2), Florida Statutes.

(7) **Effective Consent** – Effective Consent is an affirmative act or statement by each person that is informed, freely given and mutually understood. It is the responsibility of each person involved in any sexual activity to ensure that he or she has the consent of the other or others to engage in the sexual activity. Consent must be ongoing throughout a sexual activity and can be revoked at any time. Within each sexual encounter, there may be separate individual sexual acts involved, and consent to one act by itself does not constitute consent to another act. Lack of protest or resistance does not mean consent, nor does silence mean that consent has been granted. Effective Consent cannot be gained by force, intimidation, threats, by ignoring or acting in spite of the objections of another, by coercion, manipulation or assumption, or from an
individual who is incapacitated. Effective Consent is absent when the activity exceeds the scope of effective consent previously given.

The existence of a dating relationship between the persons involved, or the fact of past sexual relations, should never by itself be assumed to be an indicator of consent for any current or future sexual encounter. Because consent may be difficult to discern without verbal communication, individuals are strongly encouraged to err on the side of caution. In other words, if an individual is unsure whether there is consent, he or she should ask. For the State of Florida definition of Consent to sexual activity, see Section 794.011, Florida Statutes.

(8) **Force** – physical force, violence, threat, intimidation or coercion.

(9) **Gender-Based Discrimination** - Gender-Based Discrimination is differential treatment taken because of an individual’s sex/gender, sexual orientation or gender identity, unless the conduct is based on a *bona fide* employment or educational requirement. Some examples are:

- disparity in hiring, promotion, salary, termination and other terms and conditions of employment,
- disparity of treatment in educational programs, activities and related services, and
- limitations on an individual’s participation in University activities.

(10) **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 and/or conduct, and/or the person is unable to physically or verbally communicate consent. States of incapacitation include, but are not limited to, sleep, blackouts, flashbacks and intoxication. However, where alcohol or another drug is involved, an individual does not have to reach the level of being intoxicated or drunk to be considered incapacitated. Rather, incapacitation is determined by how the alcohol or drug consumed impacts an individual’s decision-making capacity, awareness of consequences, ability to make informed judgments and ability to communicate unwillingness. Because incapacitation may be difficult to discern, individuals are strongly encouraged to err on the side of caution. In other words, if an individual is unsure whether someone is incapacitated, he/she should assume that the person is incapacitated.

(11) **Intake Officer** – the individual(s) designated by the Title IX Coordinator to conduct the initial meeting with the Complainant and the initial meeting with the Accused. These initial meetings include information about this Policy, the procedures and available resources.

(12) **Investigators** – the individuals designated by the Title IX Coordinator to conduct investigations of alleged Prohibited Conduct under this Policy.

(13) **Non-Consensual Sexual Contact or Non-Consensual Sexual Intercourse** – sexual contact or intercourse that occurs without Effective Consent (may be referred to as Rape or Sexual Assault). For State Florida definition of Sexual Battery, see Section 794.011, Florida Statutes.

(14) **Preponderance of Evidence** – the greater weight of the evidence; more likely than not; the stronger evidence on the whole, however slight the edge may be.

(15) **Prohibited Conduct** – conduct that constitutes one or more of the following and is prohibited by this Policy: Dating Violence, Domestic Violence, Gender-Based Discrimination, Non-Consensual Sexual Contact or Non-Consensual Sexual Intercourse, Retaliation, Sexual Exploitation, Sexual Harassment, Stalking and/or Violence Based on Gender.
(16) **Protected Activity** – includes any of the following: (a) reporting conduct which is prohibited by this Policy, (b) participating in the investigation of a Complaint of Prohibited Conduct, or (c) opposing or protesting practices which are prohibited by this Policy.

(17) **Protected Class** – The classes protected under this Policy are sex/gender, sexual orientation, and gender identity.

(18) **Responsible University Employee** - a University employee who has the authority to take action to address an allegation of Prohibited Conduct and/or has the duty to report the alleged Prohibited Conduct to appropriate University officials.

(19) **Retaliation** – materially adverse actions, including intimidation, threats, and harassment, taken against a Complainant, a witness or individual because he/she engaged in a Protected Activity.

(20) **Sexual Contact** – the deliberate touching (including anal or vaginal penetration with an object) of a person’s intimate parts (including genitalia, groin, breast or buttocks or clothing covering any of those areas), or using Force to cause a person to touch his or her own or another person’s intimate parts.

(21) **Sexual Exploitation** - taking sexual advantage of another person without Effective 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 or transmitting identifiable images of sexual activity or intimate parts of another person without that person’s Effective Consent; allowing third parties to observe sexual acts without the Effective Consent of all participants; engaging in voyeurism; exposing one’s genitals to another without Effective Consent; and/or knowingly or recklessly exposing another person to a significant risk of a sexually transmitted infection, including HIV.

(22) **Sexual Harassment** - unwelcome conduct, based on sex/gender, sexual orientation or gender identity, that is sufficiently severe or pervasive so that it alters the terms and conditions of the Complainant’s employment or educational environment. Sexual harassment may include, for example, unwanted sexual advances, requests for sexual favors or other physical or verbal conduct of sexual nature.

(23) **Sexual Intercourse** – oral, anal, or vaginal penetration by, or union with, the sexual organ of another.

(24) **Sexual Misconduct and Sexual Violence** – a broad term encompassing Sexual Exploitation, Sexual Harassment, Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, Dating/Domestic Violence, Stalking when the victim was chosen as a target for stalking because of his or her gender and other acts of Violence Based on Gender. Sexual Misconduct and Sexual Violence can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual Misconduct and Sexual Violence can be committed by men or by women, and it can occur between people of the same or different sex.

(25) **Stalking** – willfully, maliciously, and repeatedly following, harassing, or cyberstalking another person where the victim was targeted due to his or her sex/gender, sexual orientation or gender identity. For the State of Florida definition of Stalking see Section 784.048, Florida Statutes.

(26) **Student Code of Conduct UWF/REG 3.010** – the Student Code of Conduct is the UWF regulation governing student behavior on campus.
(27) **Student Conduct Committee** – as defined by the Student Code of Conduct, the standing committee of students, faculty and staff designated to hear cases of alleged violations of the Student Code of Conduct.

(28) **State of Florida Definitions** of sex related crimes see Chapters 784, 794, 796, 800, and 810, Florida Statutes.

(29) **Title IX Coordinator** – University employee with the responsibility for administering this Policy, including identifying and addressing any patterns or systemic problems that arise during the review of Title IX complaints. The Title IX Coordinator is assisted by Deputy Title IX Coordinators.

(30) **University** – the University of West Florida.

(31) **Violence Based on Gender** – Any other crime or act of violence, not defined above, taken against another when the victim was targeted due to his or her sex/gender, sexual orientation or gender identity.

**SECTION 2 – PROHIBITED CONDUCT and STANDARDS**

**A. PROHIBITED CONDUCT**

A Complainant may file a Complaint alleging that he or she was subject to Prohibited Conduct as defined in this Policy, and that this Policy was therefore violated. Conduct that constitutes one or more of the following is prohibited by this Policy and shall be referred to as “Prohibited Conduct.”

1. **Sexual Misconduct and Sexual Violence**
   a. **Sexual Harassment.** Sexual harassment violates this Policy when any one of the following occur:
      i. the unwelcome conduct of a sexual nature is sufficiently severe or pervasive so as to alter the terms and conditions of the individual’s employment or educational environment,

2. **Gender-Based Discrimination**

3. **Retaliation**

**B. STANDARDS**

In determining whether the alleged conduct constitutes Prohibited Conduct, as defined by this Policy, the following standards must be met:

1. **Sexual Misconduct and Sexual Violence:**
   a. **Sexual Harassment.** Sexual harassment violates this Policy when any one of the following occur:
      i. the unwelcome conduct of a sexual nature is sufficiently severe or pervasive so as to alter the terms and conditions of the individual’s employment or educational environment,
(ii) where submission to unwelcome sexual requests is either explicitly or implicitly made a term or condition of employment or of an individual’s educational status or success, or
(iii) where submission or rejection of the sexual conduct or request is the basis for employment or educational decisions affecting the individual.

(b) Dating Violence, Domestic Violence, Non-Consensual Sexual Contact or Non-Consensual Sexual Intercourse, Sexual Exploitation, Stalking and Violence Based on Gender: The definitions listed in Section 1 apply to each of these prohibited acts. In determining whether this Policy was violated, a two-part inquiry must be answered. The inquiry is:
(i) whether it is more likely than not that the conduct that was alleged occurred and
(ii) whether the conduct meets the definition in Section 1B, above.

(2) Gender-Based Discrimination. Conduct violates this Policy when:
(a) the Complainant is a member of a Protected Class,
(b) the Complainant was treated less favorably than similarly situated individuals who are not members of the same Protected Class, and
(c) the less favorable treatment was due to the Complainant’s membership in the Protected Class.

(3) Retaliation. Conduct violates the Policy when:
(a) the Complainant engaged in a protected activity,
(b) the Accused was aware of the protected activity,
(c) the Complainant subsequently is subject to a material adverse action caused by the Accused, and
(d) there a causal connection between the protected activity and the material adverse action.

(4) Standard of Proof. In making these determinations, the “more likely than not” or “Preponderance of the Evidence” standard is used.

SECTION 3 – AUTHORITY, TIMING, EFFECT OF CRIMINAL PROCEEDINGS and COMPLAINANT PARTICIPATION

A. University Authority

A UWF student, as defined by the Student Conduct Code, a UWF employee (including a volunteer) or a participant in a University sponsored program may file a Complaint against any UWF student or UWF employee under this Policy. In those cases where either party is both a University student and a University employee, the Title IX Coordinator will determine, based on the nature of the allegations, the procedures to be used for addressing the alleged misconduct.
Off-Campus Conduct

The University may take action against a student or employee under this Policy for Prohibited Conduct occurring off-campus where one or more of the following applies: (a) The conduct is disruptive to the orderly processes and functions of the University; (b) the conduct demonstrates that the continued presence of the student or employee on campus presents a danger to the health, safety or welfare of any member of the University community; (c) the off-campus conduct is intimidating or threatening to the University community or an individual within the University community; (d) the off-campus conduct is of such a serious nature that it adversely affects the student or employee’s suitability to remain a part of the University community; or (e) the off-campus conduct is such that it could constitute a violation of the law.

B. Timing of Complaints and Availability of Procedures

As long as there is University authority over the Accused Student or Accused Employee, there is no time limit or statute of limitations to filing a Complaint under this Policy. Nevertheless, victims are encouraged to report Prohibited Conduct immediately in order to maximize the University’s ability to conduct a thorough and reliable investigation. Failure to promptly report Prohibited Conduct may result in the loss of evidence and witness information, and may impair the University’s ability to enforce this Policy.

C. Effect of Criminal Investigation/Proceeding

Because Prohibited Conduct may constitute both a violation of this Policy and criminal law, the University encourages victims to report alleged criminal conduct promptly to local law enforcement agencies. If the alleged violation is also being investigated by law enforcement authorities, the University may delay its investigation long enough to permit law enforcement agencies to collect evidence. The University may take interim measures during the pendency of the criminal investigation.

The standards for finding a violation of criminal law differ from the standards for finding that a violation of this Policy occurred. A violation of this Policy may be found even though law enforcement agencies lack sufficient evidence of a crime. If outside charges have been dismissed, are not prosecuted, are not heard, or if adjudication of guilt is withheld, such action will have no bearing on University charges and/or outcome.

D. Complainant Does Not Wish to Pursue Resolution

If the Complainant does not wish to pursue any remedy under this policy and/or requests that his or her Complaint remain confidential, the University will consider the Complainant’s request. However, the University is required to investigate and take reasonable action in response to information reported. The Title IX Coordinator, in conjunction with the appropriate Deputy Coordinator/Investigator, will weigh the Complainant’s request against the following factors:
• Whether there have been other complaints of Prohibited Conduct against the same Accused
• Whether the accusations are of a nature that the continued presence of the Accused on campus poses a threat to the safety of other community members.

The Title IX Coordinator will inform the Complainant if the University makes the determination to move forward with charges under this Policy without the Complainant’s participation.

SECTION 4 - THE PROCESS: INITIAL STEPS and INVESTIGATIVE PROCEDURES

A. Reporting Prohibited Conduct

(1) Reporting. Individuals who feel that they have been victims of Prohibited Conduct by a UWF student or employee should report this information as soon as possible. Reports of Prohibited Conduct can be made to any of the following:

(a) Title IX Coordinator.
(b) Deputy Title IX Coordinators.
(c) The Chief Diversity Officer.
(d) Office of Equal Opportunity and Compliance.
(e) The Dean of Student’s Office.
(f) The Director of Human Resources.
(g) The Office of General Counsel.
(h) University Police.
(i) Any other Responsible University Employee.

(2) Obligation to Report. Responsible University Employees have an obligation to report information received regarding Prohibited Conduct. Responsible University Employees include, but are not necessarily limited to, faculty, administrative staff, Housing and Residence Life Staff (including Resident Assistants), athletic coaches, and other individuals in similar positions. Individuals defined as Responsible University Employees under this Policy who receive a report of alleged Prohibited Conduct must immediately report the information to the Title IX Coordinator.

(3) Confidentiality. Individuals reporting Prohibited Conduct to any Responsible University Employee should know that every effort will be made to respect the private and sensitive nature of their report. However, as required under Title IX, reports to any of the above parties will result in a notification of the report to the Title IX Coordinator. The Complainant will have the option of whether to pursue further remedies as described below, but should take note that any report to a Responsible University Employee will result, at minimum, in a report to the campus Title IX Coordinator.
If a student wishes to speak with someone on campus **confidentially** about alleged Prohibited Conduct or any other matter, he or she should contact and schedule an appointment with Counseling and Psychological Services (850-474-2420). If an employee wishes to do the same, he or she may contact the Employee Assistance Program (1-800-860-2058). Complainants who are participants in University sponsored programs, but are not UWF students or employees, will be provided with community counseling referrals in the intake meeting. **Any information disclosed to a mental health professional during a counseling session is considered private and confidential and is legally protected.** A mental health professional is not required by Federal Law or regulation to report the incident to the Title IX Coordinator.

University Health Center staff is not required by Federal law or regulation to report the information to the Title IX Coordinator. Any information shared by a student regarding Prohibited Conduct with a doctor, nurse, or administrative staff member in the University Health Center is only reported to the Title IX Coordinator **with the student’s permission.** However, disclosures to University Health Center staff are not protected by the law to the same extent as are disclosures to a mental health professional. For example, disclosures to University Health Center staff may be obtainable during the course of an investigation or by subpoena.

**B. Amnesty from Related Misconduct Charges**

The University will not pursue student conduct code violation charges against a student filing a Complaint under this Policy who may have been in violation of the University Student Code of Conduct at the time he or she was the subject of alleged Prohibited Conduct. For example, if a student Complainant is under age 21 and alleges that he/she was sexually assaulted while under the influence of alcohol, the University would not pursue disciplinary action against the Complainant related to underage drinking.

**C. Intake Meeting with the Complainant**

Upon receipt of notice of an allegation of Prohibited Conduct, Title IX Coordinator will notify the appropriate University Intake Officer, who will contact the Complainant and schedule an individual intake meeting. The Intake Officer will explain this Policy to the Complainant, the parameters of confidentiality under this Policy, the Complainant’s rights to pursue remedies under this Policy, and a discussion of any immediate interventions or accommodations that may be appropriate concerning the Complainant’s academic, University housing and/or University employment arrangements. In addition, the Intake Officer will provide resources and sources of support on campus and in the local community.

**D. Interim Measures**

(1) **Measures Available.** Based on the nature and seriousness of the alleged conduct, regardless of whether or not the Complainant wishes to pursue a remedy under this Policy, the University may take interim measures. These interim measures are designed to prevent the recurrence of the alleged misconduct, to prevent retaliation and to limit the negative effects of the alleged
misconduct during the investigation period. The University will notify the Complainant of the interim measures available under this Policy. Depending on the circumstances, interim measures which may be available to a Complainant include, but are not limited to:

- **No Contact Order** – the University may issue no-contact orders between the Accused individual and the Complainant and/or others involved.
- **On-Campus housing reassignment** – the University may complete an administrative housing reassignment in order to separate the Complainant and the Accused. This may include reassigning the Complainant, the Accused, and/or others involved.
- **Academic measures** – the University may work with a Complainant to assist the Complainant regarding his/her academic coursework. Depending on the circumstances, examples of interim measures may include working with instructors related to missed classes, assigning the Complainant or the Accused to a new course section as scheduling permits, allowing the Complainant to finish the course requirements via distance learning or independent study, or, where applicable, providing the Complainant with a medical withdrawal from one or more courses.
- **Employment measures** – the University may work with a Complainant to provide interim measures in situations where the alleged Prohibited Conduct occurs within the context of his or her employment on campus, including student employment. Depending on the circumstances, examples of interim measures may include, but are not limited to, assigning the employee to work alternative hours, assigning the employee to a different work location, or assigning the employee to a different department during the duration of the investigation. Employment measures will be taken in accordance with UWF employment policies and applicable collective bargaining agreements.

(2) **Review of Interim Measures.** In the event interim measures are requested but not granted, or interim measures are taken but are unsatisfactory to either party, either party may request that the decision related to interim measures be reviewed. The request for review must be made in writing and must be submitted to the Title IX Coordinator. The standard for imposing and for reviewing interim measures is limited to the determination of whether the health, safety or welfare of a student or member of the University Community is involved and whether the decision regarding interim measure(s) is appropriate under the circumstances. The request for review must explain why the decision regarding interim measures does not meet the standard. The Title IX Coordinator will designate an individual to review the interim measure decision. The designated reviewer will provide the other party with the opportunity to submit a response to the request for review within five calendar days. The designated reviewer will make a decision based upon the documents provided by the parties, and may call either or both of the parties in for an interview if the designated reviewer deems it necessary. The designated reviewer has the authority to uphold, modify or withdraw the interim measures.
E. Threshold Determination

Once the initial intake meeting with the Complainant has taken place, a threshold determination will be made. This means that the Title IX Coordinator will determine whether, assuming the allegations to be true, the conduct alleged would constitute a violation of this Policy.

If the Complainant chooses not to attend the intake meeting, the threshold determination will be made based on the available information. If the threshold is not met, the Accused will be notified that a Complaint has been filed against him or her and both parties will be notified concurrently in writing that no further investigation will be conducted. If the threshold is met, an intake meeting will be scheduled with the Accused.

F. Intake Meeting with the Accused

The University Intake Officer(s) will contact the Accused and schedule an intake meeting. The Intake Officer will explain this Policy to the Accused, his or her rights under this Policy, and will explain possible immediate interventions/accommodations and their implications. In addition, the Intake Officer will identify resources and sources of support available on campus and in the local community. Depending upon the circumstances, the intake meeting with the Accused may be held before or after the threshold is determined. After the Threshold is met and the Intake meeting with the Accused is scheduled, the matter will be assigned to a designated Title IX Investigator and both parties will be notified concurrently that an investigation will begin.

G. Investigative Process

(1) Role of the Title IX Investigator

The Title IX Investigator is a neutral fact-finder who, during the course of the investigation, typically conducts interviews with the Complainant, the Accused, and witnesses. The Complainant and Accused will be contacted by the designated Title IX Investigator to begin the investigation. Please note: The intake meeting and the initial meeting with the Title IX investigator may be combined for purposes of expediency.

If a Complainant does not wish to pursue any remedies available to him/her under this Policy, he/she may choose not to participate in the investigation. However, the investigation may continue, at the University’s discretion, without the participation of the Complainant.

(2) Elements of the Investigation

The Investigator will:

- Interview the Complainant, the Accused and witnesses
- Obtain information provided by the Complainant, the Accused, witnesses and/or law enforcement agencies.
• Provide the Complainant, the Accused and any witnesses the opportunity to have a
representative/advisor accompany them during investigative meetings.
• Keep records of the investigation, including a description of the allegations, notes from all
interviews, and notes of any actions taken.
• Provide a written report of the investigation ("Investigative Report") to the Title IX
Coordinator.

(3) Investigative Report

The written Investigative Report completed by the Investigator will be sent to the Title IX
Coordinator for review. The Investigative Report will state whether the Investigator(s) found
whether the conduct that is alleged occurred, whether the alleged conduct constituted
Prohibited Conduct under this Policy, and whether the Policy was violated. The more likely than
not or preponderance of the evidence standard will be used. The Investigative Report may also
include recommended courses of action.

The Title IX Coordinator will provide copies of the Investigative Report to both the Complainant
and the Accused. The Complainant and the Accused will be offered the opportunity to submit
written comments to the Investigative Report within (7) seven calendar days from the date the
Investigative Report was mailed or e-mailed to the Complainant or the Accused.

(4) Timing

Within 45 calendar days from the date the Title IX Coordinator received notification of the
Complaint, the University will attempt, inasmuch as possible, to conclude the investigation,
prepare an Investigative Report and provide the Complainant and the Accused the opportunity
to submit written comments to the Title IX Coordinator.

H. Final Determination - at the conclusion of the (7) seven day period, the Title IX Coordinator will
finalize the report and will issue a “Final Determination.” The Final Determination will state whether
there is cause to believe this Policy was violated. This finding will be made using a preponderance of the
evidence or more likely than not standard.

I. Appeal of No Cause Final Determination - if it is determined that there is not sufficient cause to
believe that this Policy was violated, both parties will be notified. If the Complainant is a University
employee he or she may appeal the Final Determination by submitting a written appeal to his or her
divisional Vice President within (10) ten business days of the date of the Final Determination. If the
Complainant is a student he or she may appeal the Final Determination by submitting a written appeal
to the Vice President of Student Affairs within (10) ten business days of the date of the Final
Determination. The Vice President’s decision on appeal of a No Cause Final Determination is the final
decision of the University.
Remedial and Other Non-Disciplinary Measures with No Cause Final Determination

Even if it is found that this Policy was not violated, and formal disciplinary charges are not brought against the Accused, other remedial actions may be warranted based upon the investigative findings. Non-disciplinary and/or remedial actions (i.e., educational programs or cease and desist directives) may be taken at the discretion of the University. Such remedial action will be determined and directed by the Title IX Coordinator or his or her designee.

Either party has the opportunity to submit a written request for a review of the non-disciplinary and/or remedial measures; except, however, the party on whom the non-disciplinary and/or remedial measure is taken may not request review where the sole remedial measure is a directive that he or she engage in an educational program(s).

If the party on whom the non-disciplinary and/or remedial action is taken is a UWF student, either party may request a review of the remedial measures with the Vice President for Student Affairs. If the party on whom the remedial action is taken is a UWF employee, either party may request a review of the remedial measures with the appropriate Vice President. If a request for review is submitted by one party, the other party will be provided with the opportunity to submit a written response to the request for review within five calendar days. The review will be conducted by the appropriate Vice President or his/her designee within five business days of the receipt of the response or within five business days after the expiration of the due date of the response, where no response is provided. The scope of this review is limited solely to the determination of whether the non-disciplinary remedial actions are appropriate given the nature of the circumstances. The appropriate Vice President has the authority to uphold, modify or withdraw the non-disciplinary and/or remedial measures.

J. Referral For Disciplinary Action - For Cause Determination: if a Final Determination is made that there is cause to believe this Policy was violated, both parties will be notified. The next step will be based upon whether the Accused is a student or employee:

1. In those cases where the **Accused is a UWF student**: The Investigative Report, Final Determination, any comments of the Complainant and the Accused and other information will be forwarded to the Dean of Students or designee, who shall consider the information and shall determine whether disciplinary action will be pursued. If a student is charged under the Student Code of Conduct, all hearings and other processes will follow the guidelines in the Student Code of Conduct for Title IX Cases.

2. In those cases where the **Accused is a UWF employee**: The Investigative Report, Final Determination, any comments of the Complainant and the Accused and other information will be forwarded to the Vice President over the area in which the employee works, and also to the Human Resource Department. The Vice President or designee shall consider the information and shall determine whether disciplinary action will be pursued. If the Vice President determines that disciplinary action is appropriate, such action will follow the processes set forth
in HR-22.00- 2004/07 *Standards of Conduct* and/or in the applicable collective bargaining agreement for in-unit employees. Appeals and other reviews of disciplinary action are described in HR-22.00-2004/07, in the applicable collective bargaining agreement for in-unit employees, and in UWF/REG 2.029 *Grievance Process for Employees Not Covered by a Bargaining Unit*.

**K. Conflict of Interest** – if an individual, who, because of his or her position would ordinarily participate in the administration or disposition of a Complaint under this Policy, becomes involved in a case as a Complainant, Accused or Witness, the University will assign an alternate individual to participate in the administration and or disposition of the matter.

**Change Justification:**

This policy is being updated in compliance with Federal law and regulatory changes.

**Authority and Related Documents:**

Title IX of the Higher Education Amendments of 1972.

**APPROVED:** Dr. Judith A. Bense, President **Date:** 5/11/15

**History:**

P-14.01-11/13 Sexual Misconduct and Gender-Based Discrimination Policy, adopted November 2013; P-14.02-02/15 Sexual Misconduct, Sexual Violence, Gender-Based Discrimination and Retaliation, adopted March 2015 as an interim policy. Approved as a permanent policy following the expiration of the comment period in May 2015.