



SEXUAL MISCONDUCT FORMAL COMPLAINT RESOLUTION PROCEDURE

Department of Human Resources

Effective: July 9, 2012

Revised: April 14, 2014

1. FORMAL COMPLAINT

If the complainant wishes to file a formal complaint or if the situation otherwise warrants a formal investigation and the complainant has not already completed a *Report Form*, the Title IX *Complaint Form* should be completed and signed by either the complainant or the Title IX coordinator on behalf of the complainant. The Title IX coordinator can also complete a form on behalf of the complainant depending on the circumstances (e.g., anonymous complainant, telephone complaint). This complaint form can be supplemented with supporting documentation; however, in order to maintain privacy for all parties, a copy of the formal complaint is the only document which will be released to either party. All other documentation will be made available to either party or their advisors upon request at a mutually-agreeable time and location, typically during normal business hours in the Human Resources Department.

2. PRELIMINARY INVESTIGATION

The preliminary investigation is a review of the incident description, files history, facts, and patterns. It should include an interview with the complainant and a review of the written complaint, as well as any supporting documentation that is provided. The Title IX coordinator will generally conduct the preliminary investigation. If after the preliminary investigation the Title IX coordinator determines that the complaint is properly handled through another complaint mechanism, the complaint should be routed accordingly. If there is sufficient evidence to indicate that the allegation of sexual misconduct should be investigated in accordance with the sexual misconduct policy, he/she should move forward as follows:

a. Notify the president that a sexual misconduct investigation is being initiated.

The president or his designee will appoint a trained investigator(s) and select three to four individuals from the established pool of trained employees to serve on the Appeals Committee. The president will also designate a chair for the Appeals Committee. The president's office will provide this information to the Title IX coordinator, who will then move forward with the next step in the process.

b. Simultaneously notify both the complainant and the accused through the *Complaint Notice* regarding the fact that a sexual misconduct investigation will take place.

The *Complaint Notification* will provide instructions regarding the investigation process and the Title IX coordinator's anticipated timeline for completion of the investigation. If the anticipated timeline for completion needs to be extended at any time, the Title IX coordinator will simultaneously notify both parties in writing of the deadline extension and provide a new anticipated timeline for completion.

The names of the appeals committee members should be provided together, along with an opportunity for either party to object together with reasons for their objection. Instructions to both parties not to conduct their own investigation and to provide any relevant information such as a list of potential witnesses to the Title IX coordinator are provided in the *Complaint Notice*. Instructions should also be included in the notification regarding privacy of information as well as a determination regarding any preliminary steps that should be taken pending the outcome of the investigation.

The timeline for this process is generally two (2) days; every effort should be made to provide the notification letter to the parties within this timeframe. The *Complaint Notice* will also provide the parties with an opportunity to provide an alternative address to receive all correspondence regarding the complaint. The notice will instruct the parties that the university will use the office address that is on file that unless an alternative address is provided in writing. A copy of the *Complaint Form* will be attached to the *Complaint Notice*. Instructions will be provided as to how either party can request an opportunity to review the file.

3. **INVESTIGATION**

Investigator(s) will interview all individuals involved in the complaint and compile documentation such as written and recorded statements. Both the Complainant and the Accused may have advisors to support and assist them during the investigation, determination, and appeal stages of the process. The investigation should be initiated within five (5) days of the decision to proceed with an investigation. In the event that the investigation is not initiated within this timeframe, the investigator and/or the Title IX coordinator should document the reasons for any delay.

The investigations should be completed and all documentation provided to the Title IX coordinator by the investigator(s) within 21 days. Reasons for deviations from this timeline should be documented in the report.

4. **COMPLAINT DETERMINATION**

The Title IX coordinator will receive the Investigation reports and will make a determination as to whether specific violations of the *Sexual Misconduct Policy* were or were not substantiated using the preponderance-of-the-evidence standard. A determination can also be made that the allegations, while made in good faith, were not true. The Title IX coordinator may contact either party to ask clarifying questions prior to making a determination but is not required to do so.

Both parties will be notified in writing regarding the Title IX coordinator's determination through the issuance of a *Determination Letter* as well as a *Memorandum Opinion*. The Title IX coordinator will provide a copy of the *Determination Letter* to both parties via regular mail to the address provided or the address on file with the university if an alternative address is provided. In order to allow committee members to begin coordinating their calendars in the event of an appeal, the Title IX coordinator will notify the Appeals Committee of the fact that said letter will be being issued.

The *Determination Letter* will contain only the following information: name of the accused; a determination as to whether specific violations of the *Sexual Misconduct Policy* were or were not substantiated using the preponderance-of-the-evidence standard; and disciplinary consequences, if any result from the investigation.

If a determination is made that the allegations were substantiated, the *Determination Letter* will include proactive measures to be initiated by the University which are designed to bring an end to any discriminatory conduct, reasonably prevent its recurrence, and remedy any effects on the victim. These can include, but are not limited to, sanctions against the accused. Details of any consequences or directives to the accused that relate directly to the complainant will also be provided.

The parties will also be informed that either party to the complaint will be given the opportunity to review the information that was considered by the investigator, who will determine a mutually-agreeable time and location on the university campus for the review. Additionally, the *Determination Letter* will inform the parties of their right to appeal the determination of the Title IX coordinator to the Hearing Committee.

The *Memorandum Opinion* will explain the Title IX coordinator's reasoning for the decision and will be made available for review to either party *upon request* and to the Hearing Committee if an appeal of the Title IX coordinator's determination is made by either party. Complaints that involve allegations of conduct addressed in the Clery Act may require additional disclosure requirements. In addition to a copy of the *Determination Letter*, the *Letter to the Complainant* will also be sent.

If either party requests an opportunity to review the additional investigation materials, including the *Memorandum Opinion*, the Title IX coordinator will make arrangements for that party to review the materials at a mutually-agreeable time in the conference room adjacent to the Title IX Office. Notice of this right will be provided to each party throughout the process; there is no deadline to request this opportunity. This opportunity must not be delayed, since a party's decision to appeal must be made within 7 business days of receipt of the *Determination Letter*.

If either party submits a written appeal of the Title IX coordinator's determination, the predetermined Appeals Committee will be convened, with an *Appeal Letter* to be sent to both parties.

5. **APPEAL**

Within seven (7) business days of receiving notification of either party's request to appeal the determination of the Title IX coordinator or as soon possible thereafter, the Title IX coordinator will provide the parties with information regarding the appeals process. This will include an explanation of the right of either party to address the Appeals Committee.

The Appeals Committee will meet to review all documents privately and will listen to one or both parties; the committee will entertain the parties separately if requested. The committee

can also contact the Investigator(s), the Title IX coordinator, or either party for clarification of information.

In the event that either party requests the opportunity to address the Appeals Committee, a courtroom model will not be followed and formal rules of evidence will not be observed. An advisor, including legal counsel, may be present on behalf of either party. Such counsel may consult privately with and advise the respective party during the proceedings but may not directly participate on behalf of the party. An advisor/legal counsel may not direct questions or comments to the committee but may consult with the individual being assisted. The committee chair will not allow an advisor or legal counsel's presence to inhibit the conduct of the appeal hearing.

The Appeals Committee will provide opportunity for the Complainant and Accused to appear before the committee to provide a verbal or written statement addressing the reason the decision of the Title IX coordinator should or should not be upheld. Verbal statements by the Complainant or the Accused are limited to 15 minutes, and no other individuals will be allowed to make statements on their behalf or in their stead. Upon timely request by the Complainant or Accused, the university may be able to accommodate statements via electronic means in appropriate circumstances.

A recording will be made of these statements, and the chair of the Appeals Committee will make arrangements for duplication of the recording upon request. The Complainant, Accused, along with any advisors, will be excused after both individuals have had the opportunity to provide a statement. If either the Complainant or Accused chooses not to submit a statement or appear before the committee, the Appeals Committee will make the recommendation based on the information received. If the committee determines that unresolved issues exist that would be clarified by the presentation of additional information, the chair may suspend the hearing and reconvene it in a timely manner after receipt of such additional information.

The Appeals Committee will formulate a decision based upon a *preponderance of evidence* as to whether the Title IX coordinator's determination was fair and proportionate to any violation. As part of its deliberations, the committee will also consider whether the determination will (a) result in an end to the violation in question; (b) reasonably prevent a recurrence of a similar violation; and (c) remedy the effects of the violation on the Complainant and the university community.

The committee chair will draft a written recommendation to uphold or overturn the decision of the Title IX Coordinator in whole or in part. The recommendation will be submitted to the president of the university.

The president of the university will review the Appeals Committee's report and will concur with the recommendation or will make a different decision regarding the status of the employee or student. Accompanying documents, as well as any recorded statements from the Complainant and Accused made at the hearing, may also be reviewed.

The time period between the Appeals Committee meeting and the president's review is approximately 1 week. Official notification to the parties will follow in a formal letter, with a copy to the Title IX coordinator.

6. SANCTIONS

If a student is found in violation of policy and is declared ineligible to re-enroll at the university or ineligible to re-enroll until after a certain date, the university registrar will make that notation and place a hold on the student's academic transcript.


If an employee is found in violation of policy, the director of Human Resources will place a notation in the employee's personnel record.

The imposing of sanctions represents the end of the process at the university level. The Accused and the Complainant have the right to appeal to the University of Louisiana System Board of Supervisors pursuant to any UL System appeals process that may be in effect.

Amendments:

These internal procedures amend the *Sexual Complaint Procedures* adopted on 7-9-12.


Adopted:



Authorizing Agent



Title



Date