



h

Sex Discrimination Policy 2018-19

Heidelberg University | Title Nine Policy Team

Contents

Notice of Prohibition of Sex Discrimination 2

Definitions 3

 Sexual Harassment..... 3

 Sexual Misconduct..... 4

Consent 7

Advisor..... 8

Title IX Coordinator and Team..... 9

Complaints 10

Administrative Complaints..... 10

Investigation..... 11

Confidentiality..... 11

Protective Measures 12

Informal Resolution 14

Formal Resolution 15

Sanctions 18

Appeals 19

Amnesty for Those Who Report Sex Discrimination 20

Anti-Retaliation 20

Bystander Intervention 20

Education and Programs 21

Criminal Proceedings..... 21

Victim Support Information..... 22

Reporting Importance 23

Access to Policy..... 23

Notice of Prohibition of Sex Discrimination

Heidelberg University does not discriminate on the basis of race, color, sex, gender, gender identity, sexual orientation, religion, national origin, age, or disability in its education programs, employment or activities.

The Sex Discrimination policy addresses all forms of sexual discrimination, including sexual misconduct and sexual harassment. Heidelberg University does not discriminate on the basis of sex, gender, or gender identity in its educational, extracurricular, athletic, or other programs or in the context of admissions or employment in accordance with Title IX of the Education Amendments of 1972.

Title IX is a federal law that provides that, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Heidelberg University, as an educational community, will promptly and equitably respond to all reports of sexual discrimination in order to eliminate the misconduct and/or harassment, prevent its recurrence, and address its effects on any individual or the community.

This policy applies to all members of the University community including: students, employees, volunteers, independent contractors, visitors, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business, or having any official capacity at the University.

Reporting Importance

Title IX focuses on the adverse consequences faced by victims of sex and gender discrimination, including sexual harassment and sexual misconduct. It creates obligations for the University to investigate and to provide a “prompt and effective remedy.” If the victim is a student, Title IX means among other things that the University must provide a safe environment that does not interfere with the victim’s right to pursue an education. The University incurs this obligation when a victim has given notice to a “responsible employee,” or when the University, in the exercise of reasonable care, should have known about the assault or harassment.

It is the University’s policy that most employees are mandatory reporters under Title IX. Accordingly, unless otherwise specified, employees who become aware, directly or indirectly, of possible violations of Heidelberg’s Prohibition on Sex Discrimination are obligated to promptly contact a member of the Title IX team, to Heidelberg University Security and Safety Department at (419) 448-2211, or through any member of the Residence Life staff. Exclusions to the University’s mandatory reporting requirement include the Stoner Health and Counseling Center licensed counseling staff and any Stoner Health Center employee when scheduling counseling appointments.

Access to Policy

The Sex Discrimination Policy is published online on the Heidelberg University Website. It is included in the Student Handbook distributed yearly to all students, and can be found in the Faculty Manual and University Policies Handbook.

Victim Support Information

Heidelberg University is committed to providing support for students who have been victims of sex discrimination. Below is a brief description of resources available. For more information or to request an accommodation which may not be listed, victims should contact the Title IX Coordinator or a Title IX deputy.

1. Assistance finding confidential counseling and support either through the Stoner Health Center or through referrals to an outside agency.
2. Assistance finding confidential medical services either through the Stoner Health Center or through referrals to an outside agency such as the Mercy Hospital System.
3. Academic accommodations which may include a change in class schedule, taking an incomplete, dropping a course without penalty, attending a class via electronic or other alternative means, or extending deadlines for assignments.
4. Housing accommodations which may include changes in residential status, changes in room assignment or temporary accommodations in a residential safe room.
5. Employment accommodations such as change in work assignment or schedule.
6. Preventing contact with the perpetrator through escort services from the Office of Safety and Security, no contact orders or interim separation of the perpetrator.
7. Hiding personal information such as directory information through the Registrar office.

Additionally a victim may seek support for one of the outside agencies listed below:

- Tiffin City Prosecutor's Victim Assistance Program - (419) 448-5413
- Seneca County Prosecutor's Victim Assistance Program – (419) 448-5070
- Firelands Counseling and Recovery Services - (419) 448-9440
- Seneca County Job and Family Services - (419) 447-5011
- Mercy Tiffin Hospital - (419) 447-3130
- Seneca Community Chaplain Corps – (419) 618-0165
- First Call for Help - (419) 448-4357

Definitions

Sexual Harassment

Sexual harassment is any unwelcome sexual advance, request for sexual favors, or other unwanted verbal or physical conduct of a sexual nature when one or more of the following conditions are present:

- Submission to or rejection of such conduct is an explicit or implicit condition of an individual's employment, evaluation of academic work, or any aspect of a University program or activity;
- Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e. it is sufficiently severe, pervasive, or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both an objective and subjective standard.

Sexual harassment also includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex/gender or sex/gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

The University will assess objective and subjective factors in determining whether a hostile environment exists.

A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe, such as rape. The more severe the conduct the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical.

It is important to Heidelberg that individuals feel free to come forward, and not wait until issues of sexual harassment become severe or pervasive prior to reporting the conduct and seeking assistance. Reports of sexual harassment that do not rise to the level of creating a hostile environment may be investigated and addressed by the University so as to prevent further incidents from occurring.

Sexual harassment can take many forms:

- may be blatant and intentional and involve an overt action, a threat of reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- may be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships; harassment can occur in any context.
- may be committed by a stranger, an acquaintance, or someone with whom the Complainant has an intimate or sexual relationship.
- may be committed by or against an individual or may be a result of the actions of an organization or group.
- may occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- may occur in the classroom, in the workplace, in residential settings, over electronic media (including the internet, telephone, and text), or in any other setting on or off campus.
- may be a one-time event or part of a pattern of behavior.
- may be committed in the presence of others or when the parties are alone.
- may affect the Complainant and/or third parties who witness or observe harassment type and severity. Key determining factors are that the behavior is unwelcome, is gender or sex based, and is reasonably perceived as offensive and objectionable under both a subjective and objective assessment of the conduct.

Sexual Misconduct

Sexual misconduct, in a university setting, is “non-consensual physical contact of a sexual nature,” such as acts using force, threat, intimidation, or advantage gained by the offended person’s mental or physical incapacity or impairment of which the offending person was aware or should have been aware. Sexual Misconduct may include, but is not limited to Sexual Assault, Sexual Exploitation, Physical Assault, Bullying and Intimidation, Stalking, Indecent Exposure, and Intimate Partner Violence.

Sexual Assault - Sexual assault is defined as having sexual intercourse or sexual contact with another individual without consent, including:

Education and Programs

The University provides education to members of the community. All full-time students and employees complete an online training module which addresses the issues surrounding sex discrimination and behaviors that may be associated with violations of University policy such as alcohol and drug use. Incoming students are required to prove they have completed the online training module prior to attending classes. Employees must complete the module within thirty (30) days of their initial employment start date. Additional programming is offered to both new and upperclass students, faculty and staff, including passive and active programs. Students are encouraged to attend education session through athletic participation, Greek Life and other organization memberships.

Conduct Board members, the Title IX team, and investigators receive yearly training focused on adjudicating cases of sex discrimination. First responders, such as the Department of Safety and Security Staff and the Campus Life Staff receive regular, ongoing training focused on working with victims of sex discrimination.

Criminal Proceedings

Because sex discrimination can constitute both a violation of University policy and criminal activity, the University encourages people to report alleged acts promptly to local law enforcement agencies. Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence.

University proceedings will be instituted against a person charged with conduct that potentially violates both the criminal law and the sex discrimination policy without regard to the pendency of a civil or criminal litigation in court or criminal arrest and prosecution. Proceedings may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Determinations made or sanctions imposed shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

Amnesty for Those Who Report Sex Discrimination

The University encourages reporting and seeks to remove any barriers to reporting by making the procedures for reporting transparent and straightforward. The University recognizes that an individual who has been drinking alcohol or using drugs at the time of an act of sex discrimination may be hesitant to make a report because of potential consequences for his/her/their own conduct. An individual who reports sex discrimination, either as a Complainant or a third party witness, will not be subject to disciplinary action by the University for his/her/their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The University may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

Anti-Retaliation

The University will not tolerate retaliation against any person making a complaint of sex discrimination or against any person cooperating in the investigation of alleged acts of sex discrimination. Retaliation includes, but is not limited to, intimidation, threats, or harassment against any Complainant or third party. Individuals who are alleged to engage in retaliatory tactics may face disciplinary action independent of the sanction or interim measures imposed in response to the underlying allegations of sex discrimination. Any acts of retaliation should be reported promptly to the Title IX coordinator.

Bystander Intervention

The University expects all community members to take reasonable and prudent actions to prevent or stop an act of sex discrimination. Taking action may include direct intervention, calling law enforcement, or seeking assistance from a person in authority. The University will support its members who choose to intervene in this fashion.

- by the use or threat of force or coercion;
- without effective consent; or
- where that individual is incapacitated.

Sexual intercourse includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand, etc.) or object, or oral penetration involving mouth to genital contact.

Sexual contact includes intentional contact with the intimate parts of another, causing another to touch one's intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.

Sexual Exploitation - Sexual exploitation is an act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. The act or acts of sexual exploitation are prohibited even though the behavior does not constitute one of the other sexual misconduct offenses.

Examples of sexual exploitation include:

- observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- prostituting another individual;
- exposing one's genitals in non-consensual circumstances;
- knowingly exposing another individual to a sexually transmitted disease or virus without that individual's knowledge; and
- inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

Physical Assault - Physical assault is a purposeful action meant to hurt another person. Examples include, but are not limited to, kicking, punching, hitting with or throwing an

object, or biting, when these acts occur in the context of intimate-partner violence or when the behavior is perpetrated on the basis of sex, gender, or sexual orientation.

Bullying and Intimidation - Bullying includes any intentional electronic, written, verbal, or physical act or a series of acts directed at another person or persons on the basis of sex, gender, or sexual orientation, that is severe, persistent, or pervasive and that has the intended effect of doing any of the following:

- substantially interfering with a person's education or work;
- creating a threatening environment; or
- substantially disrupting the orderly operation of the University.

Intimidation is any verbal, written, or electronic threats of violence or other threatening behavior directed toward another person or group on the basis of sex, gender, or sexual orientation that reasonably leads the person(s) in the group to fear for her/his physical well-being.

Stalking - Stalking occurs when a person engages in a course of conduct or repeatedly commits acts toward another person on the basis of sex, gender, or sexual orientation, including following the person without proper authority, under circumstances that demonstrate either of the following:

- place the person in reasonable fear of bodily injury; or
- reasonably cause substantial emotional distress to the person.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Examples of stalking include:

- unwelcome and repeated visual or physical proximity to a person;
- repeated oral or written threats;
- extortion of money or valuables;
- unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and messages on online bulletin boards;
- unwelcome/unsolicited communications about a person, their family, friends, or co-workers;

Appeals

A decision reached by the Conduct Board may be appealed by the Complainant (s) or Respondent(s) to the Title IX Coordinator or a Deputy Coordinator within five (5) business days of receiving the decision. Such appeals shall be in writing and shall be delivered to the Title IX Coordinator or a Deputy Coordinator.

Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the Conduct Board Conference and supporting documents for one or more of the following purposes:

1. To determine whether the Conduct Board Conference was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and to present information that the Sex Discrimination policy was violated, and giving the Respondent a reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results.
2. To determine whether the sanction(s) imposed were appropriate for the violation of the Sex Discrimination policy which the Respondent was found to have committed.
3. To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the original Conference, because such information and/or facts were not known to the person appealing at the time of the original Conduct Board Conference.

If an appeal is upheld by the Appellate Board, by a majority decision the matter shall be returned to the original Conduct Board for re-opening of the Conduct Board Conference to allow reconsideration of the original determination and/or sanction(s). If an appeal is not upheld, the matter shall be considered final and binding upon all involved.

Sanctions

Sanctioning can vary according to the relationship the Respondent has with the University.

If the Complainant is a student, the Conduct Board will make sanctioning recommendations based on sanctions described in the Student Code of Conduct. The recommendation will be sent to the Dean of Student Affairs for final approval.

If the Complainant is a faculty member, the Conduct Board will make sanctioning recommendations based on sanctions described in the Faculty Manual. The recommendation will be sent to the Provost for final approval.

If the Complainant is a staff member, the Conduct Board will make sanctioning recommendations based on sanctions described in the Employee Handbook. The recommendation will be sent to the Director of Human Resources for final approval.

The decision of the Conduct Board will be sent simultaneously to both parties. In most cases, the Complainant and the Respondent will receive in writing the outcome of the Conference within two business days following the conference. If there is a delay, both the Complainant and the Respondent will receive in writing notification of the delay including the reasons for the delay. The outcome will include a determination of responsibility and sanctions.

- sending/posting unwelcome/unsolicited messages with an assumed identity;
- implicitly threatening physical contact; or
- any combination of these behaviors directed toward an individual person.

Domestic Violence – Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim/survivor, by a person with whom the victim/survivor shares a child in common, by a person who is cohabitating with or has cohabitated with the victim/survivor as a spouse or intimate partner, by a person similarly situated to a spouse of the victim/survivor under Ohio's domestic or family violence laws, or by any other person against an adult or youth victim/survivor who is protected from that person's acts under Ohio's domestic or family violence laws.

Dating Violence – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim/survivor, and where the existence of such a relationship shall be determined based on the reporting party's statement and with a consideration of the following factors: 1) the length of the relationship; 2) the type of relationship; and 3) the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence above.

Consent

Consent means informed, freely given agreement, communicated by clearly understandable words or actions, to participate in each form of sexual activity.

Guidance for Consent:

- Consent cannot be inferred from silence, passivity, or lack of active resistance.
- A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- When consent is requested verbally, absence of any explicit verbal response constitutes lack of consent. A verbal "no" constitutes lack of consent, even if it sounds insincere or indecisive.
- By definition, there is not consent when there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological.

- Either person may withdraw consent at any time. Withdrawal of consent should be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.
- A person who is the object of sexual aggression is not required to physically or otherwise resist the aggressor; the lack of informed, freely given consent to sexual contact constitutes sexual misconduct.
- Intoxication is not an excuse for failure to obtain consent.
- A person incapacitated by alcohol or drug consumption, or who is unconscious or asleep or otherwise physically or mentally impaired, is incapable of giving consent.
- A person who is below the legal age of consent is incapable of giving consent.

Advisor

The term “Advisor” means any person who is a member of the University Community not holding an advanced law degree, who is invited by the Complainant or the Respondent to attend any meetings, sessions or conferences with the intent to advise the Complainant or the Respondent. The Advisor’s role is advisory only; the Advisor is not permitted to question conference participants, speak to Conduct Board Members or make public comments during the Conduct Board Conference.

Proceeding:

Proceeding means all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and victim/survivors concerning accommodations or protective measures to be provided to a victim/survivor.

7. The initial investigation, pertinent records, exhibits and written statements (including absent witness reports) may be accepted as information for consideration by a Conduct Board at the discretion of the Conduct Administrator and will be equally available to both the Complainant and Respondent for review.
8. All procedural questions are subject to the final decision of the Conduct Administrator.
9. After the portion of the Conduct Board Conference concludes in which all pertinent information has been received, the Conduct Board shall determine by majority vote whether the Respondent has violated the sex discrimination policy.
10. The Conduct Board’s determination shall be made on the basis of whether it is more likely than not (a preponderance of evidence) that the Respondent violated the sex discrimination policy.
11. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in Conduct Board Conferences proceedings.
12. There shall be a single verbatim record, such as a tape recording of all Conduct Board Conferences before a Conduct Board. Deliberations shall not be recorded. Minutes of Conduct Board Conferences may be taken by a University administrative assistant. The record shall be the property of the University.
13. If a Respondent, with notice, does not appear before a Conduct Board Conference, the information in support of the charges shall be presented and considered even if the Respondent is not present.
14. The Conduct Board may accommodate concerns for the availability, personal safety, well-being, and/or fears of confrontation of the Complainant, Respondent, and/or other witness during the Conference by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audio tape, written statement, or other means, where and as determined in the sole judgment of the Conduct Administrator to be appropriate.

The following guidelines will be used for Conduct Board Conferences:

1. Conduct Board Conferences normally shall be conducted in private.
2. The Complainant, Respondent and their Advisors, if any, shall be allowed to attend the entire portion of the Conduct Board Conference at which information is received (excluding deliberations). Admission of any other person to the Conduct Board Conference shall be at the discretion of the Conduct Board and/or its Conduct Administrator.
3. The Complainant and Respondent will receive the name(s) of the Conduct Board member(s) prior to the conference. The Complainant and Respondent may challenge any Conduct Board member prior to the conference if they believe they have a conflict of interest. The Conduct Administrator will review the concern and will have sole discretion to make a change in Conduct Board Members.
4. In Conduct Board Conferences involving more than one Respondent, the Conduct Administrator, in his or her discretion, may permit the Conduct Board Conferences concerning each person to be conducted either separately or jointly.
5. The Complainant and the Respondent have the right to be assisted by an Advisor they choose. The Complainant and/or the Respondent is responsible for presenting his or her own information and, therefore, advisors are not permitted to speak or to participate directly in any Conduct Board Conference. A person should select as an Advisor a person whose schedule allows attendance at the scheduled date and time for the Conduct Board Conference. Delays will not normally be allowed due to the scheduling conflicts of an advisor.
6. The Complainant, the Respondent, and the Conduct Board may arrange for witnesses to present pertinent information to the Conduct Board. The University will try to arrange the attendance of witnesses, if reasonably possible, and who are identified by the Complainant and/or Respondent at least two business days prior to the Conduct Board Conference. Witnesses will provide information to and answer questions from the Conduct Board. The Complainant and/or Respondent may request questions be answered by each other and/or by other witnesses. Requested questions will be directed to the Conduct Administrator, rather than to the witness directly. This method is used to preserve the educational tone of the Conference and to avoid creation of an adversarial environment. Questions of whether potential information will be received shall be resolved at the discretion of the Conduct Administrator.

Title IX Coordinator and Team

The Title IX Coordinator is the designated university official with primary responsibility for coordinating the university's compliance with Title IX. The Title IX Coordinator oversees the implementation of grievance procedures, which includes notification, investigation and disposition of complaints of sex discrimination. The Title IX coordinator will coordinate the provision of educational materials and training for the campus community. Finally, the Title IX coordinator will ensure a fair and neutral process for all parties and monitor all other aspects of the University's Title IX compliance.

The President of the University has appointed Margaret Rudolph as the Title IX coordinator. Additionally the President has appointed Title IX Deputy Coordinators that make up the Title IX Team.

The Title IX coordinator can be contacted by telephone, email, or in person during regular office hours at:

Margaret Rudolph, Title IX Coordinator
University Hall, Room 216, 310 E. Market St., Tiffin, OH 44883
(419) 448-2111 or mrudolph@heidelberg.edu

A trained Deputy Title IX Coordinator who can also offer assistance is available in the following offices:

Stacy Wheeler, Director of Advancement Services
University Hall, Room 210, 310 East Market St, Tiffin OH 44883
(419) 448-2888 or swheeler@heidelberg.edu

Complaints

Heidelberg University strongly supports and encourages prompt reporting of sex discrimination. Reporting provides resources to victims and contributes to keeping the campus safe. All Heidelberg community members (students, staff, and faculty) should help ensure that violations of Title IX are promptly reported. Most Heidelberg employees are mandatory reporters as described in the Importance of Reporting section below. Normally, this means reporting any witnessed violations, or violations learned about through the disclosure of others. Reporting is not the same as filing a formal complaint (although for some purposes a formal complaint may also serve as a report).

If a person believes they or someone they know has been the victim of sex discrimination, it should promptly be reported to the University's Title IX coordinator or a deputy coordinator. Additionally, if a person believes they or someone they know has been the victim of sex discrimination a report may be made to the Heidelberg University Security and Safety Department at (419) 448-2211 or through any member of the Residence Life staff.

A person filing a complaint will be provided with the Heidelberg University Sex Discriminations policy.

Instances of sex discrimination may violate both the University's sex discrimination policy and the law. As a result, the University encourages victims to pursue their complaints through both the University's process for sex discrimination and through the criminal justice system. The Tiffin Police Department, which can be reached at (419) 448-2323, can explain the procedures for pursuing a criminal investigation of sex discrimination. The Tiffin Police Department will investigate every incident reported to police to determine if a crime has been committed.

Finally, The U.S. Department of Education's Office of Civil Rights is the entity that is charged with enforcing Title IX compliance. Inquiries about these issues may also be referred to the Office for Civil Rights/Cleveland at U.S. Department of Education, 600 Superior Avenue East, Suite 750, Cleveland, OH 44114 or by calling (216) 522-4970.

Administrative Complaints

The University has the authority to institute an administrative complaint against any student, faculty, administrator, or staff if a violation occurs of the sex discrimination policy.

Formal Resolution

For allegations of sexual discrimination that cannot be resolved informally, a Conduct Board Conference shall be conducted by a Conduct Board.

For the purpose of a formal resolution the following definitions will be used:

The term "Conduct Board" means any person or persons trained to determine formal sex discrimination violations. The Conduct Board members will be selected from a broad representation of the campus community, including Faculty and Staff, appointed by the Title IX team.

The term "Appellate Board" means any person or persons trained to determine formal sex discrimination violations. The Appellate Board members will be selected from a broad representation of the campus community, including Faculty and Staff, appointed by the Title IX team. Appellate Board members may also serve on Conduct Boards, however no member of a Conduct Board may serve on the Appellate Board for the same case.

The term "Conduct Administrator" means any person who is trained by the Title IX Team to oversee the formal resolution process and to select members of a Conduct Board. A member of the Title IX Team can serve as Conduct Administrator.

The term "Complainant" means any person who submits a charge alleging a violation of the sex discrimination policy.

The term "Respondent" means any person accused of violating the sex discrimination policy.

The term "Conference" means the meeting between a Conduct Board and the Respondent(s). The purposes of this Conference with the Respondent are to review the complaint, to discuss the process, and to determine options for resolving the complaint.

Prior to a Conduct Board Conference the Respondent shall be presented with all charges in written form. A time shall be set for a Conduct Board Conference, not less than two nor more than fifteen (15) business days after the Respondent has been notified. Maximum time limits for scheduling of Conduct Board Conferences may be extended at the discretion of the Conduct Administrator.

Informal Resolution

Some alleged violations of the sex discrimination policy that are non-violent in nature, may be resolved using an informal resolution process (mediation) overseen by one or more members of the Title IX team or its designee if (i) the University determines, in its discretion, that such a process would be appropriate; and (ii) all parties agree to participate.

Allegations of sex discrimination that are violent in nature including sexual assault, physical assault, and intimate partner violence may not be resolved using an informal resolution procedure.

The parties to any such informal process will not be required to deal directly with one another. Instead, after an initial investigation of the complaint carried out by Title IX team, the Complainant and the assigned Title IX Coordinator or other official selected by the Title IX team may agree to attempt to resolve the complaint informally. The Title IX Coordinator and the Complainant may agree to seek an informal resolution of the complaint by meeting with the Respondent, maintaining anonymity if appropriate or possible. If either the Complainant or the accused is dissatisfied with the outcome of the informal resolution process, the party may institute the formal resolution process described below within seven (7) business days of receiving written notice of the outcome of the informal resolution process.

Any party may request that the informal resolution process be terminated at any time, in which case the formal resolution procedure (described below) would commence. In addition, any party can pursue formal resolution if he or she is dissatisfied with a proposed informal resolution. Finally, as described above, the University may elect to pursue a formal resolution procedure even if the Complainant does not wish a formal resolution.

The Complainant and the Respondent have the right to be assisted by an advisor they choose. However because it is important to preserve the educational tone of the informal process and to avoid the creation of an adversarial environment. Advisors in the informal process may not be an attorney. The Complainant and/or the Respondent is responsible for presenting his or her own information and, therefore, Advisors are not permitted to speak or to participate directly in the process.

Investigation

A complete and thorough investigation into a complaint shall be conducted by the Title IX team or its designee. The preliminary investigation shall be concluded as quickly as possible within a reasonable amount of time. Normally, the complaint and resolution should take no longer than sixty (60) days, unless extenuating circumstances necessitate a longer time frame. The investigation will be conducted in a manner that is thorough, reliable, and impartial and may include interviews of the parties involved, including witnesses, and the gathering of other relevant information and documentation.

Confidentiality

The Title IX coordinator or designee will seek consent from the Complainant before beginning an investigation. If the Complainant requests confidentiality or asks that the complaint not be pursued, the University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or the request not to pursue an investigation. If a Complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the University will inform the Complainant that the University's ability to respond may be limited. The University will also inform the Complainant that Title IX prohibits retaliation, and that it will take actions to prevent retaliation as well as strong action against anyone who engages in retaliation. If the Complainant continues to ask that his or her name or other identifiable information not be revealed, the University will evaluate that request in the context of its responsibility to provide a safe and nondiscriminatory environment for all members of the community. Thus, the University may weigh the request for confidentiality against factors including but not limited to the following: the seriousness of the alleged harassment; the Complainant's age; whether there have been other harassment complaints about the same individual; and the alleged harasser's rights to receive information about the allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99.15

The University will inform the Complainant it cannot ensure confidentiality. Even if the University cannot take disciplinary action against the alleged harasser because the Complainant insists on confidentiality, the University will attempt to pursue other steps to limit the effects of the alleged harassment and prevent its recurrence.

Protective Measures

Upon receipt of a report, the University will provide interim support and reasonable protective measures to prevent further acts of misconduct, and to provide a safe educational and work environment. The University will determine the necessity and scope of any interim measures. Even when a Complainant or Respondent does not specifically request that protective action be taken, the University may choose to impose interim measures at its discretion to ensure the safety of any individual, the broader University community or the integrity of the review process.

Persons seeking such assistance should speak with the Title IX Coordinator or a Deputy Title IX Coordinator who will coordinate such requests on the behalf of the person. The University will maintain contact with the parties to ensure that all safety and emotional and physical well-being concerns are being addressed.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by an interim measure. The University will take immediate and responsive action to enforce measures previously ordered or implemented by the University.

The University may impose any remedy that can be tailored to the involved parties to achieve the goals of this policy, even if not specifically listed here. The range of interim measures may include:

- No Contact Order: A Complainant or Respondent may request, or the University may impose, communication and contact restrictions to prevent further potentially harmful interaction. These communication and contact restrictions generally preclude in person, telephone, electronic or third party communications. In some cases, an individual may also wish to consider a Protection Order from the local courts. This is a civil proceeding independent of the University. If a court order is issued, the University will, to the best of institution's ability, assist the protected person in benefiting from the restrictions imposed by the court and facilitate on campus compliance with the order. The University may also limit an individual or organization's access to certain University facilities or activities as part of the no contact order.

- Academic, Employment, or Residence Modifications: A Complainant or Respondent may request an academic or employment modification or a change in residence after a report of sex discrimination. An individual who requests assistance in changing their academic, employment or living situation after an incident of sex discrimination will receive appropriate and reasonably available modifications. These may include:

- Academic modifications; including a change in class schedule, taking an incomplete, dropping a course without penalty, attending a class via electronic or other alternative means, providing an academic tutor, or extending deadlines for assignments;
- Change of residential living assignment;
- Change in work assignment or schedule;
- Providing an escort to ensure safe movement around campus.

- Emotional Support: The University will provide access to counseling services through Stoner Health and Counseling Center or will assist in providing a referral to off campus agencies.

- Interim Separation: Where the report of sex discrimination poses an ongoing risk of harm to the safety or well-being of an individual or members of the campus community, the University may place an individual or organization on interim suspension or impose leave for an employee. Pending resolution of the complaint, the individual or organization may be denied access to campus. When interim suspension or leave is imposed, the University will make reasonable efforts to complete the investigation and resolution within an expedited time frame.