

Title IX Sexual Harassment Grievance Procedures

I. Overview

Duke University is committed to encouraging and sustaining a learning and living community that is free from harassment, violence, and prohibited discrimination. In that regard and consistent with federal law, Duke has developed these procedures for resolving Formal Complaints of Title IX Sexual Harassment (“Title IX Grievance Procedures” or “Procedures”) as that term is defined in the University’s Policy on Prohibited Discrimination, Harassment, and Related Misconduct (the “Policy”).

The University’s Title IX Coordinator is:

Jayne M. Grandes
Assistant Vice President, Title IX Compliance
Office for Institutional Equity
Smith Warehouse | Bay 8, 1st Floor | B 107
[919-660-5766](tel:919-660-5766) | jayne.grandes@duke.edu

The Title IX Office may also be contacted at TitleIX@duke.edu.

II. Scope and Applicability

These Procedures apply to Formal Complaints of Title IX Sexual Harassment regarding conduct directed toward a person in the United States, occurring in the programs or activities of the University, and allegedly perpetrated by any member of the Duke community as a Respondent. This includes, but is not limited to, full and part-time students and employees, including faculty members, physicians, staff, undergraduate students, graduate and professional students, doctoral students, post-doctoral scholars, student employees, and temporary and contract employees. These Procedures may also apply to third parties who are within Duke’s programs and activities, including applicants for admission and employment, visitors, visiting scholars, patients, employees of Duke contractors, and program participants.

III. Definitions

These Procedures incorporate the definitions set forth in the Policy.

IV. Timelines

The University identifies designated timelines throughout these Procedures. Generally, the University will complete its process from Formal Complaint through the Investigation Report in 90 days, and from the Investigation Report through the Hearing Officer’s Written Notification of outcome in an additional 45 days thereafter. In the event of an appeal, it will generally take 20 days from the filing of an appeal statement (and response, if any) through a decision from the appellate decision maker.

In extenuating circumstances, the [Office of Institutional Equity \(OIE\)](#) has authority to extend such timelines. In the case of such an extension, OIE will notify the affected parties

of the extension, including the reason(s) for the extension. Examples of extenuating circumstances include the complexity of the case, delays due to holiday or University breaks, the unavailability of parties or witnesses, and inclement weather or other unforeseen circumstances. Unless otherwise indicated as “calendar days,” all timeframes in these Procedures refer to business days. The phrase “business days” refers to those days ordinarily recognized by the Duke University administrative calendar as workdays.

V. Intake Process for Reports of Title IX Sexual Harassment

For allegations in which the Respondent is an undergraduate, graduate, or professional Student, reports of Title IX Sexual Harassment should be reported to OIE as follows:

Victoria Krebs, Associate Dean of Students, Title IX Outreach & Response
208 Crowell Hall
TitleIX@duke.edu
[919-684-6938](tel:919-684-6938)

For allegations in which the Respondent is Staff, Faculty, a visitor, or anyone other than a student, reports of Title IX Sexual Harassment should be reported to OIE as follows:

Office for Institutional Equity (OIE)
114 S. Buchanan Boulevard, Bay #8
Box 90012
Durham, North Carolina 27708
ois-help@duke.edu
[919-684-8222](tel:919-684-8222)

Once a report of Title IX Sexual Harassment is made, OIE, in consultation as necessary with the Human Resources Office (for Employees), the Office of the Provost (for Faculty), and the Office of Student Conduct (for Students), shall review the report to determine next steps, including when a Formal Complaint is filed at the same time as a report is made.

If the allegations reported, if true, would not constitute Title IX Sexual Harassment within the scope of these Procedures, OIE will, as appropriate: (1) address the report under another set of procedures; (2) refer the matter to the Office of Student Conduct, Human Resources Staff and Labor Relations, or other appropriate University office or administrator; or (3) take no further action, if the reported conduct would not constitute a violation of any University policy. In these instances, OIE will notify the Complainant of the action or referral.

After receiving a report of Prohibited Conduct, including conduct that, if true, would constitute Title IX Sexual Harassment, OIE will promptly contact the Complainant and

- discuss the availability of Supportive Measures;

- explain that Supportive Measures are available with or without the filing of a Formal Complaint;
- inform the Complainant of the process for filing a Formal Complaint; and
- inform the Complainant that even if they decide not to file a Formal Complaint, the Title IX Coordinator may do so on the Complainant's behalf.

OIE will also ensure that the Complainant receives a written explanation of available resources and options, including the following:

- Support and assistance available through University resources, including the Complainant's option to seek Supportive Measures regardless of whether they choose to participate in a University or law enforcement investigation;
- The Complainant's option to seek medical treatment and information on preserving potentially key forensic and other evidence;
- The process for filing a Formal Complaint of Title IX Sexual Harassment, if appropriate;
- The University's procedural options including investigative and informal resolution;
- The Complainant's right to an advisor of the Complainant's choosing;
- The University's prohibition of Retaliation against the Complainant, the Respondent, the witnesses, and any reporting parties, along with a statement that the University will take prompt action when Retaliation is reported (and how to report); and
- The opportunity to meet with the Title IX Coordinator (or designee) in person to discuss the Complainant's resources, rights, and options.

VI. Actions Related to the Filing of a Formal Complaint

A Complainant has the option to file a Formal Complaint against a Respondent alleging Title IX Sexual Harassment and requesting that the University investigate those allegations. The Title IX Coordinator may also decide to file a Formal Complaint of Title IX Sexual Harassment where the Complainant chooses not to do so if the failure to file a Formal Complaint would constitute deliberate indifference to Sexual Harassment in the Title IX Coordinator's judgment or if the allegations, if true, would have a negative impact on campus safety and/or security.

A Formal Complaint must be filed before an Investigation or Alternative Resolution under these Procedures can commence.

When OIE receives a Formal Complaint of Title IX Sexual Harassment, OIE will evaluate the allegations in the Formal Complaint to determine whether the following conditions are satisfied:

- The conduct is alleged to have been perpetrated against a person in the United States;
- The conduct is alleged to have taken place within the University's programs and activities; and
- At the time of the filing or signing of the Formal Complaint, the Complainant is participating in or attempting to participate in the University's programs or activities.

If OIE determines that all of the above conditions are satisfied, the University will address the Formal Complaint of Title IX Sexual Harassment under these Procedures.

If OIE determines that not all of the conditions are satisfied, the University will dismiss the Formal Complaint for Title IX purposes, and, as appropriate: (1) address the Formal Complaint under another set of procedures; (2) refer the matter to the Office of Student Conduct, Human Resources Staff and Labor Relations, or other appropriate University office or administrator; or (3) take no further action, if the reported conduct would not constitute a violation of any University policy. If OIE determines that a Formal Complaint of Title IX Sexual Harassment will not be adjudicated under these Procedures, either party may appeal that decision as explained below.

If a Complainant files, or the Title IX Coordinator signs, a Formal Complaint of Title IX Sexual Harassment within the scope of these Procedures, OIE will send both parties a written Notice of Allegations that contains the following:

- Notice that the Alternative and Formal Resolution processes comply with the requirements of Title IX;
- Notice of the allegations potentially constituting Title IX Sexual Harassment, providing sufficient detail for a response to be prepared before any initial interview, including (1) identities of the parties, if known; (2) the conduct allegedly constituting Title IX Sexual Harassment; and (3) the date and location of the alleged incident;
- A statement that the Respondent is presumed not responsible for the alleged Title IX Sexual Harassment and a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that each party may have an advisor of their choice who may be, but is not required to be, an attorney, and who, along with the party, inspect and review evidence directly to the allegations that is gathered in the investigation;
- Information regarding the availability of support and assistance through University resources and the opportunity to meet with the Title IX Coordinator (or their designee) in person to discuss resources, rights, and options;

- Notice of the University’s prohibition of Retaliation against the Complainant, the Respondent, and witnesses; that the University will respond promptly when Retaliation is reported; and how to report acts of Retaliation; and
- Notice that the University prohibits knowingly making false statements and knowingly submitting false information during the grievance process.

If, during the course of an investigation, OIE decides to investigate additional allegations about the Complainant or Respondent relating to the same facts or circumstances but not included in the earlier written notice, OIE will provide an amended Notice of Allegations to the parties.

After a Formal Complaint is filed or signed by the Title IX Coordinator, the matter will proceed to either the Alternative Resolution process or Investigative Resolution process, as described below.

The University may, in its sole discretion, dismiss a formal complaint at any time during the investigation or hearing process if:

- The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- The Respondent is not, or is no longer, enrolled or employed by the University;
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or the allegations.

If OIE determines that a Formal Complaint of Title IX Sexual Harassment should be dismissed for any of these reasons, either party may appeal that decision as explained below.

VII. Advisors

The Complainant and a Respondent may each have an advisor of their choice to provide support and guidance. An advisor may accompany the Complainant/Respondent to any meeting with OIE staff or designee, a facilitator for Alternative Resolution, the investigator, or to a hearing. Prior to the hearing, a party’s advisor has an exclusively non-speaking role, and may not otherwise present evidence, argue, or assert any right on behalf of the party.

At the hearing, an advisor may not speak for the party they are advising or address any other participant or the hearing officer except as necessary to conduct cross-examination as explained below in Section X. An advisor’s role is otherwise limited to quietly conferring with the Complainant/Respondent through written correspondence or whisper. If a party does not select an advisor of choice for the

hearing, Duke will provide an advisor trained to ask questions, but such advisor will be provided only for the hearing portion of the process.

The University (including any official acting on behalf of the University, such as the Hearing Officer) has the right at all times to determine what constitutes appropriate behavior on the part of an advisor and to take appropriate steps to ensure compliance with the Policy and Procedures, including by placing limitations on the advisor's ability to participate in future meetings and proceedings.

VIII. Alternative Resolution

Alternative resolution is a process that usually does not include an investigation or hearing. Remedies may include appropriate and reasonable educational, restorative, and accountability-focused measures as agreed to by the parties and approved by the Title IX Coordinator. A Formal Complaint is necessary to trigger an Alternative Resolution process under these grievance procedures.

Alternative Resolution is typically a spectrum of facilitated, or structured, and adaptable processes between the Complainant, the Respondent, and/or other affected community members that seeks to identify and meet the needs of the Complainant while providing an opportunity for the Respondent to acknowledge harm and seek to repair the harm (to the extent possible) experienced by the Complainant and/or the University community.

Alternative Resolution is not available in cases involving a Student Complainant and Employee Respondent.

OIE reserves the right to determine whether Alternative Resolution is appropriate in a specific case. Before OIE commences the Alternative Resolution process, both parties must provide informed consent in writing. In addition, where both parties and the University determine that Alternative Resolution is worth exploring, the University will provide the parties with a written notice disclosing:

- the allegations,
- the requirements of the Alternative Resolution process, including the circumstances that may preclude resuming a formal complaint;
- the parties' right to withdraw from the process prior to a resolution being reached; and
- any consequences resulting from participating or withdrawing from the process, including the records that may be maintained by the University.

At any time prior to reaching a resolution, either party may withdraw from the Alternative Resolution process and proceed with the formal grievance process for resolving the Formal Complaint.

A. Options for Alternative Resolution

A description of the options offered by the University for Alternative Resolution is available [here](#).

B. Resolution of Matters

Once an Alternative Resolution is agreed to by all parties, the resolution is binding and the parties are precluded from resuming or starting the formal grievance process related to that Formal Complaint. Any violation of the terms of an Alternative Resolution agreement may result in disciplinary action or a further claim of Prohibited Conduct.

IX. Formal Resolution

A. The Investigation

An investigation affords both the Complainant and the Respondent an opportunity to submit information and other evidence and to identify witnesses.

When a formal resolution is initiated, OIE will designate an investigator who will be responsible for gathering evidence directly related to the allegations raised in a Formal Complaint of Title IX Sexual Harassment. The investigator must be impartial, free of any actual conflict of interest, and have specific and relevant training and experience. Specifically, the investigator will be trained on (1) issues of relevance; (2) the definitions in the Policy; (3) the scope of the University's education program or activity; (4) how to conduct an investigation; and (5) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

A Complainant or a Respondent who has concerns that the assigned investigator cannot conduct a fair and unbiased review (e.g., has a personal connection with one of the parties or witnesses, etc.) may report those concerns to the Title IX Coordinator, who will assess the circumstances and determine whether a different investigator should be assigned to the matter.

Interviews. The investigator will interview the Complainant and Respondent to review the disciplinary process and to gather facts relevant to the Formal Complaint. The investigator will also interview witnesses identified by the parties as likely to have relevant information about the Formal Complaint. Where the investigator deems necessary, they may interview an individual more than once. Before any interview, the individual being interviewed will be informed in writing of the date, time, location, participants, and purpose of the interview. Such notice will be provided with sufficient time for the individual to prepare for the interview.

Evidence. Each party will be given the opportunity to identify witnesses and to provide other relevant information, such as documents, communications, photographs, and other evidence. All parties are expected to share any relevant information and/or any information that is requested by the investigator.

The investigator will review all information identified or provided by the parties as well as any other evidence they obtain and will determine the relevance of the information received during the investigation. Evidence obtained as part of the investigation that is directly related to the allegations in the Formal Complaint will be shared with the parties for their review and comment, as described below.

OIE, the investigator, or the Hearing Officer, as appropriate, may exclude and/or redact certain evidence that will not be shared with the parties:

- Information that is not directly related to the allegations in the Formal Complaint,
- Sensitive personally-identifying information (e.g., social security numbers, contact information, etc.).

Draft Investigative Report. After all known, available, and relevant evidence is gathered, the investigator will prepare a draft investigative report. The investigator will make available to each party, and the party's advisor, if any, the draft investigative report. The investigator will also make available to the parties, and their advisors, if any, all evidence that was gathered during the investigation that is directly related to the allegations of the Formal Complaint subject to the limitations above.

The parties will have ten days to inspect and review the evidence and the draft investigative report and submit a written response. This is the parties' opportunity to provide any comments, feedback, additional documents, evidence, requests for additional investigation, names of additional witnesses, or any other information they wish considered for inclusion in the final investigative report. The investigator will review the feedback to the report, interview additional relevant witnesses (as the investigator deems appropriate), and make changes/additions to the report as determined by the investigator. The parties' feedback will be attached to the final investigation report.

Any party providing new evidence in their response to the draft investigative report must identify whether that evidence was previously available to them, and if not, why it was not available and/or why it was not previously provided. Generally, only information that is provided to, or otherwise obtained by, the investigator prior to the completion of the final investigative report may be considered by the Hearing Officer as part of the determination of whether a Policy violation occurred. Any information not provided to the investigator prior to the final investigation report will not be allowed during the hearing unless the party offering the evidence can clearly demonstrate that such information was not reasonably available to the parties at the time of the investigation or that the evidence has significant relevance to a material fact at issue in the investigation.

Final Investigative Report. After the time has run for both parties to provide any written response to the evidence and draft investigative report, the investigator will complete a final investigative report.

The investigator's report will then be shared with the Complainant, Respondent, and their advisors. The parties will have five business days to respond in writing to the final investigative report. The Complainant and Respondent must also submit in writing at that time the names of any witnesses they wish to testify and a summary of information each witness would provide through their testimony. Names of witnesses provided by the parties will be shared with the other party. After the five-business-day deadline, the Complainant and Respondent may not provide any additional written information for the hearing packet (defined below) or hearing, unless that information was not reasonably available prior to the closing of the five-business-day window. The Hearing Officer determines whether to grant exceptions to this five-business-day deadline in consultation with the Title IX Coordinator.

The investigator will determine what, if any, final changes or additions are made to the final investigative report based upon its review of the report and feedback as described above from the Complainant and Respondent.

The matter will then be referred to a Hearing Officer.

X. Hearing Procedures

The Hearing Officer will be selected by the University, and will receive annual training on the following: how to conduct a hearing; issues of relevance, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant; how to serve impartially by, among other things, avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and other relevant issues. The Hearing Officer will also be trained on any technology that might be used during a hearing.

Notice. Both the Complainant and the Respondent will be notified in writing of the date and time of the hearing and the name of the Hearing Officer at least five calendar days in advance of the hearing, with the hearing to occur no fewer than ten calendar days after the parties are provided the Final Investigative Report. The Hearing Officer will receive the names of the Complainant and the Respondent at the same time.

Bias and Conflict of Interest. The Hearing Officer must be impartial and free from bias or conflict of interest, including bias for or against a specific Complainant or Respondent or for or against Complainants and Respondents generally. If the Hearing Officer has concerns that they cannot conduct a fair or unbiased review, the Hearing Officer shall report those concerns to OIE and a different Hearing Officer will be assigned.

A Complainant and/or Respondent may challenge the participation of the Hearing Officer because of perceived conflict of interest, bias, or prejudice. Such challenges, including rationale, must be made within 48 hours of notification of the name of the Hearing Officer. At its discretion, OIE will determine whether such a conflict of interest exists and whether a Hearing Officer should be replaced. Postponement of a hearing may occur if a replacement Hearing Officer cannot be immediately identified.

Advisors. Both parties must be accompanied by an advisor to the hearing. If a party does not have an advisor for the hearing, the University will provide an advisor for that party. Each party's advisor must conduct any cross-examination of the other party and any witnesses. Apart from conducting cross-examination, an advisors' participation is limited to conferring with the party at intervals set by the Hearing Officer.

Participation of the Parties and Witnesses. A party or witness who elects to participate in the process is expected, although not required, to participate in all aspects of the process (e.g., a witness who chooses to participate in the investigation is expected to make themselves available for a hearing if requested to do so).

If a party or witness elects to not participate in the live hearing, or participates in the hearing but refuses to answer any relevant question(s) (even one) posed by the other party through their advisor, the Hearing Officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility. The Hearing Officer will never draw any inferences based solely on a party's or witness's absence or refusal to answer questions.

“**Statements**” for purposes of the hearing means factual assertions made by a party or witness that do not themselves constitute alleged harassment. Statements might include factual assertions made during an interview or conversation, written by the individual making the assertions (including those found in a Formal Complaint), and memorialized in the writing of another (e.g. in an investigative report, police report, or medical record).

If a party does not appear for the hearing, their advisor may still appear for the purpose of asking questions of the other party and witnesses. If a non-participating party's advisor also does not appear for the hearing, the University will appoint an advisor to participate in the hearing for the purpose of asking questions of the other party on behalf of the non-participating party.

Consistent with the prohibition on Retaliation, intimidation, threats of violence, and other conduct intended to cause a party or witness to not appear for a hearing are expressly prohibited.

Witnesses. The Hearing Officer may, at their discretion, exclude witnesses or witness testimony the Hearing Officer considers irrelevant or duplicative.

Electronic Devices. A Respondent, Complainant, advisor, and/or witness may not have electronic devices that capture or facilitate communication (e.g., computer, cell phone, audio/video recorder, etc.) in their possession while participating in the hearing unless authorized by the Hearing Officer. OIE will make an audio recording of the hearing to be made available to the parties for review. Reasonable care will be taken to create a quality audio recording and minimize technical problems; however, technical problems that result in no recording or an inaudible one are not a valid basis for appeal.

Hearing Location and Use of Technology. The hearing will be live, with all questioning conducted in real time. Upon request of any party, the parties may be located in separate rooms (or at separate locations) with technology enabling the Hearing Officer and the parties to simultaneously see and hear the party or witness answering questions. A hearing may be conducted entirely virtually through the use of remote technology so long as the parties and Hearing Officer are able to hear and see one another in real time.

Pre-Hearing Procedures and Ground Rules. The Hearing Officer and/or OIE may establish pre-hearing procedures relating to issues such as scheduling, hearing procedures, witness and advisor participation and identification, structure, advance determination of the relevance of certain topics, and other procedural matters. The Hearing Officer will communicate with the parties prior to the hearing with respect to these issues and establish reasonable, equitable deadlines for party participation/input.

The Hearing Officer also has wide discretion over matters of decorum at the hearing, including the authority to excuse from the hearing process participants who are unwilling to observe rules of decorum.

Hearing Procedure. The Hearing Officer has general authority and wide discretion over the conduct of the hearing (e.g., they may set time frames for witness testimony and may limit opening/closing statements or their length, etc.). Although the Hearing Officer has discretion to modify it, the general course of procedure for a hearing is as follows:

- Introductions;
- Respondent's statement accepting or denying responsibility;
- Opening Statement from the Complainant;
- Opening Statement from the Respondent;
- Questioning of the Complainant by the Hearing Officer;
- Cross-examination of the Complainant by the Respondent's advisor;
- Questioning of the Respondent by the Hearing Officer;
- Cross-examination of the Respondent by the Complainant's advisor;
- Hearing Officer questioning of other material witnesses (if applicable);
- Cross-examination of other material witnesses by the parties' advisors;
- Closing comments from the Complainant; and,
- Closing comments from the Respondent.

The Complainant or Respondent may not question each other or other witnesses directly; they must conduct the cross-examination through their advisors. Before a party or witness answers a cross-examination or other question, the Hearing Officer will first determine whether the question is relevant. The Hearing Officer may exclude irrelevant information and/or questions. The Hearing Officer will explain any decision to exclude a question or information as not relevant. The Hearing Officer's determination on relevance is not subject to objection or argument at the hearing.

The evidence directly related to the allegations that is collected as part of the investigative process will be made available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Determination of Responsibility. Following the hearing, the Hearing Officer will consider all of the relevant evidence and determine, by a preponderance of the evidence, whether the Respondent has violated the Policy. A preponderance of the evidence standard means that, based on the information acquired during the investigation and the hearing, it is more likely than not the Respondent engaged in the alleged conduct.

Remedies and Sanctions. In the event the Hearing Officer finds the Respondent responsible for a violation of the University's policies, appropriate remedies and sanctions will be determined by the appropriate University official, as described below. Remedies are designed to restore or preserve equal access to the University's Education Program or Activity. Remedies may be disciplinary or punitive.

For Student Respondents, a University representative appointed by the Vice President/Vice Provost of Student Affairs will determine appropriate remedies and sanctions in consultation with OIE.

For Employee and Faculty Respondents, the Respondent's Dean, Chair, or other Supervisor Designee as determined in the discretion of the University will determine appropriate remedies and sanctions in consultation with OIE.

Upon a finding of responsibility, the Complainant will be provided with remedies designed to restore access to the University's educational and employment programs and activities.

Sanctions for a finding of responsibility for Student Respondents include: withdrawal of privileges, restitution, mental health/medical assessment/treatment, fine, exclusion, educational projects/initiatives, community service, degree revocation, admonition, formal warning, disciplinary probation, suspension, expulsion, and/o other restrictions on access to Duke programs and activities. In determining (a) sanction(s), the sanction decision-maker will consider whether the nature of the conduct at issue warrants removal from the University, either permanent (expulsion) or temporary (suspension). Other factors pertinent to the determination of what sanction applies include, but are not limited to, the nature of the conduct at issue, prior disciplinary history of the respondent (shared with the appropriate University official only upon a finding of responsibility for the allegation), previous University response to similar conduct, and University interests (e.g., in providing a safe environment for all).

Sanctions for finding of responsibility for Employee and Faculty Respondents include, but are not limited to, progressive disciplinary action; prohibition from various academic or managerial responsibilities involving the complainant or others; letter of reprimand placed in a respondent's personnel file; restrictions on a respondent's access to Duke programs or facilities; limitations on merit pay or other salary increases

for a specific period; or demotion, suspension, or dismissal/termination from the University, or a recommendation that a separate process required to impose such action be commenced.

Written Notification Regarding Outcome and (if appropriate) Sanctions/Remedies. After a determination regarding responsibility and, if applicable, a determination regarding appropriate remedies and/or sanction has been made, the Complainant and Respondent will receive a simultaneous written notification including the decision regarding responsibility and, as applicable, remedies and sanctions. The written notification will include the following:

- Identification of the allegations potentially constituting Prohibited Conduct;
- A description of the procedural steps taken from the receipt of the Formal Complaint of Title IX Sexual Harassment, or report of other Prohibited Conduct (if applicable), through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the University's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and
- The University's procedures and permissible bases for the Complainant and Respondent to appeal.

The written notification of outcome becomes final five business days after it is sent to the Parties, unless an appeal is filed on or before that day.

XI. Appeals

A Respondent and Complainant both have the right to appeal (1) OIE's decision to dismiss a Formal Complaint of Sexual Harassment; and (2) the Hearing Officer's decision regarding responsibility.

A party wishing to appeal OIE's decision to dismiss a Formal Complaint of Sexual Harassment must file a written appeal statement within five business days of the date the decision to dismiss is communicated to the parties. A dismissal of a Formal Complaint will be decided by the Vice President for Institutional Equity.

A party wishing to appeal the Hearing Officer's decision must file a written appeal statement within five business days of the date the written decisions is sent to the parties. Appeals are limited to five pages (12-point font, 1-inch margins). The appeal

statement must identify the ground(s) for appeal upon which the appeal is being made. The three available grounds for appeal are:

1. New information not reasonably available at the time of the decision/hearing that could affect the outcome of the matter;
2. The Title IX Coordinator, investigator, Hearing Officer, or sanction decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent specifically that affected the outcome of the matter; and/or
3. Procedural error(s) that affected the outcome of the matter.

An appeal is not a re-hearing of the case. The University may summarily deny an appeal if it is not based on one of the enumerated grounds for appeal.

Appellate Officer. If the University does not summarily deny the appeal of a Hearing Officer's decision regarding responsibility, the University will appoint an appellate officer. The appellate officer's role is limited to reviewing the underlying record of the investigation and hearing, the appealing party's ("**Appellant**") written appeal statement, any response to that statement by the other party ("**Appellee**"), and information presented at a meeting of the appellate officer, if convened.

Conflict of interest. The University will notify the Appellant and Appellee of the name of the appellate officer. The Appellant and/or Appellee may challenge the participation of an appellate officer because of an actual conflict of interest, bias, or prejudice. Such challenges, including rationale, must be submitted in writing to the University no later than 48 hours after notification of the name of the appellate officer. The University will determine whether such a conflict of interest exists and whether an appellate officer should be replaced.

Response to Appeal. The appellate officer will provide written notice to the Appellee that an appeal has been submitted and will give the Appellee an opportunity to review the appeal statement. The Appellee may submit a written response to the appeal ("response"). The response is due five business days from the date the appellate officer provides written notice of the appeal to the Appellee and is limited to five pages (12-point font, 1-inch margins). The University will provide the Appellant an opportunity to review the response, though no additional opportunity to respond in writing will be provided to the Appellant.

Exceptions. The Appellant and Appellee may submit to the appellate officer requests for exceptions to page limits or deadlines. Exceptions must be requested in advance of any deadline by sending an email to titleix@duke.edu, with justification for such request(s).

Meetings. On their own or at the request of the Appellant or Appellee, the appellate officer may convene a meeting to give the parties an opportunity to amplify the reason(s) for the appeal or the response. The appellate officer has full discretion to set the terms and length of the meeting. If a meeting is convened, the appellate officer will invite both the Appellant and Appellee, who may bring an advisor of their choice

to the meeting. The advisor's role is limited to quietly conferring with their advisee, and may not address the appellate officer. In the event an appeal alleges a procedural error, the appellate officer may request that (a) staff member(s) in OIE, and/or Hearing Officer attend the meeting to gather more information about the alleged procedural error.

Written Decision. The appellate officer will provide written notification of the final decision to the Appellant and Appellee simultaneously.

The appellate officer will typically notify the parties of its decision regarding an appeal in writing within twenty business days from receipt of the appeal statement. If the decision will take longer, the parties will be informed. The decision of the appellate officer will be final and no subsequent appeals are permitted.

XII. Confidentiality

The University will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Title IX Sexual Harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as disclosure may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

XIII. Records Retention

The University shall retain for a period of seven years after the date of case closure: the official file relating to an investigative resolution, including any investigation hearing, sanctioning, and/or appeals processes involving allegations of Title IX Sexual Harassment. In cases in which a Respondent was found to have violated the Policy and was expelled or terminated, the University may retain such official case files indefinitely.