

GRIEVANCE PROCEDURES FOR FORMAL COMPLAINTS OF SEXUAL HARASSMENT AND MISCONDUCT¹

I. Applicability

This Procedure may be used by any member of the University of Oklahoma (“OU”) community who is participating in or attempting to participate in OU’s education program or an OU-related activity. This Procedure is applicable to Formal Complaints concerning Title IX Sexual Harassment (which includes Hostile Environment Harassment, Quid Pro Quo Harassment, Sexual Assault, Domestic Violence, and Dating Violence) occurring on or after August 14, 2020. This Procedure may also be used by any member of the OU community who wishes to file a Complaint of Employee Sexual Misconduct and/or Sexual Misconduct (Student Code Violation) as set forth in the Sexual Misconduct, Discrimination, and Harassment Policy (the “Sexual Misconduct Policy”).²

The Institutional Equity Office (“IEO”) may modify this Procedure at any time as deemed appropriate for compliance with applicable federal, state, and local laws and guidance or when needed to ensure an effective review.

If a Formal Complaint or Complaint triggers this Procedure but also includes allegations that could constitute a separate violation of the Student Code of Rights and Responsibilities or other applicable policy (i.e., Collateral Misconduct), this Procedure may be modified as reasonably necessary to fully investigate the matter and to avoid duplicative investigations. Prior to initiating any additional investigation into misconduct under the Student Code of Rights and Responsibilities or employee misconduct, the Title IX Coordinator obtains written authorization from the Director of Student Conduct, the Chief Human Resources Officer, or other Appropriate Administrator.

Allegations of Non-Title IX Sexual Misconduct are investigated under the IEO Investigative Procedures (also known as Process B) unless the Institutional Equity Officer combines all allegations and adjudicates them simultaneously through the Hearing Process for Title IX Sexual Harassment.

¹ Updated July 1, 2026.

² This Procedure does not apply to allegations of Workplace Harassment in violation of Title VII of the Civil Rights Act of 1964. IEO investigates allegations of Workplace Harassment using the [Institutional Equity Investigative Procedures](#) (Process B). As outlined in Process B, if a Complaint contains allegations of both Title IX Sexual Harassment and Workplace Harassment, the Institutional Equity Officer/Title IX Coordinator may combine all allegations and have them adjudicated simultaneously through this Procedure; however, the Title IX Coordinator, at their discretion, may also adjudicate such claims separately.

OU provides certain services relating to sexual misconduct, discrimination, and harassment to Rogers State University (RSU)/ Cameron University CU. If you are a student, faculty member, or employee at RSU/CU, please refer to your institution-specific procedures.

All references to business day(s) in this Procedure refers to OU business days. IEO may reasonably extend timeframes outlined in this Procedure.

II. Definitions

“Appropriate Administrator” includes the Executive Officer, Dean, Director, or other administrator with oversight of a Respondent or administrative responsibility over an OU program or activity.

“Associate Vice President” refers to the Associate Vice President of Institutional Equity/Titles VI and IX Coordinator or designee.

“Business Days” means OU business days.

“Complainant” as defined in the Sexual Misconduct Policy.

“Decision-Maker” refers to the individual tasked with making a determination of responsibility or the outcome of an appeal. This individual may be referred to as Hearing Officer.

“Employee Sexual Misconduct” as defined in the Sexual Misconduct Policy.

“Evidence” means an item or information offered to prove that a fact is more or less probably than it would be without its existence. Evidence includes oral or written statements, documents, photographs, videos, audio or video recordings, records, and other tangible objects.

“Faculty” means instructional faculty as defined by the appropriate campus’s faculty appointments policy.

“Formal Complaint” as described in Section 7 of the Sexual Misconduct Policy.

“Hearing Determination” is the Hearing Officer’s written Determination of responsibility after a Live Hearing.

“Hearing Officer” is the Decision-Maker who conducts the Live Hearing and determines responsibility.

“Impermissible Evidence” is Evidence protected by privilege or excluded by federal or state law as outlined in Section VII. Examples of Impermissible Evidence includes illegally obtained evidence, evidence known to be protected by a legally recognized privilege, and/or medical records obtained without the party’s consent.

“Informal Resolution” is an alternative resolution process that permits the Parties to reach an

agreement to resolve a Formal Complaint as outlined in Section VI.

“Investigation” is the process of gathering evidence and drafting an Investigation Report as described in Section VII.

“Live Hearing” is a hearing presided over by the Hearing Officer for the purpose of determining responsibility as outlined in Section VIII.

“Non-Faculty Employee” includes individuals employed by OU who do not meet the definition of Faculty above and may be identified as Staff Employees in OU’s Hiring Policy. In Title IX proceedings, student employees may not be included in the definition of Non-Faculty Employee.

“Non-Title IX Sexual Misconduct” includes sex discrimination, pregnancy discrimination, workplace sexual harassment, retaliation, false reporting, and violations of the Consensual Sexual Relationships Policy as defined in the Prohibited Conduct section of the Sexual Misconduct Policy (i.e., Sections 4(a)-(b), (d)-(i)).

“Notice of Investigations and Allegations” means written notice to the Parties as described in Section V.

“Notice of Outcome” is distributed with the Hearing Determination and outlines any sanctions or remedies as described in Section VIII.

“Parties” typically means the Complainant(s) and Respondent(s).

“Preponderance of Evidence” is a standard that means the Evidence demonstrates that is more likely than not that alleged misconduct occurred.

“Respondent” as defined in the Sexual Misconduct Policy.

“Relevant Evidence” is evidence that is pertinent to proving whether facts material to the allegations under investigation are true. Relevant Evidence does not include Impermissible Evidence as defined above.

“Sexual Misconduct—Student Code Violation” as defined in the Sexual Misconduct Policy.

“Title IX Coordinator” as defined in the Sexual Misconduct Policy.

“Title IX Sexual Harassment” includes Hostile Environment Harassment, Quid Pro Quo harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking as defined in Section 4(c) of the Sexual Misconduct Policy.

“Witness” means a person who may observed or possess knowledge of an alleged violation of the Sexual Misconduct Policy or may provide relevant background information about an OU process or procedure.

III. Procedures for Filing a Complaint

Filing of Formal Complaint of Title IX Sexual Harassment, Employee Sexual Misconduct, or Sexual Misconduct – Student Code Violation³

This Grievance Procedure is initiated with a Formal Complaint of Title IX Sexual Harassment or Complaint of Employee Sexual Misconduct or Sexual Misconduct (Student Code Violation). A Formal Complaint must be filed in writing with the Title IX Coordinator. The Formal Complaint may be filed in person, by mail, or by electronic mail at any time of day, including during non-business hours, using the contact information listed in the Sexual Misconduct Policy.

Generally, a Formal Complaint should be filed as quickly as possible to facilitate the ability to gather facts and evidence; however, every Formal Complaint will be reviewed regardless of when an incident occurred.

IEO encourages the use of its in-office form for filing a Formal Complaint; however, no particular form is required as long as the Formal Complaint (1) is signed, (2) alleges Title IX Sexual Harassment, against a Respondent, and (3) requests an investigation.

The process for a filing a Complaint of Employee Sexual Misconduct or Sexual Misconduct (Student Code Violation) is the same as the process for filing a Formal Complaint of Title IX Sexual Harassment above, except that prior to initiating an investigation into the alleged conduct, the Title IX Coordinator must first request authorization to investigate from the Chief Human Resources Officer or Director of Student Conduct, who will determine whether OU has jurisdictional authority to impose disciplinary sanctions on the Respondent pursuant to the applicable Staff and Faculty Handbook provisions or Student Code of Rights and Responsibilities, as applicable. Once a Complaint is filed, the Complaint procedures will follow the same procedures for Formal Complaints of Title IX Sexual Harassment except where specifically noted herein.

Title IX Coordinator Signed Formal Complaints

When considering whether to sign a Formal Complaint, the Title IX Coordinator considers the severity of the allegations, whether any continuing or ongoing threat exists to campus, if no Formal Complaint is signed by Complainant, and whether the Formal Complaint alleges a pattern or practice of misconduct.

³ Employee Sexual Misconduct, as defined in the Sexual Misconduct Policy, is a co-extensive charge that applies with there is underlying Title IX Sexual Harassment that may have occurred off-campus, outside the education program or activity, and/or outside the United States. Employee Sexual Misconduct is distinct from Workplace Harassment, which implicates OU's obligations under Title VII of the Civil Rights Act of 1964.

If the Title Coordinator signs a Formal Complaint, the Title IX Coordinator is not considered to be a Complainant or Party during a grievance.

Consolidated Formal Complaints

The Title IX Coordinator may consolidate Formal Complaints as to allegations of Title IX Sexual Harassment against more than one Respondent(s), or by more than one Complainant(s) against one or more Respondents, or by one Party against the other Party, where the allegations arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in this section to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.

Identifying Resolution Track

At the time of filing, if available as a resolution option, Complainant determines whether they wish to pursue Live Hearing or Informal Resolution as a means to resolve the Formal Complaint. Even if not selected at the time of filing, either Party may request Informal Resolution as outlined in Section VI. If the request is made at the time of filing and Respondent does not agree to Informal Resolution at that time, the investigation will continue to a Live Hearing unless otherwise dismissed or resolved consistent with this Procedure.

IV. Dismissal or Withdrawal of a Complaint

Mandatory Dismissal of Formal Complaint of Title IX Sexual Harassment

Either upon the initial review of a Formal Complaint or during an investigation, the Title IX Coordinator or Investigator shall dismiss a Formal Complaint of Title IX Sexual Harassment if:

- a. The conduct, as alleged, does not meet the definition of Title IX Sexual Harassment, even if proved;
- b. The alleged conduct did not occur in OU’s education program or activity; or
- c. The alleged conduct did not occur against a person in the United States.⁴

⁴ The Title IX Regulations require that the grounds for mandatory dismissal include the allegations “did not occur against a person in the United States” because the Title IX regulations do not apply outside the United States. 34 C.F.R. § 106.45(b)(3). However, Title IX does not prohibit OU from addressing such conduct that may occur outside the United States, and OU has discretion to determine how best to address those allegations. The Sexual Misconduct Policy and this Procedure allow for IEO to take jurisdiction over alleged conduct occurring against a person outside the United States in the form of Employee Sexual Misconduct and/or Sexual Misconduct—Student Code Violation when applicable. As a result, a dismissal based on this territoriality restriction does not prevent OU from moving

If a Formal Complaint is dismissed for any of the above reasons, Complainant and Respondent will be provided a written notice of the dismissal and the reason(s) for dismissal.

Dismissal of the Formal Complaint of Title IX Sexual Harassment does not preclude action under other policies or codes of conduct of OU. If the conduct, as alleged, would constitute Employee Sexual Misconduct or Sexual Misconduct (Student Code Violation), the grievance process may continue in accordance with this Procedure.

Discretionary Dismissal

The Title IX Coordinator or Investigator may dismiss a Formal Complaint of Title IX Sexual Harassment, or a Complaint of Employee Sexual Misconduct/Sexual Misconduct (Student Code Violation) if:

- a. Complainant requests in writing to withdraw or dismiss a Formal Complaint or any allegations therein;
- b. Respondent is no longer enrolled in or employed by OU; or
- c. Any specific circumstances exist which would prevent OU from gathering evidence sufficient to reach a determination regarding responsibility.

After a dismissal under this section, Title IX Coordinator shall issue a Written Notice to Parties reflecting the correct charge, if any, and any changes to disciplinary procedures without requiring further action by either party.

Appeal of Dismissal

Either party may appeal a dismissal of a Formal Complaint of Title IX Sexual Harassment or a Complaint of Employee Sexual Misconduct or Sexual Misconduct—Student Code Violation, or any allegations therein. Such appeals may only be made on the following bases:

- a. A procedural irregularity affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination of dismissal, that could reasonably affect the decision, and;

forward with the appropriate charge under this Procedure.

- c. The Title IX Coordinator or Investigator had a conflict of interest or bias for or against complainants or respondents (generally or individually) that affected the outcome.

An appeal of a dismissal must be submitted in writing within five (5) business days of the dismissal. Any appeal must be in writing and describe in sufficient detail the grounds for appeal. A copy of the appeal will be provided to other parties, who will be afforded up to five (5) OU business days to submit a written statement in response.

The Associate Vice President or designee serves as the appellate Decision-Maker. Within ten (10) OU business days of the passage of the response period for the non-appealing party, the appellate Decision-Maker issues a written decision including the rationale for the decision and provides the written decision simultaneously to the Parties.

If an appeal of a dismissal is granted, the Formal Complaint will be reinstated, and the investigation will proceed.

If an appeal of a dismissal is denied, any Appropriate Administrator(s) and Parties shall be notified in writing that the matter is closed.

A dismissal does not preclude IEO from referring allegations of violations of other policies to the appropriate office.

V. Grievance Process

Intake/Initial Review

Once IEO receives a report implicating the Sexual Misconduct Policy, the grievance process will follow the following general format:

- a. IEO evaluates the report and sends outreach to Complainant that includes information about supportive measures, resources, the Sexual Misconduct Policy, and this Procedure.
- b. IEO conducts an Initial Intake/Interview with Complainant to gather information about the Report and to explain the process to file a Formal Complaint.
- c. Complainant (or Title IX Coordinator if applicable) signs a Request for a Formal Complaint and request to proceed with an investigation and Live Hearing and/or Informal Resolution (if available).
- d. IEO issues Written Notice of Investigation and Allegations to Parties.

Notice of Investigation and Allegations to Parties

Upon receipt of a Formal Complaint, OU will provide the Written Notice of Investigation and Allegations (“NOIA”) to the Complainant(s) and Respondent(s) identified in the Formal Complaint. The NOIA includes:

- a. A meaningful summary of all of allegations,
- b. The identity of the parties involved (if known),
- c. The precise misconduct being alleged,
- d. The date and location of the alleged incident(s) (if known),
- e. The specific policies implicated,
- f. A description of the applicable procedures,
- g. A statement of the potential sanctions/responsive actions that could result,
- h. A statement that OU presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- i. A statement that a determination of responsibility is made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- e. A statement about OU’s policy on retaliation,
- f. Information about the privacy of the process,
- g. Information about the availability of Informal Resolution (when applicable),
- h. Information on the need for each party to have an Advisor of their choosing for Live Hearing,
- i. A statement informing the parties that OU policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,

- j. Detail on how the party may request disability accommodations during the interview process,
- k. A link to OU's VAWA Brochure for VAWA incidents (sexual assault, dating violence, domestic violence, or stalking),
- l. The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- m. An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges. Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official OU records, or emailed to the parties' OU-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

Title IX Coordinator will assign the matter to an impartial Investigator. If, during the course of gathering evidence, the Investigator uncovers additional allegations of Prohibited Conduct, the Investigator will promptly supplement the NOIA to include them and provide the updated NOIA to the Parties and/or may refer additional allegations to the appropriate conduct process.

VI. Informal Resolution

At any time after the filing of a Formal Complaint, either Party may request that OU facilitate an Informal Resolution. Informal Resolution, however, is not available in cases involving a student Complainant and employee Respondent. The Title IX Coordinator may also determine that Informal Resolution is not appropriate in other circumstances, such as when there is a pattern and practice of conduct or safety considerations that impact campus.

Informal Resolution is an option when both parties voluntarily agree to participate and note such agreement in writing, and the Title IX Coordinator agrees that Informal Resolution is appropriate given the nature of the allegations and the relationship of the Parties. Title IX Coordinator may condition agreement on the inclusion of minimum provisions in the Informal Resolution agreement, up to and including removal from an OU program, activity, or campus. Title IX Coordinator may restrict the availability of Informal Resolution if the request comes after the completion of the Investigative Report.

To ensure the Informal Resolution process does not impact a subsequent investigation, the Informal Resolution facilitator may not be an individual who is otherwise involved in the investigation process, but the Informal Resolution facilitator may be a member of the IEO team.

If the parties reach agreement during the Informal Resolution process, the facilitator will reduce the agreement to writing and present it to the Title IX Coordinator, who may approve or disapprove the agreement. If the Title IX Coordinator disapproves of the agreement, the parties may resume the Informal Resolution process, or the grievance process resumes and proceeds to a Live Hearing.

An approved Informal Resolution agreement will be recognized as a binding agreement between the parties enforceable by OU. Once the parties have entered into an approved Informal Resolution agreement, the grievance will be deemed resolved and may not be re-opened.

At any time prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and resume the grievance process with respect to the Formal Complaint. If any party declines to participate in the Informal Resolution process chooses to withdraw from participation, or if Informal Resolution is not successful, the grievance process continues. If Informal Resolution is unsuccessful, statements made during Informal Resolution, including any draft agreements, may not be used in the subsequent investigation or Live Hearing.

IEO may pause the investigation process during the Informal Resolution process. Any such pause does not count toward the resolution timeframes outlined in the Sexual Misconduct Policy.

VII. Investigation

Gathering Evidence

Parties will be provided with equitable opportunities to present Evidence and Witnesses to IEO. IEO will take reasonable steps to obtain Relevant Evidence that may not be in the Parties' control. IEO may conduct interviews, collect statements, collect documents or electronic evidence, and medical evidence from the parties if deemed necessary by the Investigator. IEO may request the Parties provide Evidence and/or assist with obtaining Evidence, although the burden to gather Evidence rests upon IEO. IEO will objectively evaluate all Evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory Evidence.

Impermissible Evidence

Impermissible Evidence, including Evidence that would otherwise be relevant, includes:

- a. Evidence that is protected under a privilege recognized by federal or state law or provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;

- b. A Party's or Witnesses' records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional acting in that capacity in connection with the provision of treatment of the Party or witness, unless IEO obtains that Party's or Witness's voluntary, written consent for use in this Procedure; and
- c. Evidence that relates to Complainant's sexual predisposition or prior sexual behavior, unless such questions and Evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and Evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

IEO may remove or redact, in whole or part, impermissible evidence included within an Evidence File.

Review of Evidence and Response

Prior to completion of the Investigative Report, Investigator provides the Parties and their Advisor(s), if any, with access to all evidence that is directly related to the allegations for their review and inspection. The Parties and their Advisors, if any, may not make the evidence available to any third party except as reasonably necessary in connection with the grievance process.⁵

The Parties will have ten (10) business days to review the evidence obtained as part of the investigation that is directly related to the Complainant's allegations and prepare a written response that may propose corrections, provide context, and identify missing evidence. Investigator shall consider the written responses, if any, and conduct any further investigation or correction that may be warranted prior to completion of the investigative report.

Investigative Report

At least ten (10) business days prior to a hearing, Investigator fairly summarizes the Relevant Evidence and provides access to the Investigative Report to the Parties and Advisor(s) (if identified) for their review and written response. The Investigative Report may include an addendum to the Evidence File.

⁵ Parties who make evidence, reports, or other IEO work product available to a third party when not reasonably needed for the grievance process may be referred to the appropriate conduct process for a failure to comply. Parties who share such information unnecessarily are assuming any risk that may be associated with such action and may be subject to third-party litigation or other action as appropriate.

The Investigative Report and other IEO communications are considered IEO work product and are restricted from unauthorized distribution. Individuals who share IEO work product without authorization may be referred to the appropriate process for failing to comply. As noted above, Parties may share information as needed to carry out the grievance process.

VIII. Live Hearing

The Parties will present Relevant Evidence at a Live Hearing before an independent Decision-Maker. Decision-Makers are contracted by OU and do not report to the Title IX Coordinator; however, IEO may provide administrative support for the Live Hearing by facilitating scheduling, reserving space, and similar tasks. The Live Hearing Procedures are attached hereto as Appendix A.

OU generally holds a Pre-Hearing Conference with the Decision-Maker, Investigator, IEO facilitator, Parties, and Advisors prior to the Live Hearing, although such Pre-Hearing Conference is not required. See Appendix A.

Determination of Responsibility (the “Determination”)

After the Live Hearing, the Decision-Maker will reach a conclusion regarding responsibility. If the Respondent is found responsible, the Decision-Maker may consider previous disciplinary action of any kind involving the Respondent to determine an appropriate disciplinary sanction. This information is only considered at the sanction stage of the process. The Parties may each submit a written impact statement for the consideration of the Decision-Maker in sanctioning, which will not be reviewed until a conclusion regarding responsibility has been reached.

The Decision-Maker will enter a Determination regarding responsibility (“Determination”) that includes:

- a. Identification of the allegations potentially constituting Sexual Harassment; Employee Sexual Misconduct; or Sexual Misconduct—Student Code Violation;
- b. A description of the procedural steps taken from the receipt of the Formal Complaint 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;
- c. Findings of fact supporting the Determination;
- d. Conclusions regarding the application of the Sexual Misconduct Policy to the facts;
- e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions recommended to

be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to OU's education program or activity will be provided to the Complainant; and

- f. OU's procedures and bases for the parties to appeal the Determination.

The Determination will be provided to the parties simultaneously, and the Determination will become final either on the date that a written determination of the result of the appeal is provided to the parties, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator is responsible for effective implementation of any remedies.

IX. Appeals, Sanctions, and Remedies at the Conclusion of the Live Hearing

Grounds for Appeal after a Live Hearing

Either party may appeal a Determination. Appeals may only be made on the following grounds:

- a. A procedural irregularity affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the Determination was made, that could affect the outcome of the matter; or
- c. The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents (generally or individually) that affected the outcome of the matter.

Procedure for Appeals

Either party may file an appeal with the Title IX Coordinator within five (5) business days of receiving the Determination. Parties shall receive notice of the Appeal. The non-appealing Party will be afforded up to five additional (5) business days to submit a written Response to the Notice of Appeal.

The Title IX Coordinator shall provide the Appeal and any submitted response to the Appeal to the appropriate Appellate Decision-Maker. The Appellate Decision-Maker enters a Decision of Appeal within ten (10) business days after the parties' statements, if any, are received. Reasonable extensions of the Decision of Appeal timeframes may be granted with written notice to the parties. As set forth below, the Appellate Decision-Maker is not the same person as the Live Hearing Decision-Maker, the Title IX Coordinator, or the Investigator.

1. *Students:* In all cases in which the Respondent is a student, the Vice President for Student Affairs or designee will determine the appeal. If the Vice President for Student Affairs or

designee grants the appeal, the matter will be overturned or remanded for further investigation. If denied, and if sanctions are recommended, the Vice President for Student Affairs or designee will make a written determination to accept the proposed sanctions or impose a more or less severe sanction against a student who has been found responsible.

2. *Non-Faculty Employees:* In all cases in which Respondent is a non-faculty employee, the Chief Human Resources Officer or designee, in conjunction with the Executive Officer over the area or designee, will determine the appeal. If the Chief Human Resources Officer or designee, in conjunction with the Executive Officer over the area or designee, grants the appeal, the matter will be overturned or remanded for further investigation. If denied, and if sanctions are recommended, the Chief Human Resources Officer or designee, in conjunction with the Executive Officer over the area or designee, will make a written determination to accept the proposed sanctions or impose a more or less severe sanction against a staff member who has been found responsible.

3. *Faculty Members:* In cases in which the Respondent is a faculty member, the Respondent is found Not Responsible or the Respondent is found Responsible but the recommended sanction is a minor sanction, the applicable Senior Vice President and Provost or designee determines the appeal. If the Senior Vice President and Provost or designee grants the appeal, the matter will be overturned or remanded for further review. If denied, and if minor sanctions are recommended, the Senior Vice President and Provost or designee will make a written determination to accept the proposed sanctions or impose a sanction that is less or more severe against a faculty member; however, if the Senior Vice President and Provost or designee seeks to impose a severe sanction, the severe sanction process below is applied.

In cases in which the Respondent is a faculty member, is found Responsible, and the recommended sanction is a severe sanction as defined by the applicable campus's minor and severe sanctions policy, the appeal is referred to the appeal procedures for the recommended sanction as outlined in the applicable campus's minor and severe sanctions policy to determine (1) if an appeal should be granted and (2) if so, the appropriateness of the sanction only. If an appeal is granted, the matter will be overturned or remanded for further review. If denied, and if sanctions are recommended, the committee may prepare a written opinion confirming the appropriateness of the recommended sanction, which will be forwarded to the Senior Vice President and Provost of the appropriate campus or program and the OU President. The Senior Vice President and Provost and OU President will determine whether the recommended sanction is appropriate.

X. Conflicts of Interest

OU treats Complainants and Respondents equitably throughout the process. OU will presume that a Respondent is not responsible for a potential policy violation or any other alleged misconduct until a determination regarding responsibility is made at the conclusion of this Procedure.

OU requires that any member of the IEO team, which includes the Associate Vice President/Institutional Equity Officer, Deputy Title IX Coordinator, Associate Equity Officer, Assistant Equity Officer, Investigator, facilitator, or Decision-Maker to be free from conflict of interest or bias for or against complaints or respondents generally or an individual Complainant or Respondent. These individuals have been trained to meet the requirements under the Title IX regulations. Training information can be found on the Title IX website at: www.ou.edu/eoo.

The Title IX Coordinator will vet the assigned Investigator(s) and Decision-Maker to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The Parties may, at any time during the grievance process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another member of the IEO team will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with OU's President.

XI. Graduating or Withdrawn Respondents

If the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until a matter is fully resolved (including any appeal). Hearings for possible violations that occur near or after the end of an academic term that are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the Recipient and remain within the 60-90 business day goal for resolution.

If a Respondent withdraws from OU after a NOIA is issued, the Title IX Coordinator may issue a discretionary dismissal as outlined in Section IV. If a discretionary dismissal is issued because a Respondent withdraws or if a Formal Complainant could not move forward because the Respondent was not within OU's jurisdiction at the time requested, the Title IX Coordinator may place a hold on Respondent's account. This hold is not intended to be a punitive measure but is intended to notify Title IX Coordinator that the Grievance Process may resume. If Respondent seeks to return to OU, the Title IX Coordinator lifts the hold to permit enrollment and may resume the Grievance Process if Complainant wishes to move forward or if the Title IX Coordinator signs a Formal Complaint.

Appendix A: Live Hearing Process

Following the issuance of the Investigation Report, the Grievance Process moves to the Live Hearing Process.

The Parties may be represented by the Advisor of the Party's choice or by an Advisor appointed by OU, but the Parties must be represented by an Advisor in the Live Hearing.

I. Appointment of a Hearing Officer

Title IX Coordinator appoints a Hearing Officer to conduct the Live Hearing and to serve as the Decision-Maker who determines the outcome. Title IX Coordinator may serve as an administrative facilitator of the Hearing for procedural efficiency.

II. Scheduling the Live Hearing

Title IX Coordinator will coordinate with the Hearing Officer and the Parties to schedule a date and time for the Live Hearing. IEO makes reasonable efforts to accommodate the scheduling needs of the Parties. Parties (if they intend to participate) and Advisors are expected to make themselves reasonably available when scheduling the Live Hearing. If using an Advisor of their choice, Parties are expected to ensure their Advisors are reasonably available. If a Party's Advisor of choice is not reasonably available, OU will appoint an Advisor to conduct cross-examination at the Live Hearing.⁶ OU-contracted Advisors are contractually obligated to make themselves reasonably available and can be replaced by IEO if unable to fulfill their obligations.

Although IEO makes reasonable efforts to accommodate schedules, IEO prioritizes the availability of (1) the Hearing Officer, (2) the Investigator, (3) the Advisors, and (4) the Parties when scheduling a Live Hearing. When scheduling Live Hearings that involve a student as a Party, IEO may consider important periods in the academic calendar such as finals and finals preparation periods. However, IEO cannot indefinitely delay a Live Hearing to accommodate academic demands. Parties may request supportive measures to address absences from class or work to participate in the Live Hearing.

III. Scope of the Hearing

The Hearing Officer has the authority to hear and make determinations on all allegations of Title IX Sexual Harassment and may also hear and make determinations on any additional alleged

⁶ In cases of an Advisor of choice not making themselves available, the OU-appointed Advisor may be an OU employee, but they will not be the Investigator, Informal Resolution Facilitator, or a Designated Title IX Coordinator for the case.

violations of Collateral Misconduct under this Procedure that would otherwise be subject to the IEO Investigative Procedures (Process B) when those alleged violations were identified in the NOIA.

IV. Notice of Hearing to the Parties

At least ten (10) business days before the Hearing, the Parties will receive a Notice of Hearing that will inform them of date, time, location, and the participants in the Hearing. The Notice of Hearing will also include the name of the Hearing Officer (if not provided previously), the Hearing Rules and Procedures; potential Sanctions; and the purpose of the Hearing.

Within one (1) OU business day of distribution of the name of the Hearing Officer, either Party may assert to the Title IX Coordinator, in writing, that the Hearing Officer has a perceived bias or conflict of interest. If the Title IX Coordinator determines that such a bias or conflict exists, the Title IX Coordinator replaces the Hearing Officer with an alternate. The Title IX Coordinator's determination is final.

V. Before the Hearing

Hearing Officer Reviews Investigative Report and Relevant Evidence

Before the Live Hearing, Hearing Officer reviews the Investigative Report and Evidence File. Hearing Officer specifically reviews and focuses on the Investigative Report and the Relevant Evidence relied upon therein. Hearing Officer reviews evidence determined not relevant by the Investigator only if the Parties wish to challenge that determination at the Hearing.

Pre-Hearing Conference

Although not required, Title IX Coordinator generally coordinates a virtual pre-Hearing Conference with the Hearing Officer, Parties, and their Advisors prior to the Live Hearing. The Pre-Hearing Conference will be audio recorded. The purposes of the pre-Hearing Conference are to:

- a. Ensure that the Parties and their Advisors understand the Live Hearing Process and receive answers to any Live Hearing Process-related questions;
- b. Have the Hearing Officer hear and rule on any evidentiary challenges raised by the Parties;
- c. Provide the opportunity for the Parties and their Advisors to seek a pre-determination of relevance for questions the Advisors intend to ask the other Party and Witnesses (optional);

- i. For example, the Hearing Officer will consider arguments that evidence identified as relevant in the final Investigative Report is, in fact, not relevant. Similarly, evidence identified by the Investigator as directly related but not relevant may be argued to be relevant.
- d. Conduct an overview of the Hearing Rules and Procedures;
- e. Test the technology to be used at the Hearing, and
- f. Address any other pre-Hearing matter.

Notice to Witnesses

The Parties have equal opportunity to present Witnesses at the Live Hearing. The Hearing Officer may also request the presence of Witnesses that it deems necessary, even if those Witnesses are not presented by the Parties. Title IX Coordinator provides written notice to each Witness requesting that the Witness participates in the Hearing.

VI. Logistics of the Hearing

Virtual and In-Person Hearings

Because OU relies on contracted Decision-Makers and Advisors, OU generally holds virtual hearings, although the Title IX Coordinator may choose to hold an in-person Live Hearing and will designate the appropriate campus and location. Parties needing to reserve space on campus to participate in a virtual hearing may make a written request for IEO to facilitate such reservation no later than five (5) business days before the Hearing. If held in-person, at OU's discretion, any or all Parties, Witnesses, and other participants may appear at the Hearing virtually with technology enabling the participants to simultaneously see and hear each other (or, if hearing impaired, to access through auxiliary aids or services).

During the Live Hearing, Parties are expected to be in a private location with the tools and equipment necessary to participate. Parties and their Advisors are expected to have their cameras on during the Live Hearing, although individuals may make modifications on their own screens to block or modify how the other Party appears. The Hearing Officer must be able to see the Parties and Witnesses as they are speaking. The use of technology does not compromise the fairness of the Hearing.

Individuals with Disabilities

OU will ensure that individuals with disabilities have equal access to the resolution process. Anyone needing such accommodations or support should contact the Accessibility and Disability Resource Center Director, who will review the request and, in consultation with the person

requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for participation in the process. Requests for accommodation in the Live Hearing should be submitted to the ADRC as soon as possible but no later than five (5) business days prior to the Hearing. The Party is responsible for requesting accommodation. IEO will not delay a Live Hearing because a Party failed to submit requests timely.

Closed to Public

Hearings are closed to the public. All participants involved in a Hearing are expected to respect the seriousness of the matter and the privacy of the individuals involved. OU's expectation of privacy during the Live Hearing process should not be understood to limit any legal rights of the Parties during or after the resolution. OU may not, by federal law, prohibit the Parties from disclosing the final outcome of a Formal Complaint process (after any appeals are concluded). OU's obligations regarding disclosure are governed by the Family Educational Rights and Privacy Act (FERPA) and any other applicable privacy laws. As noted elsewhere, documents produced by IEO are considered IEO work product and are restricted to unauthorized distribution.

Audio Recording

Live Hearings are recorded. Parties may request a transcript of the Live Hearing, and OU will provide access to a transcript once a transcript is available.

Cross-Examination

At the Live Hearing, each Party's Advisor must be permitted to ask the other Party and Witnesses all relevant questions and follow-up questions, including those challenging credibility. This type of questioning is referred to as Cross-Examination. Party Advisors conduct all questioning on behalf of their Parties.

Rules for Advisors

The Parties *must* have an Advisor accompany them to the Live Hearing or to appear on their behalf if they do not attend the Live Hearing. Complainant and Respondent are prohibited from questioning each other and Witnesses directly; rather, they must do so through their Advisors. *See Appendix B for specific rules for Advisors.*

Witnesses

1. Availability of Witnesses

Witnesses are not required to participate in the Live Hearing and cannot be forced to do so. IEO will make reasonable efforts to accommodate scheduling for Witnesses, but the availability of the Decision-Maker, Investigator, and Parties will be prioritized. A Witness whose availability cannot

be accommodated may submit a written statement prior to the Hearing that is distributed simultaneously to Parties by the Title IX Coordinator.

The Hearing Officer will call the relevant Witnesses named in the Investigative Report or those requested by the Parties prior to the Live Hearing. The Investigator may also serve as a Witness. Witnesses (other than the Investigator) are not allowed to be present to hear the testimony of the Parties or of other Witnesses.

2. *“New” Witnesses and Evidence*

Hearing Officer may decide whether or how to place limits on evidence introduced at a Live Hearing that was not gathered and presented before the Live Hearing. If, at the Live Hearing, the name of a Witness arises, and that Witness was not previously disclosed during the Investigation, or if a Witness who was identified during the Investigation but who chose not to participate now desires to participate, the Hearing Officer may:

- a. Temporarily adjourn the Live Hearing and request that the Investigator interview the Witness and provide the interview transcript or summary to the Parties before reconvening the Hearing, or
- b. Continue the Live Hearing and invite the Witness to appear and submit to questions from the Hearing Officer and the Parties’ Advisors.

3. *No-Show Parties or Witnesses*

If the Complainant, the Respondent, or Witnesses fail to appear and/or participate, the Hearing will continue as scheduled unless the Hearing Officer determines there is Good Cause to suspend the Hearing.

Support Persons

Parties may request to have a support person participate in the Live Hearing if such request is made at a reasonable time prior to the Live Hearing. Support persons are not active participants in the Live Hearing and are intended to support a Party. The support person is expected to follow the rules for decorum outlined by the Hearing Officer and/or Title IX Coordinator and will be expected to sign a non-disclosure agreement. The other Party may object to the presence of a support person, and the Hearing Officer or Title IX Coordinator will determine whether the Support Person must be excluded from the Live Hearing.

VII. Live Hearing

The Hearing Rules and Procedures will be provided to the Parties in advance of the Hearing. In addition, the Hearing Officer will provide more specifics about how the Hearing will be conducted

and the rules within the Live Hearing, including rules of decorum. The Hearing Rules and Procedures apply equally to both Parties. The Hearing is not intended to be a repeat of the Investigation.

Hearing Introduction

To begin the Hearing, the Hearing Officer will provide to the Parties and their Advisors a brief overview of the Hearing Process and the expectations for participants' conduct. The Parties and their Advisors must agree to abide by those expectations or risk removal from the Hearing. If an Advisor is removed for failure to abide by the Hearing rules, the Hearing will continue after a new Advisor is selected by the Party or appointed by OU.

Questioning and Cross-Examination

Typically, the questioning at the Live Hearing proceeds as follows:

1. Hearing Officer questions Complainant.
2. Complainant's Advisor questions Complainant.
3. Respondent's Advisor cross-examines Complainant.
4. The Hearing Officer questions Respondent.
5. Respondent's Advisor questions Respondent.
6. The Complainant's Advisor cross-examines Respondent.
7. The Hearing Officer questions the Witness.
8. Complainant's Advisor questions the Witness.
9. Respondent's Advisor questions the Witness.

If necessary, the Hearing Officer may re-call the Complainant, the Respondent, or any Witness for further questioning. If any Party or Witnesses are re-called, the Parties' Advisors may ask follow-up questions.

The Hearing Officer may modify the order at their discretion so long as the Parties have equitable opportunity to present and/or question Witnesses. For example, the Hearing Officer could defer questions until after the Advisors question a Witness, but the Hearing Officer could not deny an Advisor the opportunity to question a Witness.

Advisors must ask only relevant questions and follow-up questions to the other Party and Witnesses. Generally, Advisors will ask questions in the following manner:

Advisors will pose each question verbally to the Hearing Officer, who will determine whether the question is relevant.

If the Hearing Officer deems the question relevant, the Hearing Officer will instruct the Party or Witness to answer the question or will otherwise instruct the Parties as to how to proceed.

A Hearing Officer may alter this process and permit a Party or Witness to answer unless the Hearing Officer indicates otherwise. This is permissible if the Hearing Officer notifies the Parties in advance of this instruction.

If the Hearing Officer deems the question not relevant, the Hearing Officer will explain the rationale for the determination and instruct the Party or Witness not to answer.

The Hearing Officer may ask Advisors to frame why, from the Advisor's perspective, a question is or is not relevant, but the Hearing Officer will not entertain argument from the Advisors on relevance once the Hearing Officer has ruled on a question.

The Hearing Officer's decision on whether a question is relevant is final.

VIII. After the Hearing

Following the close of the Hearing, the Hearing Officer will determine Responsibility. The Hearing Officer will draft a written determination, including Sanctions and Remedies if the Respondent is found Responsible. Typically, the Hearing Officer makes the determination within ten (10) OU business days but reasonable extensions may be granted with good cause. If the timeframe is extended, Parties receive written notice of the extension. After receiving the Determination, the Title IX Coordinator will contemporaneously inform the Parties of the outcome.

In reaching a determination on responsibility, the Hearing Officer may consider relevant statements made by Parties or Witnesses, even if those Parties or Witnesses do not submit to Cross-Examination at the Live Hearing. This includes, but is not limited to, relevant statements made by the Parties and Witnesses during the Investigation, emails or text exchanges between the Parties leading up to or following the alleged Prohibited Conduct, and other statements from Witnesses about or related to the alleged Prohibited Conduct. Also subject to Hearing Officer consideration are statements contained in police reports, sexual assault nurse examiner documents, medical reports, and other documents even if those statements are made by a Party or Witness who is not Cross-Examined at the Hearing. The Hearing Officer may consider certain types of statements by a Party where the statement itself is the alleged Prohibited Conduct, even if the Party does not submit to Cross-Examination. These statements can appear in text messages, e-mails, social media postings, audio or video recordings, or other documents or digital media created and sent by a Party as a form of alleged Sexual Harassment, or as part of an alleged course of conduct that constitutes Stalking.

The Hearing Officer cannot draw an inference about Responsibility based solely on a Party's absence from the Hearing or refusal to answer Cross-Examination or other questions posed by an Advisor or the Hearing Officer.

Determination of Responsibility

The Hearing Officer will determine whether the Respondent is either Not Responsible or Responsible.

1. *Not Responsible.* The Respondent will be found Not Responsible when the Hearing Officer determines that it is more likely than not that the alleged behavior did not occur, that the evidence was inconclusive to determine whether it is more likely than not that the alleged behavior occurred, or that the alleged behavior occurred but did not violate the Sexual Misconduct Policy.

2. *Responsible.* The Respondent will be found Responsible when the Hearing Officer determines that it is more likely than not that the alleged behavior did occur and that the behavior violated this Policy.

Written Determination

The Hearing Officer will draft a written determination ("Notice of Outcome") that will include:

- a. Identification of the allegations potentially constituting Sexual Harassment;
- b. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination of Responsibility, including any notices to the Parties, interviews with Parties and Witnesses, site visits, methods used to gather evidence, and Hearings held;
- c. Findings of fact supporting the determination;
- d. Conclusions regarding the application of the Sexual Misconduct Policy to the facts;
- e. A statement of, and rationale for, the result as to each allegation, and
- f. Where credibility of the Parties is an issue in determining Preponderance of the Evidence, the rationale will include an explanation of how the Hearing Officer resolved questions of credibility. Credibility determinations will not be based upon a person's status as Complainant or Respondent.
- g. The procedures and permissible bases for appeal.

If the Respondent is found Responsible, the Hearing Officer will include appropriate Sanction(s) within the Notice of Outcome Following the Live Hearing. The Hearing Officer will also issue Remedies for the Complainant to preserve or restore the Complainant's equal education access.

Notice of Outcome to Parties

The Title IX Coordinator will contemporaneously inform the Complainant and the Respondent of the Hearing Officer's determination by providing a copy of the Hearing Officer's Determination and the Notice of Outcome.

Finality of Outcome

The Hearing Officer's determination regarding Responsibility becomes final either:

1. On the date that the Title IX Coordinator provides the Parties with the Appeal Decision, if an appeal was filed, or
2. On the date on which an appeal would no longer be considered timely.

APPENDIX B: Role of and Rules for Advisors

Who Can Serve as an Advisor

The Advisor may be any person of the Party's choosing, including an attorney, who is able and willing to serve as an Advisor. If either Party will not have an Advisor present at the Live Hearing, one will be provided by OU without fee or charge to that party to assist the party at the Live Hearing. No Party is required to have an Advisor, except in the Live Hearing.

If a Party selects an Advisor of their choice rather than an Advisor appointed by OU, the Party is responsible for any fees associated with that Advisor as well as for ensuring that the Advisor is willing to serve and available to participate on the dates scheduled.

All OU-appointed Advisors are required to receive training regarding the Grievance Process set forth in the 2020 Title IX Regulations, 34 C.F.R. § 106. Advisors appointed by OU may not be dismissed by the Party, unless the appointed Advisor refuses to conduct relevant Cross-Examination on behalf of the Party.

Confidentiality

Each Party must consent to OU sharing information related to the report of Prohibited Conduct directly with the Party's Advisor before information can be shared. OU may require Advisors to sign a non-disclosure agreement to ensure the Confidentiality of the information shared with them by OU. OU-appointed Advisors are designated as school officials who have legitimate educational interests in records as outlined in the Family Educational Rights and Privacy Act. All OU-appointed Advisors have been deemed Confidential Resources, meaning that they will maintain confidentiality throughout the Grievance Procedure; however, a Mandatory Reporter Employee or non-Confidential Resource serving as an Advisor is Confidential only *after* the filing of a Formal Complaint and a Notice of Formal Complaint and Allegations.

Role of the Advisor in the Grievance Procedure, Generally

Advisors support the Parties and assist them through the Grievance Procedure. The Parties are expected to ask and respond to questions and submit evidence on their own behalf throughout the Investigative and Resolution Processes (except for the Hearing Process, as described in Appendix A) Although the Advisor may not speak on behalf of a Party, the Advisor may consult with the Party, either privately as needed, or by conferring during any meeting or interview (except in the

Live Hearing). For longer or more involved discussions, the Parties and their Advisors should ask the Hearing Officer for breaks to allow for private consultation.

Advisor's Role in the Live Hearing Process

An Advisor's role in the Live Hearing Process is limited as follows:

- a. The Advisor's role is to pose questions to the other Party and Witnesses on their Party's behalf.
- b. The Advisor cannot respond to questions from the Hearing Officer or the other Advisor that are directed to their Party.
- c. Complainants and Respondents are expected to respond to questions from the Hearing Officer and from the other Party's Advisor on their own behalf.
- d. Upon request to the Hearing Officer, the Advisor may consult with their Party in private during the Hearing but not while a question is pending.

An Advisor may not make a presentation on behalf of or represent the Party during any meeting or proceeding in the Hearing Process and may not speak on behalf of the Party to the Investigator(s) or Hearing Officer, except during Cross-Examination, unless granted permission by the Hearing Officer. Advisors may ask process-related questions of the Title IX Coordinator, Investigator(s), or Hearing Officer.

The Parties are expected to respond to questions on their own behalf throughout Hearing Process, though the Party may consult with their Advisor as explained above.

If an Advisor selected by the Party fails to respect the limits of the Advisor role within any part of the Grievance Procedures, the Title IX Coordinator, Investigator, or Hearing Officer may require the Party to select a new Advisor. During a Live Hearing, if an Advisor is removed from the proceeding for willfully failing to abide by these expectations, OU may appoint another appropriate Advisor, including members of the IEO team, to serve as an Advisor for the duration of the Live Hearing.

Decorum

Advisors are expected to conform with decorum expectations set by the Hearing Officer, Title IX Coordinator, and/or Investigator during any meeting or proceeding during the Grievance Procedures. Advisors are expected to dedicate appropriate care and attention to the proceeding and protecting the confidentiality of the proceeding and the Parties' privacy.

By agreeing to be an Advisor, the Advisor agrees to make themselves available during proceedings and being reasonably available for scheduling the Live Hearing or any related proceedings. Advisors will promptly bring any scheduling conflicts to the attention of the Title IX Coordinator. Last minute requests to reschedule the Live Hearing will not be granted when the Advisor knew or should have known of the scheduling conflict.

During the Live Hearing, the Advisor is expected to have equipment needed to participate in the Live Hearing, such as a computer with a camera and any audio equipment needed as appropriate. If Advisors do not have access to such equipment, Advisors will make reasonable and timely requests to the Title IX Coordinator to secure an on-campus location with such equipment.

During meetings and proceedings, especially the Live Hearing, Advisors are expected to be in a private space where information is reasonably protected from being overheard by non-participants. Participating in the Live Hearing in public spaces, while in transit in automobiles or other modes of transportation, is not acceptable and does not demonstrate a level of respect and professionalism that such proceedings require. The Hearing Officer or Title IX Coordinator may deny an Advisor the right to participate under such circumstances.