







concurrent law enforcement activity; or the need to arrange for language assistance or reasonable accommodation of disabilities.

- h. or maintained by a physician, psychiatrist, psychologist, or other recognized professional or capacity, and which are made and maintained in connection with the provision of treatment to the

## 2. Reports vs. Formal Complaints

- a. Reporting alleged violations of conduct defined as Title IX Sexual Harassment and filing a Formal Complaint are separate processes that differ in important respects. The most important distinction is Complaint can initiate this grievance process. Potential

- e. The Title IX Coordinator or designee also must notify the Complainant of the:
  - i. Importance of preserving evidence as may be necessary to the proof of criminal Domestic Violence, Dating Violence, Sexual Assault, or Stalking, or in obtaining a protection order,
  - ii. Agencies to whom the alleged offense may be reported,
  - iii. notify local proper law enforcement authorities, be assisted by the University in notifying the proper law enforcement authorities if the Complainant so chooses, and to decline to notify such authorities.
- f. The University strongly encourages potential Complainants to file a Formal Complaint as soon as possible after alleged violations of conduct defined as Title IX Harassment occur, as prompt reports enable the University to investigate the facts, determine the issues, and provide appropriate remedies or sanctions. The ability to investigate Formal Complaints may be negatively impacted (e.g., the memories, reliability, or availability of witnesses may decrease, collection or preservation of evidence may be impeded) when Formal Complaints are not filed promptly.
- g. The Title IX Coordinator (not a designee) also may file a Formal Complaint. In such cases, the Complainant is the individual who is alleged to have experienced the conduct that could constitute a violation of conduct defined as Title IX Sexual Harassment.
- h. The Title IX Coordinator may consolidate Formal Complaints alleging violations against more than one Respondent, or by more than one Complainant 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 these procedures plural, as applicable.
 

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#### 4. Notice of Allegations

- a. Following confirmation by the Title IX Coordinator or designee Complaint, the assigned investigator will issue to the Complainant and Respondent a notice of allegations, which shall contain a:
  - i. Statement describing the alleged violation(s) of Title IX with details sufficient to enable the Respondent to effectively respond (the specific details that must be included are: i) the alleged violations of University policy; ii) the date, time, and location of the alleged incident, if known; and iii) and the identities of the parties involved in the incident, if known);
  - ii. Copies of or links to the Sexual Misconduct Policy and these procedures;
  - iii. Statement that the Respondent is presumed to be not responsible for the alleged violations and that a determination regarding responsibility will be made at the conclusion of the grievance process;
  - iv. Statement that the University applies the preponderance of the evidence standard of evidence and that the University bears the burden of proof;
  - v. Statement that each party may have an advisor of their choice, who may be, but is not required to be, an attorney, who may inspect and review the evidence gathered; and that



a. The health and safety of every student at the University is of utmost importance. The

- a. The parties will have an equal opportunity to inspect and review all inculpatory and exculpatory evidence obtained by the University as part of the Formal Complaint investigation, including the evidence upon which the University





- xii. Notice of the applicable range of discipline that may result from a finding of responsibility for the alleged policy violation(s).

#### 14. Pre-hearing Conference and Order

- a. The hearing panel chair will conduct a pre-hearing conference with the parties and their advisors. Prehearing conferences allow all parties to gain a better understanding of how the process will work and increase the chair's ability to preside fairly and efficiently at the live hearing.
- b. To facilitate efficiency during the hearing, parties are encouraged but not required to submit to the hearing panel chair, at least two (2) business days prior to the pre-hearing conference, those questions they intend to ask of the other party or any witness.
- c. At the pre-hearing conference, the parties shall be prepared to discuss the witnesses and evidence they intend to present at the hearing, all evidentiary issues or questions they anticipate arising at the hearing, and any other matters that may benefit from resolution by the hearing panel chair.
- d. In accordance with 34 CRF Part 106, the hearing panel chair may, in the chair's sole discretion, exclude from the hearing evidence, questions, or topics for the parties and witnesses based on relevance, including on the basis that they are repetitive or abusive. The hearing panel chair will ordinarily address any proposed questions to be posed to a party or witness outside the presence of other parties or in writing directed to the requesting party only. The hearing panel chair will explain and document any decisions to exclude questions or evidence based on relevance.
- e. Following the pre-hearing conference, and prior to the hearing, the parties will be provided a Pre-Hearing Order that identifies a list of approved hearing witnesses, documents, and other evidence for use during the hearing. The hearing panel chair, at their sole discretion, may also memorialize any other rulings made during the pre-hearing conference, including the relevance of proposed questions (or topics) to be posed to another party or any witness.
- f. The Pre-hearing Order will be subject to reconsideration during the hearing and, based on arguments or circumstances presented by the parties, and will be revised by the hearing panel chair in accordance with 34 CRF Part 106.

#### 15. Live Hearing

- a. Unless the Complainant withdraws the Formal Complaint or the Respondent accepts responsibility for the alleged violations, the University will conduct a live hearing in the manner set forth herein to determine responsibility for the alleged violations of conduct defined as Title IX Sexual Harassment.
- b. Only the following persons may be present during the hearing: the hearing panel members; the parties and their advisors, witnesses; the Title IX Coordinator or designee; and the hearing panel counsel, if any. Witnesses may be present only when being questioned unless the hearing panel chair authorizes them to be present for another portion of the hearing.







When appropriate, notice to the parties of their right to seek judicial review pursuant to A.R.S. § 12-904.

f.

- iv. A statement that the dismissal determination becomes final on the date which an appeal will no longer be considered timely if no appeal is filed.
  
- e. A dismissal determination of a Formal Complaint alleging violations of conduct defined as Title IX Sexual Harassment does not preclude or affect action under any other University policy or procedure.

## 21. Appeals

- a. The University's decisions regarding findings of responsibility and any sanctions imposed as a result

- f. The appeal decision-maker may uphold or modify the sanction or grant a rehearing on responsibility by a new hearing panel. The decision of appeal decision-maker is final and constitutes the
  
- g. The appeal decision-maker will issue a written decision simultaneously to both parties, describing the result of the appeal and the rationale for the result within fifteen (15) business days from the date no further appeal can be filed, absent an unanticipated delay. If a delay arises, the university will notify both parties simultaneously of this.
  
- h. The appeal process may take up to sixty (60) business days. If the appeal decision-maker grants a rehearing by a new panel, the timelines generally applicable to the hearing and appeal process shall apply.