

**RESOLUTION PROCESS FOR ALLEGED VIOLATIONS
OF THE TITLE IX POLICY
(Hereinafter the “Resolution Process”)**

1. Overview

Western Oregon University (hereinafter, WOU) will act on any Notice, Complaint, or Knowledge of a potential violation of the Title IX Policy (“the Policy”) that is received by the Title IX Coordinator or any other Responsible Employee by applying the Resolution Process below.

The procedures below apply to all allegations of sex discrimination, sex-based harassment, and retaliation involving students, employees, or third parties.

2. Notice/Complaint

Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, the Title IX Coordinator (or a designee) will initiate a prompt initial evaluation to determine WOU’s next steps. The Title IX Coordinator (or a designee) will contact the Complainant/source of the Notice to offer supportive measures, available resources, provide information regarding resolution options, and determine how they wish to proceed.

3. Collateral Misconduct

Collateral misconduct is defined to include potential violations of other WOU policies not incorporated into the sex discrimination, sex-based harassment, and discrimination Policy that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all charges. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Title IX Coordinator (or a designee) may consult with WOU officials who typically oversee such conduct (e.g., Human Resources, Student Conduct, Academic Affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of the Title IX Coordinator (or a designee). All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student, faculty, and staff handbooks.

4. Initial Evaluation

The Title IX Coordinator (or a designee) conducts an initial evaluation typically within seven (7) business days of receiving Notice/Complaint/Knowledge of alleged misconduct.¹ The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
 - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
- Determining whether WOU has jurisdiction over the reported conduct, as defined in the Policy.
 - If the conduct is not within WOU jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
- Notifying Complainant and Respondent (if applicable) of available resources.
- Offering and coordinating supportive measures for the Complainant.
- Notifying the Complainant, or the person who reported the allegation(s), of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
 - If the party reporting is a Responsible Employee or third party, they will be notified we are in receipt of the information, appreciate their report, and beyond this they will not receive updates or resolution information unless it becomes relevant to the matter.
- Determining whether the Complainant wishes to make a Complaint.
- Notifying the Respondent of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.
- Offering and coordinating supportive measures for the Respondent, as applicable.

Helping a Complainant to Understand Options

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), the Title IX Coordinator will help to facilitate the Complaint, which will include:

- Working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:
 - a supportive and remedial response, and/or
 - Informal Resolution, or
 - the Resolution Process described below.

¹ If circumstances require, the Executive Director of Human Resources will designate another person to oversee the Resolution Process should an allegation be made about the Title IX Coordinator or the Title IX Coordinator is otherwise unavailable, unable to fulfill their duties, or has a conflict of interest.

The Title IX Coordinator will seek to abide by the wishes of the Complainant, but may have to take an alternative approach depending on their analysis of the situation.

If the Complainant elects to proceed with the Resolution Process below, and the Title IX Coordinator has determined the Policy applies and that WOU has jurisdiction, they will route the matter to the appropriate Resolution Process, will provide the Parties with a Notice of Investigation and Allegation(s) (NOIA), and will initiate an investigation consistent with these Procedures.

If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option, the Title IX Coordinator will assess whether the matter is suitable for Informal Resolution and proceed accordingly.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Title IX Coordinator), though the Complainant can elect to initiate one later, if desired.

Title IX Coordinator Authority to Initiate a Complaint

If the Complainant does not wish to file a Complaint, the Title IX Coordinator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. To make this determination, the Title IX Coordinator will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if WOU cannot ensure equal access without initiating a Complaint. The Title IX Coordinator will consider the following non-exhaustive factors to determine whether to file a Complaint:

- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of sex discrimination and/or sex-based harassment would occur if a Complaint is not initiated;
- The severity of the alleged sex discrimination and/or sex-based harassment, including whether the sex discrimination and/or sex-based harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the sex discrimination and/or sex-based harassment and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is a WOU employee;
- The scope of the alleged sex discrimination and/or sex-based harassment, including information suggesting a pattern, ongoing sex discrimination and/or sex-based harassment, or sex discrimination and/or sex-based harassment alleged to have impacted multiple individuals;

- The availability of evidence to assist a Decision-maker in determining whether sex discrimination and/or sex-based harassment occurred;
- Whether WOU could end the alleged sex discrimination and/or sex-based harassment and prevent its recurrence without initiating the Resolution Process.

If deemed necessary, the Title IX Coordinator may consult with appropriate WOU employees, and/or request a violence risk assessment² to aid their determination whether to initiate a Complaint.

When the Title IX Coordinator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

5. Dismissal

WOU **may** dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

- 1) WOU is unable to identify the Respondent after taking reasonable steps to do so;
- 2) WOU no longer enrolls or employs the Respondent;
- 3) A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Title IX Coordinator declines to initiate a Complaint;
- 4) WOU determines that if proven, the conduct alleged in the Complaint would not constitute a Policy violation

A Decision-maker can recommend dismissal to the Title IX Coordinator, if they believe the grounds are met. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Upon any dismissal, WOU will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, WOU will also notify the Respondent of the dismissal.

This dismissal decision is appealable by any party.

6. Appeal of Dismissal

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.

² See detailed information regarding a Violence Risk Assessment in [Appendix E](#)

The Title IX Coordinator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Title IX Coordinator must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, WOU will:

- Implement dismissal appeal procedures equally for the Parties;
- Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint;
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal; and
- Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

- 1) Procedural irregularity that would change the outcome;
- 2) New evidence that would change the outcome and that was not reasonably available when the dismissal was decided;
- 3) The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that would change the outcome; or
- 4) The dismissal was erroneously granted or denied

Upon receipt of a dismissal appeal in writing from one or more Parties, the Title IX Coordinator will share the petition with the other party and provide three (3) business days for other Parties to respond to the request. The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. This appeal will be provided in writing to the other Parties, and the Title IX Coordinator, who will be invited to respond in writing. At the conclusion of the response period, the Title IX Coordinator will forward the appeal, as well as any response provided by the other Parties, to the Dismissal Appeal Officer for consideration.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Dismissal Appeal Officer, and the Parties, their Advisors, and the Title IX Coordinator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will notify all Parties and their Advisors, and the Title IX Coordinator, of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has seven (7) business days to review and decide on the appeal,

though extensions can be granted at the discretion of the Title IX Coordinator, and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Dismissal Appeal Officer may consult with the Title IX Coordinator and/or legal counsel to seek clarification on questions of procedure or rationale, if needed. The Title IX Coordinator will maintain documentation of all such consultation.

7. Emergency Removal/Interim Suspension of a Student

WOU may emergency remove a student accused of sex discrimination or sex-based harassment upon receipt of Notice/Knowledge, a Complaint, or at any time during the Resolution Process. Prior to an emergency removal, WOU will conduct an individualized risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination, sex-based harassment, and/or retaliation justifies such action.

When a whole or partial emergency removal or interim suspension is imposed, the affected student will be notified of the action with a written rationale and the option to challenge the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Title IX Coordinator will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, or should be modified or lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal or interim suspension will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Title IX Coordinator for review.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

8. Placing an Employee on Leave

When the Respondent is an employee or a student employee accused of sex discrimination, sex-based harassment, and/or retaliation in the course of their employment, existing employment provisions for interim action are typically applicable instead of the above emergency removal process.

9. Counter-Complaints

WOU is obligated to ensure that the resolution process is not abused for retaliatory purposes. Although WOU permits the filing of Counter-Complaints, the Title IX Coordinator will use an initial evaluation, described above, to assess whether the allegations in the Counter-Complaint are made in good faith. When Counter-Complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a violation of the Policy.

Counter-Complaints determined to have been reported in good faith will be processed using the Resolution Process below. At the Title IX Coordinator's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

10. Advisors in the Resolution Process

A. Who Can Serve as an Advisor?

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Advisor, as long as the Advisor is eligible and available.³

The Title IX Coordinator will offer to assign a trained Advisor to any party if the party chooses. If the Parties choose an Advisor from the pool available from WOU, WOU will have trained the Advisor and familiarized them with WOU's Resolution Process.

WOU cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, WOU is not obligated to provide an attorney to advise that party.

³ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being an administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is also a witness in the process creates potential for bias and conflicts of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-maker(s).

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Title IX Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

WOU may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Title IX Coordinator. The decision to grant this request is at the Title IX Coordinator's sole discretion and will be granted equitably to all Parties.

If a party requests that all communication be made through their attorney Advisor instead of to the party, WOU will comply with that request.

Advisors appointed by WOU cannot be Confidential Employees, and although they will not be asked to disclose details of their interactions with their advisees to WOU officials or Decision-makers absent an emergency, they are still reminded of their Responsible Employee and/or Mandated Reporter responsibilities.

As a public entity, WOU fully respects and accords the Weingarten rights of employees, meaning that for Parties who are entitled to union representation, WOU will allow the unionized employee to have their union representative (if requested by the party), as well as an Advisor of their choice, present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are permitted to have a union representative present in the Resolution Process interviews or meetings.

B. Advisor's Role in the Resolution Process

Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so by the Title IX Coordinator, Investigator, or Decision-maker.

The Parties are expected to ask and respond to questions on their own behalf throughout the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

Where applicable under state law or WOU Policy, Advisors or attorneys are permitted to fully represent their Advisees or clients in the Resolution Process, including all meetings, interviews, and hearings. Although WOU prefers to hear from Parties directly, in these

cases, Parties are entitled to have their chosen representatives provide evidence.

C. Records Shared with Advisors

Advisors are entitled to the same opportunity as their Advisee to access relevant evidence and/or the same written investigation report that accurately summarizes this evidence.

Pursuant to Section 16 of the Policy addressing Confidentiality/Privacy, Advisors are expected to maintain the confidentiality of the records WOU shares with them. Advisors may not disclose any WOU work product or evidence WOU obtained solely through the Resolution Process for any purpose not explicitly authorized by WOU.

Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). WOU may decline to share materials with any Advisor who has not executed the NDA. WOU may restrict the role of any Advisor who does not sign the NDA, respect the sensitive nature of the process and/or who fails to abide by WOU's confidentiality expectations.

D. Advisor Expectations

WOU generally expects an Advisor to adjust their schedule to allow them to attend WOU meetings/interviews/hearings when planned, but WOU may change scheduled meetings/interviews/hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay or inconvenience.

WOU may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies.

All Advisors are subject to the same WOU policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by WOU. Advisors are expected to advise their Advisees without disrupting proceedings.

E. Advisor Policy Violations

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with WOU's established rules of decorum, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including WOU requiring the party to use a different Advisor or providing a different WOU-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

11. Resolution Option Overview

This Resolution Process, consisting of Informal Resolution, Administrative Resolution, or in very rare and specific situations, Hearing Resolution, is WOU's chosen approach to addressing all forms of sex discrimination, sex-based harassment, and discrimination. The process considers the Parties' preferences but is ultimately determined at the Title IX Coordinator's discretion.

Resolution proceedings are confidential. All individuals present at any time during the Resolution Process are expected to maintain the confidentiality of the proceedings in accordance with WOU Policy.

A. Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a final determination, or the Title IX Coordinator may offer the option to the Parties, in writing. WOU will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Before initiation of an Informal Resolution process, WOU will provide the Parties with a NOIA that explains:

- The allegations;
- The requirements of the Informal Resolution process;
- That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume WOU's Formal Resolution Process;
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the resolution process arising from the same allegations;
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties; and
- What information WOU will maintain, and whether and how it could disclose such information for use in its Resolution Process.

The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Decision-maker, or Appeal Decision-maker.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Formal Resolution Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Resolution Process, should Informal Resolution not be successful, unless agreed to by all Parties.

If an investigation is already underway, the Title IX Coordinator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

WOU's Four Categories of Informal Resolution

(1) Supportive Resolution

The Title IX Coordinator will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to WOU's educational program and activities. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Title IX Coordinator may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Title IX Coordinator does not initiate a Complaint.

(2) Educational Conversation

The Complainant(s) may request that the Title IX Coordinator address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and WOU's policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent's decision not to attend, the Title IX Coordinator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of recurrence of any behaviors that may not align with Policy.

(3) Accepted Responsibility⁴

⁴ Section 20 below, there is a description of a process to waive the decision-making step of the Resolution Process if a Respondent decides to admit to violating the charged Policies. That section and this one are similar, but there are meaningful differences. In this section, the Parties must agree to the resolution, and the Respondent in essence self-sanctions as part of the Informal Resolution by agreeing to voluntarily comply with whatever the terms are to which the Parties agree. Section 20, in contrast, is unilateral. Neither the Complainant nor the Title IX Coordinator determine eligibility. It is simply a waiver of steps in the process by the Respondent, who can admit violations and accept sanctions assigned by the Decision-maker, if they so choose. No Complainant approval is

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title IX Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Title IX Coordinator will determine whether all Parties and WOU are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of WOU Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume.⁵

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the sex discrimination, sex-based harassment, and/or retaliation, prevent its recurrence, and remedy the effects of the conduct, both on the Complainant and the community.

(4) Alternative Resolution

The institution offers a variety of Alternative Resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative Resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Title IX Coordinator or other appropriate WOU officials; and other forms of resolution that can be tailored to the needs of the Parties. Some Alternative Resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an Alternative Resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an Alternative Resolution process.

sought or needed. Under Section 20, the outcome involves sanctioning imposed by WOU, rather than an agreement to self-sanction, as outlined in this section.

⁵ The Parties may not want discussions that take place within Informal Resolution to be admissible in a later Formal Resolution Process, but essential facts must and do transfer from the Informal process to subsequent Formal Resolution Proceedings. Disclosing something in an informal setting to shield it from formal admissibility is a cynical strategy, so the Title IX Coordinator will exercise care in determining the terms of any assurances of the confidentiality of the Informal Resolution.

The Title IX Coordinator may consider some or all of the following factors to assess whether Alternative Resolution is appropriate, or which form of Alternative Resolution may be most successful for the Parties:

- The Parties' amenability to Alternative Resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether an emergency removal or other interim action is needed
- Skill of the Alternative Resolution facilitator with this type of Complaint
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties
- Adequate resources to invest in Alternative Resolution (e.g., time, staff, etc.)

The Title IX Coordinator has the authority to determine whether Alternative Resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the Alternative Resolution process. The Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet WOU's compliance obligations in addition to the Alternative Resolution.

The Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the Agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the Agreement, etc.). The results of Complaints resolved by Alternative Resolution are not appealable.

If an Informal Resolution option is not available or selected, WOU will initiate or continue an investigation and subsequent Formal Resolution Process to determine whether the Policy has been violated.

B. Administrative Resolution Process (see [Section 22](#) below)

C. Hearing Resolution Process (see Section

12. Resolution Process Pool

The Resolution Process relies on a pool of administrators (“the Pool”) to carry out the process.⁶

A. Pool Member Roles

Members of the Pool are trained annually, and can serve in the following roles, at the discretion of the Title IX Coordinator:

- Appropriate intake of and initial guidance pertaining to Complaints
- Advisor to Parties
- Informal Resolution Facilitator
- Perform or assist with initial evaluation
- Investigator
- Hearing Facilitator
- Decision-maker for challenges to emergency removal and supportive measures
- Decision-maker
- Appeal of Dismissal Decision-maker
- Appeal Decision-maker

B. Pool Member Appointment

The Title IX Coordinator, in consultation with senior administrators as necessary, appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Complaints, WOU can also designate permanent roles for individuals in the Pool.

C. Training (see [Appendix H](#) for details of training for Pool Members)*

13. Notice of Investigation and Allegations (NOIA)

Prior to an investigation, the Title IX Coordinator will provide the Parties with a detailed written NOIA. 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 allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA typically includes:

⁶ External, trained third-party neutral professionals may also be used to serve in Pool roles.

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise sex discrimination, sex-based harassment, and/or retaliation being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The name(s) of the Investigator(s), along with a process to identify to the Title IX Coordinator, in advance of the interview process, any conflict of interest that the Investigator(s) may have
- A statement that WOU presumes the Respondent is not responsible for the reported sex discrimination, sex-based harassment, and/or retaliation unless and until the evidence supports a different determination by a preponderance of the evidence
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share WOU work product obtained through the Resolution Process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that WOU's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how a party may request disability accommodations during the Resolution Process
- A link to WOU's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations
- A statement that Parties who are members of a union are entitled to union representation throughout the process

Notification 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 WOU records, or emailed to the Parties' WOU-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

14. Resolution Timeline

WOU will make a good faith effort to complete the Resolution Process within sixty to ninety (60-90) business days, including any appeals, which can be extended as necessary for appropriate cause by the Title IX Coordinator. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, WOU reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

WOU may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to delay the investigation temporarily, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. WOU will promptly resume its Resolution Process as soon as feasible. During such a delay, WOU will implement and maintain supportive measures for the Parties as deemed appropriate.

WOU action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

WOU will make a good faith effort to complete the Resolution Process as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the process.

15. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including but not limited to the Title IX Coordinator, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s), Decision-maker(s), and Appeals officers for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may 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 Pool member 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 the Executive Director of Human Resources.

The Resolution Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

16. Investigator Appointment

Once an investigation is initiated, the Title IX Coordinator appoints an Investigator(s) to conduct it. Investigators may be members of the Resolution Process Pool, or any other properly trained Investigator, whether internal or external to the WOU community.

17. Witness Role and Participation in the Investigation

Employees (not including Complainant and Respondent) are required to cooperate with and participate in WOU's investigation and Resolution Process. Student witnesses and witnesses from outside the WOU community cannot be required to participate, but are encouraged to cooperate with WOU investigations and to share what they know about a Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx, etc.), or, in limited circumstances, by telephone. WOU will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

18. Interview Recording

It is standard practice for Investigators to create a record of all interviews pertaining to the Resolution Process (other than Informal Resolution meetings). This record may be achieved through the use of written notes, audio, or video recording. The Parties may review copies of their own interviews, upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. If an Investigator(s) elects to audio and/or video record interviews, all involved individuals will be made aware of audio and/or video recording prior to the start of the interview.

19. Evidentiary Considerations

The Investigator(s) and the Decision-maker(s) will only consider evidence that is deemed relevant and not otherwise impermissible.

Relevant evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

20. Respondent Admits Responsibility

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Decision-maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would also waive all rights to appeal for the Respondent. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion.

21. Investigation

All investigations shall be adequate, thorough, reliable, impartial, prompt, and fair. They shall involve interviews with all relevant Parties and witnesses, and obtain relevant evidence and identify sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

WOU may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator(s) typically take(s) the following steps, if not already completed and not necessarily in this order:

- Determine the identity and contact information of the Complainant
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated
- Assist the Title IX Coordinator, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation
- Work with the Title IX Coordinator, as necessary, to prepare the initial Notice of Investigation and Allegations (NOIA). The NOIA may be amended with any additional or dismissed allegations
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Party(ies) and witness(es)
- When participation of a party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose
- Make a good faith effort to notify each party of any meeting or interview involving another party, in advance when possible
- Interview the Complainant and the Respondent and conduct follow-up interviews with each, as necessary
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript or recording) of the relevant evidence/testimony from their respective interviews and meetings
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witness(es). Document in the investigation report which questions were asked, with a rationale for any changes or omissions
- Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide the Parties with regular status updates throughout the investigation
- Prior to the conclusion of the investigation, provide the Parties and their respective Advisors with a list of witnesses whose information will be used to render a finding
- Ask the Parties to provide a list of any additional questions they would like asked of the other party or any witnesses. The Investigator will ask those questions deemed relevant, and for any question deemed not relevant, will provide a rationale for not asking the question

- Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and party/witness interviews, and provides all relevant evidence
- Provide the Parties and their respective Advisors an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period
- The Investigator may share the investigation report with the Title IX Coordinator and/or legal counsel for their review and feedback

22. Administrative Resolution Process

The Administrative Resolution Process is used for all Complaints of sex discrimination, sex-based harassment, and retaliation (as defined in this Policy) or when Informal Resolution is either not elected or is unsuccessful.

The Administrative Resolution Process consists of a hand-off of the investigation report and all relevant evidence to the Decision-maker to make a finding and determine sanctions (if applicable).

At the discretion of the Title IX Coordinator, the assigned Decision-maker will be the Title IX Coordinator or an individual or panel drawn from the Resolution Process Pool, or other trained individuals either internal or external to WOU.⁷ Once the Decision-maker receives and reviews the file, they can recommend dismissal if they believe grounds for dismissal are met.

The Administrative Resolution Process typically takes approximately thirty (30) business days to complete, beginning with the Decision-maker's receipt of the Draft Investigation Report. The Parties will be updated regularly on the timing and any significant deviation from this typical timeline.

Investigator-led Questioning Meetings

- The Title IX Coordinator provides the Draft Investigation Report to the Decision-maker (if Title IX Coordinator is not acting as Decision-maker) and the Parties simultaneously for review. The Decision-maker can then provide the Investigator with a list of relevant questions to ask the Parties or any witnesses.
 - To the extent credibility is in dispute and relevant to one or more of the allegations, the questions provided by the Decision-maker may also explore credibility.
- The Investigator will also ask each of the Parties to provide a proposed list of questions to ask the other Parties and any witnesses.

⁷ The choice of a single Decision-maker or panel will generally be consistent for the same types of Complaints, and not vary Complaint-by-Complaint.

- To the extent credibility is in dispute and relevant to one or more of the allegations, questions proposed by the Parties may also explore credibility.
- All party questions must be posed during this phase of the process and cannot be posed later unless authorized by the Decision-maker.
- The Investigator will share all party-proposed questions with the Decision-maker, who will finalize the list with the Investigator to ensure all questions are both relevant and permissible.
- The Investigator will then hold individual meetings with the Parties and witnesses to ask the questions posed by the Decision-maker, as well as the questions proposed by the Parties that have been deemed relevant and not duplicative, including questions intended to assess credibility. These meetings will be recorded and transcribed.
 - For any question deemed not relevant or duplicative, the Investigator will provide a rationale for not asking the question, either during the recorded meeting, or in writing (typically as an Appendix to the report).
- Typically, within three (3) business days of the last of these meetings, the recordings or transcripts of them will be provided to the Parties for their review. The Parties will then have five (5) business days to review these recordings or transcripts and propose follow-up questions to be asked by the Investigator.
- The Investigator will review the proposed questions with the Decision-maker, to determine relevance and permissibility. If deemed necessary, the Investigator will then meet individually with the Parties or witnesses for whom there are relevant, and not duplicative, follow-up questions. These follow-up meetings will also be recorded, and the Parties will receive the recordings or transcripts of these meetings. This final round of questioning is the last such round permitted, unless leave to extend is granted by the Decision-maker.
- The Investigator will then incorporate any new, relevant evidence and information obtained through the Parties' review of the Draft Investigation Report, the questioning, and follow-up meetings into a Final Investigation Report.
- The Investigator will also respond in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report and incorporate relevant elements of the Parties' written responses, additional relevant evidence, and any necessary revisions into the Final Investigation Report.
- The Investigator will then share the investigation report with the Title IX Coordinator and/or legal counsel for their review and feedback.
- The Final Investigation Report and investigation file will then be provided to the Title IX Coordinator.

The Decision-maker's Determination

- The Title IX Coordinator will provide the Decision-maker with the Final Investigation Report (FIR) and investigation file, including the evidence and information obtained through the Investigator-led Questioning meetings.
- The Decision-maker will review the FIR, all appendices, and the investigation file.

- If the record is incomplete, the Decision-maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the Parties or any witnesses, if needed.
- Upon reviewing the relevant evidence, the Decision-maker may also choose to pose additional questions:
 - To the extent credibility is in dispute and relevant to one or more of the allegations, the Decision-maker may meet individually with the Parties and witnesses to question them in order to assess their credibility. These meetings will be recorded and shared with the Parties.
 - At their discretion, the Decision-maker may also meet with any party or witness to ask additional relevant questions that will aid the Decision-maker in making their findings. These meetings will be recorded and shared with the Parties.
- The Decision-maker will then apply the preponderance of the evidence standard to make a determination on each of the allegations and, if applicable, any attendant sanctions.
- **Timeline.** The Decision-maker's determination process typically takes approximately ten (10) business days, but this timeframe can vary based on a number of factors and variables. The Parties will be notified of any delays.
- **Impact Statements.** Prior to a determination, the Title IX Coordinator will also provide the Parties an opportunity to submit a written impact and/or mitigation statement. The Title IX Coordinator will review these statements upon receipt to determine whether there are any immediate needs, issues, or concerns, but will otherwise hold them until after the Decision-maker has made determinations on the allegations. If there are any findings of a Policy violation, the Decision-maker will request the Impact Statements from the Title IX Coordinator and review them prior to determining sanctions. They will also be exchanged between the Parties at that time.
- If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a Resolution Process at any time, and/or referring that information to another process for resolution.

23. Hearing Resolution Process

In rare circumstances, the Title IX Coordinator and/or designee(s) may determine a live hearing is necessary for a fair and equitable formal resolution. In those circumstances, please refer to Appendix B: Hearing Resolution Process.

24. Sanctions

Factors considered by the Decision-maker when determining sanctions and responsive actions may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history

- The need for sanctions/responsive actions to bring an end to the sex discrimination, sex-based harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sex discrimination, sex-based harassment, and/or retaliation
- The need to remedy the effects of the sex discrimination, sex-based harassment, and/or retaliation on the Complainant and the community
- The impact on the Parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

A. Student Sanctions⁸

The following are the common sanctions that may be imposed upon students singly or in combination:

- *Reprimand*: A formal statement that the conduct was unacceptable and a warning that further violation of any WOU Policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either WOU-sponsored or external counseling to better comprehend the sex discrimination, sex-based harassment, and/or retaliation and its effects.
- *Restrictions*: A student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or from holding leadership in student organizations.
- *Probation*: An official sanction for violation of WOU Policy, providing for more severe disciplinary sanctions in the event that the student is found in violation of any WOU Policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Separation from the institution, or one or more of its facilities, for a definite period of time, typically not to exceed two years, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for

⁸ WOU policies on transcript notation apply to these proceedings.

readmission, or upon a general condition that the student is eligible to return if WOU determines it is appropriate to re-enroll/readmit the student. The student is typically required to vacate WOU property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Title IX Coordinator or other appropriate official. During a WOU suspension, the student is banned from WOU property, functions, events, and activities unless they receive prior written approval from an appropriate WOU official. This sanction may be enforced with a trespass action, as necessary. This sanction may be noted as a Disciplinary Suspension on the student's official academic transcript, per institutional policy and/or state law.

- *Expulsion*: Permanent separation from WOU. The student is banned from WOU property, and the student's presence at any WOU-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary. This sanction may be noted as Disciplinary Expulsion on the student's official academic transcript, per WOU policy and/or state law.
- *Withholding Diploma*: WOU may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for violating this Policy.
- *Revocation of Degree*: While very rarely employed, WOU reserves the right to revoke a degree previously awarded from WOU for fraud, misrepresentation, and/or other violation of WOU policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Other Actions*: In addition to, or in place of, the above sanctions, WOU may assign any other sanctions as deemed appropriate.

B. Student Group and Organization Sanctions⁹

The following are the common sanctions that may be imposed upon student organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any WOU Policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation*: An official sanction for violation of WOU Policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any WOU Policy, procedure, or directive within a specified period

⁹ Subject to WOU's Organizational Code of Conduct. Organizational sanctions are included here despite the fact that organizations cannot be charged as Respondents under Title IX. However, nothing would prevent WOU from holding a student organization accountable for Policy violations using the Resolution Processes herein, as long as it was clearly noted that Title IX was not applicable. Often, individuals will be charged for their role in organizational misconduct under Title IX, and the organization would be charged as collateral misconduct to the individual charges, resolved in the same process as those charges.

of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of WOU funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.

- *Suspension*: Termination of student group or organization recognition and/or WOU support for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in WOU-related activities, whether they occur on- or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from WOU.
- *Expulsion*: Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- *Loss of Privileges*: Restricted from accessing specific WOU privileges for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, WOU may assign any other sanctions as deemed appropriate.

C. Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in sex discrimination, sex-based harassment, and/or retaliation include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Delay of (or referral for delay of) Tenure Track Progress*
- *Assignment to New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*

- *Other Actions*: In addition to or in place of the above sanctions/responsive actions, WOU may assign any other responsive actions as deemed appropriate

25. Notice of Outcome

Within ten (10) business days of the conclusion of the Resolution Process, the Title IX Coordinator provides the Parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, any applicable sanctions that WOU is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Decision-maker, supporting the findings to the extent WOU is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to take to request an appeal, and when the determination is considered final if neither party appeals.

The Title IX Coordinator will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official WOU records, or emailed to the Parties' WOU-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

26. Withdrawal or Resignation Before Complaint Resolution

A. Students

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from WOU, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, WOU will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex discrimination, sex-based harassment and/or retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, WOU will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sex discrimination, sex-based harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to WOU in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Title IX

Coordinator has discretion to dismiss the Complaint. The Registrar and Office of Admissions will be notified, accordingly.

If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to WOU unless and until all sanctions, if any, have been satisfied.

B. Employees

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent withdraws from WOU with unresolved allegations pending, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, WOU may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex discrimination, sex-based harassment, and/or retaliation.

When an employee resigns and the Complaint is dismissed, the employee may not return to WOU in any capacity. Human resources, the registrar, and admissions will be notified, accordingly, and a note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with WOU. The records retained by the Title IX Coordinator will reflect that status.

27. Appeal of the Determination

The Title IX Coordinator will designate an Appeal Decision-maker chosen from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure or dismissal appeal that may have been heard earlier in the process.

A. Appeal Grounds

Appeals are limited to the following grounds:

- 1) A procedural irregularity that would change the outcome
- 2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility or dismissal was made
- 3) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that would change the outcome

- 4) The final determination by the Decision-maker is substantially contrary to the weight of the evidence in the record
- 5) The sanctions fall outside the range of sanctions designated for this offense, considering the cumulative conduct/disciplinary record of the Respondent (applicable to sanctions of suspension, expulsion, or termination, only)

B. Request for Appeal

Any party may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed. The party reviewing the Request for Appeal must not be a listed conflict of interest claim in the appeal under the grounds of conflict of interest.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-maker will notify all Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker. All other Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties will be notified accordingly, in writing.

No party may submit any new Requests for Appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

C. Appeal Determination Process

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions apply the preponderance of the evidence standard.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the finding and/or sanction(s).

The Appeal Decision-maker may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultation.

D. Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the Title IX Coordinator (as in cases of conflict of interest or bias), the Appeal Decision-maker may order a new investigation and/or a new determination with new Pool members serving in the Investigator and Decision-maker roles.

A Notice of Appeal Outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which WOU is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent WOU is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official institutional records, or emailed to the Parties' WOU-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the Appeal Outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the five available appeal grounds.

E. Sanction Status During the Appeal

Any sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed above) for a “show cause” meeting on the justification for doing so must be permitted within two (2) business days of implementation.

28. Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the WOU community that are intended to stop the sex discrimination, sex-based harassment, and/or retaliation, remedy the effects, and prevent recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found.

When no Policy violation is found, the Title IX Coordinator will address any remedies WOU owes the Respondent to ensure no effective denial of educational access.

WOU will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair WOU's ability to provide these services.

29. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker(s), including the Appeal Decision-maker or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from WOU.

Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title IX Coordinator's satisfaction.

30. Recordkeeping

For a period of at least seven (7) years following the conclusion of the Resolution Process, WOU will maintain records of:

- 1) Each sex discrimination, sex-based harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation
- 2) Any disciplinary sanctions imposed on the Respondent
- 3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to WOU's education program or activity
- 4) Any appeal and the result therefrom
- 5) Any Informal Resolution and the result therefrom
- 6) All materials used to provide training to the Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitator, and any person who is responsible for implementing the WOU's Resolution Process, or

who has the authority to modify or terminate supportive measures. WOU will make these training materials available for review upon request.

- 7) All materials used to train all employees consistent with the requirements in the Title IX Regulations.

WOU will also maintain any and all records in accordance with state and federal laws.

31. Accommodations and Support During the Resolution Process

Disability Accommodations

WOU is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to WOU's Resolution Process.

Anyone needing such accommodations or support should contact the Title IX Coordinator, who will work with disability support colleagues as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

Other Support

WOU will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process

32. Revision of these Procedures

These procedures succeed any previous procedures addressing sex discrimination, sex-based harassment, and retaliation for incidents occurring on or after August 1, 2024. The Title IX Coordinator will regularly review and update these procedures. WOU reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing laws or regulations change, or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent governing laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

These procedures are effective August 1, 2024.

- **APPENDIX A: DEFINITIONS**

The following definitions apply to the Title IX Policy:

- **Advisor.** Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
- **Appeal Decision-maker.** The person who accepts or rejects a submitted appeal request, determines whether any of the grounds for appeal are met, and directs responsive action(s) accordingly.
- **Complainant.** A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, or retaliation under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, or retaliation under the Policy and who was participating or attempting to participate in WOU's education program or activity at the time of the alleged sex discrimination, sex-based harassment or retaliation.
- **Complaint.** An oral or written request to WOU that can objectively be understood as a request for WOU to investigate and make a determination about the alleged Policy violation(s).
- **Confidential Employee.**
 - An employee whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
 - An employee whom WOU has designated as confidential under this Policy for the purpose of providing services to persons related to sex discrimination, sex-based harassment, and/or retaliation. If the employee also has a duty not associated with providing those services, the employee's confidential status only applies with respect to information received about sex discrimination, sex-based harassment, and/or retaliation in connection with providing those services; or
 - An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination, sex-based harassment, and/or retaliation. The employee's confidential status only applies with respect to information received while conducting the study.
- **Consent, Coercion, Force and Incapacitation**
 - **Consent.** Informed, voluntary agreement that is ongoing and communicated by clearly understandable words or actions to participate in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different

ways, it is the responsibility of each party to ensure they have received consent from all parties before engaging in the activity. Intoxication is not an excuse for failure to obtain consent.

- *Informed.* Everyone engaged in sexual activity must have a mutual understanding of the activity and a willingness to participate. Individuals should be aware of and agree upon the type of sexual activity, safety and health risk (STIs and other transmissible illnesses), and forms of protection (birth control, internal and external condoms, and other barriers). A person who is incapacitated cannot give consent, and minors (under the age of 18) cannot consent to sexual activity except in limited circumstances as stated in [ORS 163.315](#).
- *Voluntary.* Consent must be freely given and not obtained by force, threat of force or violence, coercion, manipulation, pressure, deception, or intimidation.
- *Ongoing.* Individuals engaging in sexual activity must evaluate consent on an ongoing basis and communicate clearly throughout all aspects of sexual activity. Anyone engaging in sexual activity has the right to change their mind at any time. Withdrawal of consent can be expressed through words or actions that convey that an individual is hesitant, confused, uncertain, or is no longer a mutual participant. Once consent is withdrawn, all sexual activity must cease unless consent is given again. Giving consent to one sexual activity (such as kissing) does not mean consent for another sexual activity (such as intercourse), and a current or previous dating or sexual relationship is not sufficient to demonstrate consent.
- *Communicated by words or actions.* The words or actions should be able to be interpreted by a reasonable person under similar circumstances as a willingness to engage in sexual activity. Consent cannot be inferred from silence, passivity, or lack of verbal or physical resistance.
- Examples of consent:
 - A partner nods their head when their partner asks if they want to continue sexual activity
 - Having a truthful discussion about other sexual partners, preference of barrier methods, and STIs
 - A sexual partner says during intercourse that they're not in the mood anymore, so the other partner stops and cuddles instead
- Examples of non-consent:
 - An individual's choice of clothing does not imply consent
 - Accepting an invitation to a meal or date does not imply consent
 - Feeling pressured to say yes to engage in sexual activities with someone because they have asked multiple times ("giving in" because of fear, sense of obligation, guilt, etc.)
 - A sexual partner stops actively engaging in sex, but the other partner continues the sexual activity

- Assumption of consent because people are in a long-term relationship
- Two people agree to have sex with a condom, and part way through sex, the person wearing the condom takes off the condom without the other person knowing (also known as stealthing)
- **Coercion.** The use of pressure to compel or persuade another person to do something against their will. Coercion can come in many forms such as intimidation, manipulation, threats, or blackmail. Coercion might include unreasonable pressure for sexual activity, threatening to “out” someone based on sexual orientation, gender identity, or gender expression, or threatening to harm themselves if the other party leaves the relationship. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- **Force.** The use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”). Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.
- **Incapacitation.** A mental or physical state that leaves a person unable to give consent because they cannot make decisions as easily, they are not aware of the potential consequences, they aren’t able to make informed judgements, they lack the capacity to appreciate the nature of the sexual activity and to understand the “who, what, when, where, why, and how” of their sexual interaction. Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.
- **Day.** A business day when WOU is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.
- **Decision-maker.** The person or panel who hears evidence, determines relevance, and makes the Final Determination of whether the Policy has been violated and/or assigns sanctions.
- **Disciplinary Sanctions.** Consequences imposed on a Respondent following a determination under Title IX that the Respondent violated WOU’s prohibition on sex discrimination, sex-based harassment, and/or retaliation.

- **Education Program or Activity.** Locations, events, or circumstances where WOU exercises substantial control over the context in which sex discrimination, sex-based harassment, and/or retaliation occurs, and also includes any building owned or controlled by a student organization that WOU officially recognizes.
- **Employee.** A person employed by WOU either full- or part-time, permanent or temporary, including but not limited to student employees when acting within the scope of their employment, tenure and non-tenure faculty, classified and unclassified staff, interns, volunteers, and graduate assistants.
- **Final Determination.** A conclusion by the Preponderance of the Evidence that the alleged conduct did or did not violate Policy.
- **Finding.** A conclusion by the Preponderance of the Evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Formal Resolution.** A method of formal resolution designated by WOU to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations ([34 C.F.R. § 106.45](#)), Oregon law, and the [Violence Against Women Act § 304](#).
- **Hostile Environment.** An environment with sex discrimination, sex-based harassment, and/or retaliation that unreasonably interferes with, limits, or effectively denies an individual’s educational or employment access, benefits, or opportunities. This effect results from conduct that is severe or pervasive and objectively offensive.
- **Informal Resolution.** A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process. Informal Resolution is only available in cases between students.
- **Investigation Report.** The Investigator’s summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) authorized by WOU to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- **Knowledge.** When WOU receives Notice of conduct that reasonably may constitute sex discrimination, sex-based harassment, and/or retaliation in its Education Program or Activity.
- **Notice.** When an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of sex discrimination, sex-based harassment, and/or retaliation under the jurisdiction of WOU.
- **Parties.** The Complainant(s) and Respondent(s), collectively.

- ***Pregnancy or Related Conditions.*** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- ***Relevant Evidence.*** Evidence that may aid a Decision-maker in determining whether the alleged sex discrimination, sex-based harassment, and/or retaliation occurred, or in determining the credibility of the Parties or witnesses.
- ***Remedies.*** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to WOU's Education Program or Activity.
- ***Resolution.*** The result of an Informal Resolution or Formal Resolution Process.
- ***Resolution Process.*** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, Administrative Resolution, and/or Hearing Resolution.
- ***Respondent.*** A person who is alleged to have engaged in conduct that could constitute sex discrimination, sex-based harassment, and/or retaliation under this Policy.
- ***Responsible Employee.***¹⁰ A WOU employee who is obligated by Policy to share Knowledge, Notice, and/or reports of sex discrimination, sex-based harassment, and/or retaliation with the Title IX Coordinator.

Most WOU employees are considered responsible employees unless otherwise specified below. Student employees who have positional responsibility for the welfare of others, including but not limited to Resident Assistants, peer mentors (such as Destination Western, Multicultural Representative, and Discover Leadership), WOU Crew, and student government leaders are also considered Responsible Employees. Student employees are considered Responsible Employees while they are performing their job responsibilities and/or if the incident is disclosed to an employee due to their perceived or actual role.

Faculty, Classified Staff, Unclassified Staff and Resident Assistants are always considered Responsible Employees, even if they are not performing their job duties at the time of a report.

Responsible Employees are required to report any information personally witnessed or learned through the disclosure of others related to possible or alleged instances of sex discrimination, sex-based harassment, and/or retaliation to the Title IX Coordinator within two business days. Responsible Employees should not attempt to investigate the alleged incident.

¹⁰ Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.

Exceptions:

- Confidential Resource: Professional staff in Abby's House and providers in the Student Health and Counseling Center are confidential, and are not considered Responsible Employees.
 - Interpreters and translators: Interpreters and translators are not considered responsible employees when acting in their professional capacity and translating or interpreting for someone else.
 - Academic Discussions/Assignments: If a student discloses an incident of sex discrimination, sex-based harassment, and/or retaliation in an academic assignment or during a class discussion, the instructor is not required to initiate a report to the Title IX Coordinator. However, instructors are encouraged to provide the student with resources such as Abby's House and contact information for the Title IX Coordinator so the student can still be fully informed as to their reporting options and support resources.
 - Public Awareness Events: Disclosures made at public awareness events (such as "Take Back the Night" and "Denim Day") are not required to be reported to the Title IX Coordinator. If a disclosure is made directly to a Responsible Employee during an awareness event, the Responsible Employee is encouraged to provide support resources.
 - Institutional Review Board: Institutional Review Board-approved human subjects research protocols focused on prohibited discrimination are not required to be reported to the Title IX Coordinator.
-
- **Retaliation.** Intimidation, threats, coercion, discrimination, or other adverse action against any person by WOU, a student, or an employee or other person authorized by WOU to provide aid, benefit, or service under WOU's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.
 - **Sanction.** A consequence imposed on a Respondent who is found to have violated this Policy.
 - **Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
 - **Sex Discrimination.** Conduct directed at an individual or group that is based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity and 1) excludes or denies an individual from participating in or benefiting from a university program or activity, or 2) otherwise adversely affects a term or condition of an employee's employment or education.

- **Sex-based Harassment/Sexual Harassment.** A form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity and is sufficiently severe or pervasive to create a work, educational, or living environment that a reasonable person would consider threatening, hostile, or abusive. Types of sex-based harassment/sexual harassment are:
 - 1) *Quid pro quo sex-based harassment.* An employee, agent, or other person authorized by WOU to provide an aid, benefit, or service under WOU’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;
 - 2) *Hostile environment sex-based harassment.* Unwelcome sex-based conduct that a reasonable person would consider threatening, intimidating, hostile, offensive, or abusive, and that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from WOU’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - (i) The degree to which the conduct affected the complainant’s ability to access WOU’s education program or activity;
 - (ii) The type, frequency, and duration of the conduct;
 - (iii) The parties’ ages, roles within WOU’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - (iv) The location of the conduct and the context in which the conduct occurred; and
 - (v) Other sex-based harassment in WOU’s education program or activity
 - 3) Specific offenses.
 - (i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
 - (ii) Dating violence meaning violence committed by a person:
 - (A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (1) The length of the relationship;
 - (2) The type of relationship; and
 - (3) The frequency of interaction between the persons involved in the relationship;
 - (iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:

- (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
- (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- (C) Shares a child in common with the victim; or
- (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- (iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - (A) Fear for the person's safety or the safety of others; or
 - (B) Suffer substantial emotional distress.

- **Student.** Any individual who is registered for one or more credit hours, including online courses, is enrolled in a special non-credit program approved by WOU, or who has been accepted for admission, housing, financial aid, or any other service or benefit provided by WOU which requires Student status.
- **Support Person.** A person offering moral support to a party during a Resolution Process. This individual might be a friend, mentor, colleague, or anyone offering support to a party. A support person is optional. They are chosen by a party and do not actively participate in the Resolution Process.
- **Supportive Measures.** Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:
 - 1) Restore or preserve that party's access to WOU's education program or activity, including measures that are designed to protect the safety of the parties or WOU's educational environment; or
 - 2) Provide support during WOU's grievance procedures or during an informal resolution process.
- **Title IX Coordinator.** At least one official designated by WOU to ensure ultimate oversight of compliance with Title IX and WOU's Title IX policy. References to the Title IX Coordinator throughout the Policy may also encompass a designee of the Title IX Coordinator for specific tasks.

- **APPENDIX B: LIVE HEARING RESOLUTION PROCESS**

1. **Live Hearing Requirements**

The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The Decision-maker and Parties must be able to simultaneously see and hear a party or witness while that person is speaking. Both options are considered fair and equitable. Alternative arrangements may also be made at the Title IX Coordinator's discretion.
 - The Parties may make a request to the Title IX Coordinator that the hearing occur in person or via video technology, but they must do so at least three (3) business days prior to the hearing. The Title IX Coordinator retains discretion to determine whether the hearing will occur in person or via video technology.
 - All hearings will be recorded, and Parties may request a copy of the recording from the Title IX Coordinator following the live hearing.
 - No unauthorized recordings are permitted.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision-maker(s), hearing facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Decision-maker. Witnesses are present only during their portion of the testimony.
- **Advisors.** The Parties may have the assistance of an Advisor of their choosing at the hearing or can request that WOU appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves. If a party decides not to have an Advisor, they will write out the questions they wish asked, and the Decision-maker will ask those questions at the hearing. The method of submitting questions to the Decision-maker will be specified by the Decision-maker during the pre-hearing meetings.
 - During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor. No other persons (e.g., additional support persons, advisors, friends, family) may accompany, attend, or listen in on the hearing unless explicitly authorized by the Title IX Coordinator, with each party being provided the same opportunity.
 - Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a manner consistent with Policy.
 - During the hearing, all questions that a party wishes to ask must be posed by the Advisor, or the Decision-maker if a party does not have an Advisor, not the Parties. The method of submitting questions to the Decision-maker will be specified by the Decision-maker during the pre-hearing meetings.

- **Impact Statements.** Each party may submit an impact and/or mitigation statement to the Title IX Coordinator that the Decision-maker will review during any sanction determination.
 - Upon receipt of an impact and/or mitigation statement, the Title IX Coordinator will review the impact/mitigation statement to determine whether any immediate needs exist.
 - In circumstances where the Title IX Coordinator is not the Decision-maker, the Title IX Coordinator will only provide the impact statements to the Decision-maker if the Decision-maker determines that the Policy has been violated. When the Title IX Coordinator shares the impact statements with the Decision-maker, they will also be shared with the Parties.
- **Disability Accommodations and Other Assistance.** Parties should contact the Title IX Coordinator at least five (5) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- **Conflicts of Interest or Bias.** The Decision-maker must not have a bias for or against complainants or respondents generally or the individual Complainant or Respondent in particular.
 - The Decision-maker must recuse themselves if such bias or conflict of interest exists.
 - If the Decision-maker believes there is possible conflict of interest or bias, they will consult with the Title IX Coordinator or Executive Director of Human Resources about possible recusal or removal.
 - The Parties may raise challenges that the Decision-maker is biased or has a conflict of interest. The Parties must raise challenges with the Title IX Coordinator within two (2) business days of receiving the hearing notice.
 - The Title IX Coordinator will only remove and replace a Decision-maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
 - If a Decision-maker recuses themselves as the result of a conflict of interest or bias, or is removed, the Title IX Coordinator will promptly appoint a new Decision-maker who does not have a conflict of interest or bias and notify the Parties accordingly.
- **Evidence Provided to Decision-maker and Parties.**
 - The Decision-maker will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least seven (7) business days in advance of the hearing.
 - The Parties will be provided with electronic copies of all the materials provided to the Decision-maker as part of the hearing notice, unless those materials have already been provided.¹¹

¹¹ Hard-copy materials may be provided upon request to the Title IX Coordinator. The Final Investigation Report and relevant evidence may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

2. Hearing Notice

The Title IX Coordinator will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing, typically at least seven (7) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice includes:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- A description of any technology that will be used to facilitate the hearing.
- Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the Parties and witnesses participating in the hearing, the identity of the Decision-maker, details related to questioning, the role of Advisors, impact/mitigation statements, and how to request disability accommodations or other assistance.

3. Witness Participation



Student witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. Employee witnesses are expected to participate in, and make themselves reasonably available for, the hearing. Witnesses may participate in-person or via video technology that allows the Decision-maker and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an advisor without express permission of the Title IX Coordinator. At the discretion of the Decision-maker, a witness may join by phone if no other reasonable alternative is available.

If any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX Coordinator may reschedule the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet WOU's resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Resolution Processes that occur during months between contracts.

The Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless:

- All Parties and the Decision-maker assent to the new witness's participation in the hearing without remanding the complaint back to the investigator, and
- The Decision-maker deems the evidence presented by the new witness to be relevant, not impermissible, and not information already established in the record, and
- The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

If the above criteria are not met, but the witness's evidence is deemed relevant, not impermissible, and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties at least five (5) business days to review the relevant portions of the new witness's statements, if such statements are submitted.
- Remand the Complaint back to the Investigator for further investigation or verification.
- Allow the Parties to review and comment on the testimony of the new witness.

If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing absent the new witness's participation.

4. Pre-Hearing Meetings

The Decision-maker will offer to convene a pre-hearing meeting(s) with the Parties and their Advisors and invite them to submit the questions or topics they wish to ask or discuss at the hearing. This allows the Decision-maker to consider their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Parties from submitting a question at the hearing for the first time or asking for a reconsideration on a Decision-maker's pre-hearing decision based on any new information or testimony offered at the hearing. The Decision-maker will document and share their rationale for any evidence or question exclusion or inclusion, if any, at a pre-hearing meeting with each party.

The Decision-maker will work with the Parties to finalize a witness list for the hearing, and the Title IX Coordinator will notify any witnesses of the hearing's logistics. The Decision-maker, **only** with the agreement of all Parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be

adequately summarized by the Investigator(s) in the Final Investigation Report or during the hearing, and their presence is not essential to assess their credibility.

Pre-hearing meeting(s) will not be recorded. The pre-hearing meetings will typically be conducted as separate meetings with each party/Advisor, and can be done remotely, or as a written communication exchange. The Decision-maker will work with the Parties to establish the format and timing of the meetings and will circulate a summary of any rulings made to ensure all Parties and Advisors are aware.



5. Hearing Procedures

A. Evidentiary Considerations

The Parties must provide all evidence to the Investigator(s) prior to completing the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant and not impermissible, the Parties and Decision-maker must both agree to admit it into the record. If they do not agree, or if the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing absent the new evidence.

The new relevant evidence will be admitted to the record if:

- All Parties and the Decision-maker agree to the new evidence being included in the hearing without remanding the Complaint back to the investigator, and
- The evidence is not duplicative of evidence already in the record, and
- It is not impermissible, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties with at least five (5) business days to review the relevant evidence.
- Remand the Complaint back to the Investigator for further investigation or analysis.
- Allow the Parties to review and comment on the new evidence.

If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing without allowing the new evidence.

B. Collateral Misconduct

The Decision-maker has the authority to hear and make determinations on all allegations of sex discrimination, sex-based harassment, and/or retaliation, and other prohibited behavior under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that occurred in concert with the sex discrimination, sex-based harassment, and/or retaliation, or other prohibited behavior, even though those collateral allegations may not specifically fall within the Policy.

○

C. Joint Hearings

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complaint with respect to each alleged Policy violation.

○

D. Introductions and Hearing Procedure Explanation

The Decision-maker will explain the hearing procedures and introduce the participants. The Decision-maker will answer any procedural questions prior to and as they arise throughout the hearing.

E. Investigator Presentation of Final Investigation Report

The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Decision-maker and then by the Parties. The Investigator may attend the duration of the hearing or be excused after their testimony at the Decision-maker's discretion.

F. Testimony and Questioning

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Decision-maker. The Decision-maker will facilitate questioning of the Parties and witnesses first by the Decision-maker, and then by the Parties, through their Advisors, or if a party does not have an Advisor, through the Decision-maker as indicated above.

All questions must be directed toward and asked through the Decision-maker and are subject to a relevance determination before they are asked. The Decision-maker will

determine the method by which the Parties will submit their questions to the Decision-maker for their review and, if approved, to be posed. Questions that the Parties wish to have posed can be questions for that party themselves, another party, or witnesses.

The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-maker will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Decision-maker has final say on all questions and determinations of relevance and appropriateness. The Decision-maker may consult with legal counsel on any questions of admissibility.

The Decision-maker then poses the questions deemed relevant, not impermissible, and appropriate to the party and/or witness.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Decision-maker may elect to address those issues, consult with legal counsel, refer them to the Title IX Coordinator or Executive Director of Human Resources, and/or preserve them for appeal. If bias is not an issue at the hearing, the Decision-maker should not permit irrelevant questions that probe for Investigator bias.

The Decision-maker will allow witnesses who have relevant and not impermissible information to appear at a portion of the hearing to respond to specific questions from the Decision-maker and the Parties, and the witnesses will then be excused.

G. Refusal to Submit to Questioning and Inferences

Any party or student witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. Employee witnesses are required to participate in the hearing if they are reasonably available. The Decision-maker can only rely on the available relevant and not impermissible evidence in making the ultimate determination of responsibility. The Decision-maker may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer any or all questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

H. Hearing Recordings

WOU records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-maker, the Parties, their Advisors, Appeal Decision-makers, and other appropriate WOU officials will be permitted to review the recording or review a transcript of the recording upon request to the Title IX Coordinator. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

6. Deliberation and Determination

After closing statements from the Parties, the Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the Preponderance of the Evidence. If a panel is used, a simple majority vote is required to determine the finding. Deliberations are not recorded.

When there is a finding of responsibility for one or more of the allegations, the Decision-maker may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate sanction(s). The Title IX Coordinator will ensure that any submitted statements are exchanged between the Parties if they are viewed by the Decision-maker. Impact/mitigation statements do not influence the finding, they only potentially influence the sanctions.

The Decision-maker will then prepare and provide the Title IX Coordinator with a written outcome letter detailing all findings and final determinations, the rationale(s) explaining the decision(s), the relevant and not impermissible evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s).

This statement is usually five to fifteen (5-15) pages in length and is typically submitted to the Title IX Coordinator within ten (10) business days from the conclusion of the hearing, unless the Title IX Coordinator grants an extension. The Title IX Coordinator will notify the Parties of any extension.

- **APPENDIX C: STATEMENT OF THE PARTIES' RIGHTS**

Under this Policy and procedures, the Parties have the right to:

- An equitable investigation and resolution of all credible allegations of prohibited sex discrimination, sex-based harassment, and/or retaliation, and other prohibited behaviors, when reported in good faith to WOU officials.
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the specific misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated Policies and procedures, and possible sanctions.
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations.
- Be informed in advance of any WOU public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- Have all personally identifiable information protected from WOU's release to the public without consent, except to the extent permitted by law.
- Be treated with respect by WOU officials.
- Have WOU Policy and these procedures followed without material deviation.
- Voluntarily agree to resolve allegations under this Policy through Informal Resolution without WOU pressure, if Informal Resolution is approved by the Title IX Coordinator.
- Not be discouraged by WOU officials from reporting sex discrimination, sex-based harassment, and/or retaliation, and other prohibited behavior to both on-campus and off-campus authorities.
- Be informed of options to notify proper law enforcement authorities, including Campus Public Safety and local police, and the option to be assisted by WOU in notifying such authorities, if the party chooses. This also includes the right to not be pressured to report.
- Have allegations of violations of this Policy responded to promptly and with sensitivity by WOU Campus Public Safety and/or other WOU officials.
- Be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, visa and immigration assistance, and/or other services, both on-campus and in the community.
- A WOU-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- Be informed of available assistance in changing academic, living, and/or employment situations after an alleged incident of sex discrimination, sex-based harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either institutional or criminal, needs to occur for this option to be available. Such actions may include, but are not limited to:

- Relocating an on-campus student's housing to a different on-campus location
 - Assistance from WOU staff in completing the relocation
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Transportation assistance
 - Visa/immigration assistance
 - Arranging to dissolve a housing contract and provide a pro-rated refund
 - Rescheduling or adjusting an exam, paper, and/or assignment
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Campus safety escorts
 - Alternative course completion options
- Have WOU maintain supportive measures for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair WOU's ability to provide the supportive measures.
 - Receive sufficiently advanced written notice of any WOU meetings or interviews involving another party, when possible and deemed appropriate by the Title IX Coordinator.
 - Identify and have the Investigator(s) and/or Decision-maker question relevant available witnesses, including expert witnesses.
 - Provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant and permissible by the Investigator(s)/Decision-maker, may be asked of any party or witness.
 - Have Complainant's inadmissible sexual interests/prior sexual history or any Party's irrelevant character evidence excluded by the Decision-maker.
 - Access the relevant evidence obtained and respond to that evidence.
 - A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
 - Receive a copy of all relevant and permissible evidence obtained during the investigation, subject to privacy limitations imposed by federal and state law and be given ten (10) business days to review and comment on the evidence.
 - The right to receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed, and to have at least seven (7) business days to review the report prior to the determination.
 - Be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
 - Regular status updates on the investigation and/or Resolution Process.
 - Have reports of alleged Policy violations addressed by Resolution Process Pool members who have received relevant annual training as required by law.
 - Preservation of confidentiality/privacy, to the extent possible and permitted by law.

- Meetings, interviews, and/or hearings that are closed to the public.
- Petition that any WOU representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- Be able to select an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- Apply the Preponderance of the Evidence standard of proof to make a Finding and Final Determination after an objective evaluation of all relevant and permissible evidence.
- Be present, including presence via remote technology, during all testimony given and evidence presented during any hearing.
- Have an impact and/or mitigation statement considered by the Decision-maker following a determination of responsibility for any allegation, but prior to sanctioning.
- Be promptly informed of the Resolution Process finding(s) and sanction(s) (if any) and be given a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay).
- Be informed in writing of when a WOU decision is considered final and any changes to the Final Determination or sanction(s) that occur post outcome letter delivery.
- Be informed of the opportunity to appeal the Resolution Process finding(s) and sanction(s), and the procedures for doing so in accordance with WOU's grounds for appeal.
- A fundamentally fair resolution as defined in these procedures.

● APPENDIX D: PRIVACY, PRIVILEGE, AND CONFIDENTIALITY

For the purpose of this Policy, the terms privacy, confidentiality, and privilege have distinct meanings.

- **Privacy.** Means that information related to a complaint will be shared with a limited number of WOU employees who “need to know” in order to assist in providing supportive measures or evaluating, investigating, or resolving the Complaint. All employees who are involved in WOU’s response to Notice under this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with federal and state law.
- **Confidentiality.** Exists in the context of laws or professional ethics (including Title IX) that protect certain relationships, including clinical care, mental health providers, and counselors. Confidentiality also applies to those designated by WOU as Confidential Employees for purposes of reports under this Policy, regardless of legal or ethical protections. When a Complainant shares information with a Confidential Employee, the Confidential Employee does not need to disclose that information to the Title IX Coordinator. The Confidential Resource will, however, provide the Complainant with the Title IX Coordinator’s contact information, assist the Complainant in reporting, if desired, and provide them with information on how the Title IX office can assist them. With respect to Confidential Employees, information may be disclosed when: (1) the reporting person gives written consent for its disclosure; (2) there is a concern that the person will likely cause serious physical harm to self or others; or (3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or persons with disabilities. Non-identifiable information may be shared by Confidential Employees for statistical tracking purposes as required by the Clery Act/Violence Against Women Act (VAWA). Other information may be shared as required by law.
- **Privilege.** Exists in the context of laws that protect certain relationships, including attorneys, spouses, and clergy. Privilege is maintained by a provider unless a court orders release or the holder of the privilege (e.g., a client, spouse, parishioner) waives the protections of the privilege. WOU treats employees who have the ability to have privileged communications as Confidential Employees.

The WOU reserves the right to determine which WOU officials have a legitimate educational interest in being informed about student-related incidents that fall under this Policy, pursuant to FERPA.

Only a small group of officials who need to know will typically be told about the Complaint. Information will be shared as necessary with Investigators, Decision-makers, Appeal Decision-makers, witnesses, the Parties, and the Parties’ Advisors. The circle of people with this knowledge will be kept as tight as possible to preserve the Parties’ rights and privacy, and release is governed by the institution’s unauthorized disclosure policy.

WOU may contact students' parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student prior to doing so.

-
-

- **APPENDIX E: VIOLENCE RISK ASSESSMENT (VRA)**

Threat assessment is the process of assessing the actionability of violence by a person against another person or group following the issuance of a direct or conditional threat. A **Violence Risk Assessment (VRA)** is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

Implementing a VRA requires specific training. It is typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct professionals, and/or other CARE team members.

A VRA occurs in collaboration with the CARE team and must be understood as an ongoing process, rather than as a single evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations. It is supported by research from law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use(s) an evidence-based process consisting of:

- 1) An appraisal of **risk factors** that escalate the potential for violence.
- 2) A determination of stabilizing influences, or **protective factors**, that reduce the risk of violence.
- 3) A contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of the threat; fixation and focus on target; grievance collection; and action and time imperative for violence.
- 4) The application of **intervention and management** approaches to reduce the risk of violence.

To assess a person's level of violence risk, the Title IX Coordinator will initiate the VRA process through the CARE Team. The CARE Team will assign a trained person(s) to perform the assessment, according to the specific nature of the complaint.

The assessor(s) will follow the process for conducting a VRA as determined by the CARE Team and will rely on a consistent, research-based, reliable system that allows for the evaluation of the risk levels.

Some examples of formalized approaches to the VRA process include The NABITA Risk Rubric, the Structured Interview for Violence Risk Assessment (SIVRA-35), Violence Risk Assessment of the Written Word (VRAWW), Workplace Assessment of Violence Risk (WAVR-21), Historical Clinical Risk Management (HCR-20), and MOSAIC.

The VRA is conducted independently from the Resolution Process, informed by it, but free from outcome pressure. The person(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The CARE Team member(s) conduct(s) a VRA process and make(s) a recommendation to the Title IX Coordinator as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to the health and/or safety of a person or the community.

In some circumstances, the Title IX Coordinator may determine that a VRA should be conducted by the CARE Team as part of the initial evaluation of a Complaint under this Policy. A VRA can aid in critical and/or required determinations, including:

- 1) Whether to remove the Respondent on an emergency basis because of an immediate threat to a person or the community's health/safety (Emergency Removal)
- 2) Whether the Title IX Coordinator should pursue/sign a Complaint absent a willing/able Complainant
- 3) Whether the scope of an investigation should include an incident, and/or pattern of sex discrimination, sex-based harassment, and/or climate of sex discrimination or sex-based harassment
- 4) To help identify potential predatory conduct
- 5) To help assess/identify grooming behaviors
- 6) Whether it is reasonable to try to resolve a Complaint through Informal Resolution, and if so, what approach may be most successful
- 7) Whether to permit the Respondent to voluntarily withdraw
- 8) Whether to impose a transcript notation or communicate with a transfer institution about a Respondent
- 9) Assessment of appropriate sanctions/remedies (to be applied post-determination)
- 10) Whether a Clery Act Timely Warning/Trespass Order/Persona Non Grata is needed

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Institutions may be compelled to act on alleged employee misconduct regardless of a Complainant's wishes.

- **APPENDIX F: TITLE IX POLICY STATEMENT**

WOU adheres to all federal, state, and local civil rights laws prohibiting sex discrimination and sex-based harassment in employment and education. WOU does not discriminate in its admissions practices, employment practices, or educational programs or activities on the basis of sex, except as may be permitted by law. As a recipient of federal financial assistance for education activities, WOU is required by Title IX of the Education Amendments of 1972 (Title IX) to ensure that all of its education programs and activities do not discriminate on the basis of sex. Sex includes sex, sex stereotypes, sex characteristics, gender identity, sexual orientation, and pregnancy or related conditions. Sex discrimination is prohibited under Title IX and by WOU Policy, and it includes sex-based harassment, sexual assault, dating and domestic violence, stalking, quid pro quo harassment, hostile environment harassment, disparate treatment, and disparate impact.

WOU also prohibits retaliation against any person opposing sex discrimination or sex-based harassment or participating in any internal or external investigation or complaint process related to allegations of sex discrimination or sex-based harassment.

Any WOU employee or student who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities, and/or benefits of any member of the WOU community on the basis of sex is in violation of the Title IX Policy.

Any person may report sex discrimination and/or sex-based harassment (whether or not the person reporting is alleged to have experienced the conduct) in person, by mail, by telephone, by video, by email, or by online reporting form using the contact information listed for the Title IX Coordinator (below). A report may be made at any time (including during non-business hours) by contacting the Title IX office.

Questions regarding Title IX, including its application and/or concerns about noncompliance, should be directed to the Title IX Coordinator. For a complete copy of the Policy or more information, please visit www.wou.edu/hr/title-ix or contact the Title IX Coordinator.

For sex discrimination and/or sex-based harassment allegations:

Title IX Coordinator
Human Resources Department
Lieualen Administration Building, Room 305
345 Monmouth Ave. N
Monmouth, OR 97361
503.838.8522
titleix@wou.edu
www.wou.edu/hr/title-ix

A person may also file a complaint with the appropriate federal, state, or local agency within the time frame required by law. Depending upon the nature of the complaint, the appropriate agency may be the U.S. Department of Education Office for Civil Rights (OCR), the Department of Justice, and/or another appropriate federal or state agency.

- **The Office for Civil Rights/Office for Civil Rights**
Seattle Office, U.S. Department of Education
915 Second Avenue, Room 3310
Seattle, WA 98174-1099
Telephone: 206- 607-1600
Email: OCR.Seattle@ed.gov
- **Assistant Secretary for Civil Rights**
Office for Civil Rights, National Headquarters
U.S. Department of Education
Lyndon Baines Johnson Dept. of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

For complaints involving employee-on-employee conduct: [Equal Employment Opportunity Commission](#)

Within any Resolution Process related to this Policy, WOU provides reasonable accommodations to persons with disabilities and religious accommodations, when that accommodation is consistent with federal and state law.

- **APPENDIX G: RECORD MAINTENANCE AND ACCESS**

Scope

This covers records maintained in any medium that are created pursuant to WOU's Title IX Policy and/or the regular business of WOU's Title IX office. All such records are considered private or confidential by the Title IX office, in accordance with FERPA and the directive from the Department of Education to maintain the confidentiality of records related to sex discrimination, sex-based harassment, and retaliation. These records may be shared internally with those who have a legitimate educational interest and will be shared with the Parties to a Complaint under applicable federal and/or state law. The Title IX office controls the dissemination and sharing of any records under its control.

Types of Records Covered

Records pertaining to the Title IX Policy include, but are not limited to:

- The Complaint
- NOIAs
- Documentation of notice to the institution, including incident reports
- Anonymous reports later linked to a specific incident involving known Parties
- Any documentation supporting the initial evaluation
- Investigation-related evidence (e.g., physical and documentary evidence collected and interview transcripts)
- Dismissal-related documentation and appeals
- Documentation related to Emergency Removals, leaves, and interim actions and challenges
- Documentation related to the Resolution Process
- The Final Investigation Report and file
- Remedy-related documentation
- Supportive measures-related documentation
- Appeal-related documentation
- Informal Resolution records
- Outcome Notices
- Any other records typically maintained by WOU as part of the Complaint file

Drafts and Working Files: Preliminary drafts and “working files” are not considered records that WOU must maintain, and these are typically destroyed during the course of an investigation or at the conclusion of the Resolution Process. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their author and/or the Title IX Coordinator. An example of a “working file” would be the Investigator’s notes made during an interview on topics that they want to revisit in subsequent interviews. Sole possession

records maintained as such in accordance with FERPA are also included in this category. All drafts of investigation reports shared with the Parties are maintained.

Attorney Work-Product: Communications from/to the Title IX office or its designees with WOU's legal counsel may be work product protected by attorney-client privilege. These privileged communications are not considered records to be maintained by the Title IX office or accessible under this Policy unless the Title IX Coordinator, in consultation with legal counsel as necessary, determines that these communications should be included as accessible records.

Record Storage

Records may be created and maintained in different media formats; this Policy applies to all records, regardless of format. All records created pursuant to the Policy, as defined above, must be stored in digital format and maintained by the Title IX office. The complete file must be transferred to the Title IX office, typically within fourteen (14) business days of the complaint resolution (including any appeal), if the file is not already maintained within the Title IX office. Security protocols must be in place to preserve the integrity and privacy of any parts of any record that are maintained in the Title IX office during the pendency of an investigation.

The Title IX office will store all records created pursuant to the Policy, regardless of the identities of the Parties. Any extra (non-essential) copies of the records (both digital and paper) must be destroyed.

A copy of records showing compliance with any applicable Clery Act/Violence Against Women Act (VAWA) requirements will be maintained along with the Complaint file by the Title IX office.

Title IX Training Materials

WOU will also maintain copies of the slides or other materials from all Title IX training for the Resolution Process Pool members, the Title IX Coordinator, designee(s), and employees. Trainings occurring prior to August 1, 2024, are posted online at www.wou.edu/hr/title-ix, and trainings occurring after August 1, 2024, are available for review upon request to the Title IX Coordinator.

Record Retention

All records created and maintained pursuant to the Policy will be retained by the Title IX office for a minimum of seven (7) years in database, digital, and/or paper form. Except for records pertaining to Title IX and the Clery Act/VAWA, the Title IX Coordinator may authorize destruction or expungement acting under their own discretion, or in accordance with a duly executed and binding claim settlement and/or by court or government order.

Record Access

Access to records created pursuant to the Policy or housed in the Title IX office is strictly limited to the Title IX Coordinator and any person they authorize in writing, at their discretion, or via permission levels within the database. Those who are granted broad access to the Title IX office records are expected to access only those pertinent to their scope, work, or specific assignment. Anyone who accesses such records without proper authorization may be subject to an investigation and possible discipline/sanction. The discipline/sanction for unauthorized access of records covered by this Policy will be at the discretion of the appropriate disciplinary authority, consistent with other relevant WOU policies and procedures.

Student Parties may request access to their complaint file. WOU will provide access or a copy within 45 days of the request. Appropriate redactions of personally identifiable information may be made before inspection, or any copy is shared.

During the investigation, materials may be shared with the Parties using secure file transmission software. The Title IX office will watermark any such file with the watermark identifying the role of the person in the process (e.g., Complainant, Respondent, Decision-maker; Complainant's Advisor) before sharing.

WOU will maintain an access log of each case file, showing when and by whom it was accessed and for what purpose.

Record Security

The Title IX Coordinator is expected to maintain appropriate security practices for all records, including password protection, lock and key, and other barriers to access as appropriate. Record security should include protection from floods, fire, and other potential emergencies. Clothing, forensic, and other physical evidence should be securely stored in the Title IX office or another appropriate secure location. All physical evidence will be maintained in a facility that is reasonably protected from flood and fire. A catalog of all physical evidence will be retained with the Complaint file.

○ **APPENDIX H: TRAINING FOR MEMBERS OF THE RESOLUTION PROCESS POOL**

Resolution Process Pool members receive annual training related to their respective roles. This training may include, but is not limited to:

- The scope of WOU’s Title IX Policy
- WOU’s Resolution Process
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias and confirmation bias
- Treating Parties equitably
- Disparate treatment
- Disparate impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- Trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all prohibited conduct
- How to conduct an investigation and grievance process, including administrative resolutions, hearings, appeals, and Informal Resolution Processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance and creating an investigation report that fairly summarizes relevant and not impermissible evidence
- How to determine appropriate sanctions in reference to all forms of sex discrimination, sex-based harassment, and/or retaliation allegations
- Recordkeeping

Additional Training Elements Specific to Title IX

All investigators, Decision-makers, and other persons who are responsible for implementing WOU’s Title IX policies and procedures will receive training related to their duties under Title IX

promptly upon hiring or change of position that alters their duties under Title IX or this part, and annually thereafter. Materials will not rely on sex stereotypes. Training topics include, but are not limited to:

- How to conduct a sex discrimination resolution process consistent with the Nondiscrimination Procedures, including issues of disparate treatment, disparate impact, sex-based harassment, quid pro quo, hostile environment harassment, and retaliation
- The meaning and application of the term “relevant” in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the Title IX Regulations
- Training for Informal Resolution facilitators on the rules and practices associated with WOU’s Informal Resolution process
- The role of the Title IX Coordinator
- Supportive Measures
- Clery Act/VAWA requirements applicable to Title IX
- WOU’s obligations under Title IX
- How to apply definitions used by WOU with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- Reasonable modifications and specific actions to prevent sex discrimination and/or sex-based harassment and ensure equal access for pregnancy or related conditions
- Any other training deemed necessary to comply with Title IX