
Procedures for Addressing Sex-Based Misconduct¹

About These Procedures

Effective Date:	August 1, 2024
Responsible Office:	Office for Access & Equity, Equal Employment Opportunity Division
Related Policy:	Sex-Based Misconduct Policy (CAM HR-79)
Link to this document:	https://oae.illinois.edu/sbm-procedures
To learn more:	https://oae.illinois.edu/our-services/discrimination-and-harassment/ https://wecare.illinois.edu
Phone:	217-333-0885, option #2
Email:	eeodivision@illinois.edu

1. Introduction

The University of Illinois Urbana-Champaign (“University”) is committed to ensuring that its learning and working environments are free from all forms of sex-based discrimination. These Procedures for Addressing Sex-Based Misconduct (“Procedures”) outline the resolution processes that will be used to investigate and/or resolve a complaint of Sex-Based Misconduct as defined in the [Sex-Based Misconduct Policy](#). These procedures treat all parties equitably.

The Associate Vice Chancellor for Access and Equity (“AVC”), the Director of the Equal Employment Opportunity Division (“EEO”) of the Office for Access and Equity (“Director”), the Senior EEO Associates (“Senior Associates”), and EEO Associates are all Title IX Coordinator designees for the purpose of effectuating these procedures. EEO Associates and Senior Associates will act as Investigators and Decision-Makers, as defined by these procedures.

The University retains the right to interpret these procedures in any way that is not clearly unreasonable. In administering these procedures, the Office for Access and Equity (“OAE”) will consult with campus partners as necessary and delegate tasks as necessary and appropriate.

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These procedures are subject to change should the United States Department of Education’s Office for Civil Rights publish interpretations of the federal 2024 Title IX Regulations that are inconsistent with these procedures, or in the event that court rulings and/or opinions amend, enjoin, or interpret said regulations.

2. Scope

2.1. Jurisdiction

OAE has sole jurisdiction to adjudicate complaints in which a Complainant alleges that a staff member, faculty member, student employee, or other category of employee engaged in Prohibited Conduct as defined by the Sex-Based Misconduct Policy. Other categories of employees include visiting faculty, visiting scholars, post-doctoral fellows, individuals with 0% appointments, and other similarly situated community members. However, in cases where the Respondent is a student employee, the provisions below related to shared jurisdiction and joint procedures between OAE and OSCR may apply.

OAE has sole jurisdiction to investigate and determine whether University policies or practices violate the Sex-Based Misconduct Policy.

The University includes University Laboratory High School, University Primary School, the Child Development Laboratory Preschool, and Orchard Downs Preschool (collectively “Uni”). These procedures do not apply to complaints of Sex-Based Misconduct involving Uni Students as Complainants or Respondents; such matters are governed by Procedures for Addressing Sex-Based Misconduct Involving Prek-12 Students.

The Office for Student Conflict Resolution (OSCR) has jurisdiction over complaints against students or student organizations pursuant to the Student Code. Individuals who believe they have been subjected to misconduct by a student in violation of the Student Code should contact OSCR at 217-333-3680 or conflictresolution@illinois.edu. Complaints referred to OSCR shall be addressed pursuant to Student Disciplinary Procedures. Section 10.10 below sets forth the manner in which cases involving overlapping jurisdiction between OAE and OSCR will be handled.

The University may make adjustments to these procedures as needed in order to ensure that the rights of all parties and the interests of the University and the campus community are protected, provided that such adjustments are not unfairly prejudicial to any party and do not interfere with the due process rights of any party or any other right protected by applicable law, regulation, policy, or contract. Any such adjustments to procedures will be communicated to affected parties in a reasonable time, which may include after a report has been received or an investigation has commenced.

2.2. Applicability of these Procedures

When addressing, adjudicating, and/or resolving a complaint of misconduct under the Sex Based Misconduct Policy or any past version of the Sexual Misconduct Policy, the University will apply the policy definitions of misconduct that were in place at the time the alleged misconduct occurred, and will apply the procedures in this document except as provided in Section 2.2.1.

2.2.1. Title IX Sexual Harassment

For reports and/or complaints alleging Title IX Sexual Harassment (as defined in the Sexual Misconduct Policy from August 14, 2020 to July 31, 2024) that occurred between August 14, 2020 and July 31, 2024, and the following conditions are met, the University will apply the “Procedures for Addressing Title IX Sexual Harassment Complaints” instead of the procedures in this document.

- a. The conduct took place in the United States of America;
- b. The conduct took place on University premises or property, at a University-sponsored event, or in buildings owned or controlled by the University’s recognized student organizations, or if the alleged conduct effectively deprived someone of access to a University educational program;
- c. The Respondent is a member of the University’s community; and
- d. The Complainant was participating in or attempting to participate in the education program or activity at the time the Formal Complaint was filed.

2.2.2. Applicability of live hearing process

For complaints that proceed to a formal resolution under these procedures, the University will utilize the “Determination by Live Hearing” process as described in Section 8.5 (including its subsections) when the following conditions are met:

- a. The alleged misconduct took place on or after August 1, 2024.
- b. The Complainant was participating in or attempting to participate in the education program or activity of the University at the time the alleged behavior occurred,
- c. The Respondent is a member of the University’s community, which includes but is not limited to employees, visiting scholars, post-doctoral fellows, and other formally affiliated individuals,
- d. The matter involves a student Complainant and/or a student Respondent, and
- e. The complaint alleges that Sex-Based Harassment occurred.

For all other complaints that proceed to a formal resolution under these procedures, the University will utilize the “Determination by Investigator” process as described in Section 8.4.

3. Definitions

Advisor of Choice means a person chosen by a Party to accompany the Party to meetings or proceedings related to the resolution process and to advise the Party on that process. The Advisor of Choice may be any person, including but not limited to a(n): friend, family member, mental health professional, certified victim’s advocate, or attorney. The Parties may select whoever they wish to serve as their Advisor of Choice as long as the Advisor is eligible and available.² Parties have the right to choose not to have an Advisor of Choice accompany them to meetings or proceedings.

The Advisor of Choice may not testify in their capacity as an Advisor or obstruct an interview, speak unless invited to by the Investigator during an interview, or disrupt the process. If an Advisor is also a witness, they may testify in their capacity as a witness. The Investigator and/or Decision-Maker have the right to determine what constitutes appropriate behavior of an Advisor of Choice and take reasonable steps to ensure compliance with these Procedures. If a Party’s Advisor of Choice refuses to comply with the University’s established rules of decorum provided prior to or during a meeting or hearing, the University may exclude them from future meetings and proceedings. Parties to any process contained in these procedures may be accompanied by an Advisor of Choice.

Clearly Erroneous Standard is the standard of review for the appeal panel in determining if a mistake has been made in the determination of the case. The appeal panel is charged with modifying or remanding a determination only if they are left with a definite and firm conviction that a mistake has been committed.

Complainant means:

- 1) A student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Misconduct; or
- 2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Misconduct and who was participating or attempting to participate in a University education program or activity at the time of the alleged Sex-Based Misconduct; or
- 3) An individual who is alleged to have been subjected to conduct that could constitute a violation of the Sex-Based Misconduct Policy.

Complaint means an oral or written request to the University that objectively can be understood as a request for the University to investigate and make a determination about alleged Prohibited Conduct under the Sex-Based Misconduct Policy.

² “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 a Title IX administrator who has an active role in the matter.

Days mean business days.

Decision-Maker refers to the person who has the authority to make Findings of Fact and Final Determinations within the University's Formal Grievance process. The Decision-Maker may be the same person as the investigator for allegations of Sex Discrimination, Other Misconduct, and Sex-Based Harassment that does not include a student as a party.

Education Program or Activity means all of the operations of the University.

Final Determination means a conclusion by a Preponderance of the Evidence about whether the alleged conduct violated the Sex-Based Misconduct Policy.

Finding of Fact means a conclusion by the Preponderance of the Evidence about whether the alleged conduct did or did not occur.

Formal Grievance Process means a method of formal resolution involving an investigation and determination that is designed by the University to address conduct that falls within the Sex-Based Misconduct Policy.

Grievance Process Pool includes any Investigators, Decision-Makers, and appeal officers who may perform any or all of these roles (though not at the same time or with respect to the same case). All members of the Grievance Process Pool are trained annually to perform their roles.

Hearing Facilitator refers to the person who facilitates the hearing when one occurs. The Hearing Facilitator will be a member of OAE and will handle the logistics of the hearing to include scheduling and coordinating witnesses and answering any technical or logistical questions that arise during the hearing. The Hearing Facilitator is not a fact witness and does not engage in deliberations or in any other way determine credibility, evidentiary questions, or whether there has been a violation of University policy.

Investigator means the person or persons charged by the University with gathering facts about an alleged violation of the Sex-Based Misconduct Policy, synthesizing the evidence, and compiling this information into an investigation report and file of relevant and not otherwise impermissible evidence.

Member of the University's Community means a person who is formally affiliated with the University, including but not limited to students, employees, visiting scholars, and post-doctoral fellows.

Notice occurs when a person informs the Title IX Coordinator or a responsible employee of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct. (This is distinct from the Notice of Investigation and Allegations described in Section 8.4.1 below.)

Parties/Party include the Complainant(s) and Respondent(s), collectively.

Preponderance of the Evidence Standard means the standard of review for determining if a violation of policy occurred. Under this standard, the evidence needs to show that the facts are more likely to be true than not before making a Finding of Fact or Final Determination.

Prohibited Conduct means all forms of misconduct defined in the Sex-Based Misconduct Policy.

Remedies means measures provided, as appropriate, to a Complainant or any other person the University identifies as having had their equal access to the University's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the University's education program or activity after the University determines that sex discrimination occurred.

Report is when an employee, student, or third party informs the Title IX Coordinator of an alleged occurrence of Prohibited Conduct.

Resolution means the result of a Preventative Measure or a Formal Grievance Process.

Respondent means a person who is alleged to have engaged in Prohibited Conduct.

Sanction means a consequence imposed by the University on a Respondent who is found to have violated the Sex-Based Misconduct Policy.

Sex-Based Misconduct means any form of Prohibited Conduct enumerated in the Sex-Based Misconduct Policy.

4. Reports or Complaints of Sex-Based Misconduct

Reports or Complaints of Sex-Based Misconduct may be made using any of the following options:

- a. File a Report or Complaint with, or give verbal notice to, the Title IX Coordinator. Such a Report may be made at any time (including during non-business hours) by telephone (217-333-3333) or email (titleixcoordinator@illinois.edu), or by mail to the office address (614 East Daniel St., Suite 303, Champaign, IL 61820).
- b. Report online, using the reporting form posted at wecare.illinois.edu. Anonymous Reports are accepted, but the report may give rise to a need to try to determine the Parties' identities. Anonymous Reports typically limit the University's ability to investigate, respond, and provide remedies, depending on what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants who are the subject of an Anonymous Report.

5. Supportive Measures, Leave, and Preventative Measures

The University will offer and implement appropriate and reasonable supportive measures to the Parties. The Title IX Coordinator or designee in OAE promptly makes supportive measures available to the Complainant upon receiving a Report or a Complaint and to the Respondent upon providing the Notice of Investigation and Allegations. At the time that supportive measures are offered, the University will inform the Complainant or if the Complainant is unknown, then the individual who reported the conduct, of the grievance procedure. The Title IX Coordinator or designee will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

The University will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the University's ability to provide those supportive measures. The University will act to ensure as minimal an academic/occupational impact on the Parties as possible. The University will implement measures in a way that does not unreasonably burden any party.

The range of supportive measures available to Complainants and Respondents along with the process to request a review of supportive measures is available at wecare.illinois.edu.

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement.

If the Complainant or Respondent is a postsecondary student with a disability, the Title IX Coordinator may consult, as appropriate, with DRES to determine how to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, in the implementation of supportive measures.

5.1. Administrative Leave

Subject to relevant University policies and procedures governing interim actions and leaves, the University may place an employee Respondent, including student employee Respondents, on administrative leave from employment responsibilities during the pendency of the grievance process.

5.2. Preventative Measures

OAE may utilize preventative measures as a supportive measure in response to a Report or Complaint of Sex-Based Misconduct when the Complainant does not desire a Formal Grievance Process or when there is not enough information to establish a reasonable suspicion of a policy violation, which is required to proceed with a Formal Investigation.

As part of the evaluation of the appropriateness of preventative measures an Investigator may engage in a Preliminary Inquiry. The preventative measures process will not be employed when the allegations involve sexual, dating, or domestic violence.

Preventative measures are used to help address the Complainant's concerns and, regardless of whether a Complaint is initiated, to take prompt and effective steps to help ensure that Sex-Based Misconduct does not continue to recur within the education program or activity. The preventative measures are designed to be flexible and enable OAE to address an individual's situation in an efficient and effective manner. These efforts may be accomplished with the assistance of other offices or administrators on campus in the area relevant to the Complaint. Examples include, but are not limited to, a warning to cease current behaviors, and educational conversations with the Respondent or others. If possible, the complainant's identity may be kept confidential from the Respondent during the preventative measures process.

Preventative measures do not seek to determine whether the alleged conduct violates the Sex-Based Misconduct Policy and do not result in findings related to responsibility. Preventative measures are not disciplinary or punitive.

OAE will attempt to conclude the preventative measures within 20 days of the Complainant's indication that they wish to proceed in this manner or OAE's decision to do so, whichever comes first. Following conclusion, OAE will document the preventative measures as appropriate. The reported allegations and steps taken will be maintained internally.

6. Requests for anonymity or no action

To protect the Parties, every effort will be made to protect the privacy interests of the persons involved in a manner consistent with the need for a prompt and effective response to a Report or Complaint. If the Complainant requests that their name or other identifiable information not be shared, does not wish for an investigation to take place, or does not want a Complaint to be pursued, the Investigator, the Investigator's direct supervisor, and the Title IX Coordinator shall evaluate such request in light of the duty to ensure the safety of the University and to comply with state and federal law.

The Title IX Coordinator determines whether the University proceeds when the Complainant does not wish to do so. The Title IX Coordinator may submit a Complaint to initiate a grievance process upon completion of an initial assessment. If the Title IX Coordinator submits a Complaint pursuant to this section, the Title IX Coordinator is not a Party. The Title IX Coordinator or Investigator will notify the Complainant of the University's response to their request. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University's obligation to protect its community.

If the University honors the request for anonymity, or the report is anonymous, the University may not be able to proceed with a Formal Resolution Process. The University will take other appropriate steps to seek to eliminate any such Sex-Based Misconduct, prevent its recurrence, and remedy its effects on the Complainant and the University community. For example, this may include an educational conversation with the Respondent regarding the Sex-Based Misconduct Policy, setting

expectations, and providing supportive measures to the Complainant. If the Complainant elects to take no action, they can decide to pursue a Complaint later.

If the University does not honor the request for anonymity or no action, the Title IX Coordinator will submit the Complaint. If a Complaint is submitted by the Title IX Coordinator, the Complainant (or their Advisor of Choice) and Respondent may have as much or as little involvement in the process as they wish. The Complainant and Respondent retain all rights of a Complainant under these procedures irrespective of their level of participation.

7. Dismissal of a Complaint

The University may dismiss a Complaint or any allegations therein if, at any time during the investigation or hearing, any of the following occurs:

- a) The University is unable to identify the Respondent after taking reasonable steps to do so.
- b) The Respondent is not participating in the University's education program or activity and is not employed by the University.
- c) The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a complaint, and the University determines that without the Complainant's withdrawn allegations, the conduct would not constitute Prohibited Conduct under the Sex-Based Misconduct Policy. For allegations of Sex-Based Harassment involving a student as a Party, the withdrawal must be in writing. A Complainant who decides to withdraw a Complaint may later request to reinstate it or refile it.
- d) The University determines the conduct alleged in the Complaint, even if proven, would not constitute Prohibited Conduct under the Sex-Based Misconduct Policy. Prior to dismissing on this ground, OAE will make reasonable efforts to clarify the allegations with the Complainant.

Upon any dismissal, the University will promptly send written notice of the dismissal and the rationale/basis for doing so simultaneously to the Complainant (and the Respondent if the Respondent has been notified of the Complaint). The notification will include notice that a dismissal may be appealed. The dismissal decision is appealable by any notified Party under the procedures for appeal below (Section 8.6.4).

Upon dismissing a Complaint, the University will offer supportive measures to the notified Party or Parties as appropriate. The University will take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination, including sex-based harassment does not continue to recur within the University's education program or activity. Such a dismissal does not preclude action under other applicable state or federal laws or applicable University policies.

8. Resolution Process

8.1. Initial Assessment

Following receipt of a Report or Complaint, OAE will engage in an initial assessment. An Investigator will work with the Complainant to determine whether the Complainant prefers a supportive and remedial response, or a formal investigation and grievance process.

If an oral Complaint is received, an Investigator will commit the Complaint to writing, share it with the Complainant, and ask the Complainant to confirm its accuracy or provide edits to ensure an accurate written Complaint has been created.

OAE will attempt to conclude the Initial Assessment within twenty (20) days of the date the Report is received.

The University may consolidate complaints of Sex-Based Misconduct against more than one Respondent, or by more than one Complainant against one or more Respondents when the allegations arise out of the same facts or circumstances. Where consolidation occurs, references in these procedures to a Complainant or Respondent include the plural, as applicable.

The Respondent is presumed not responsible for the alleged conduct unless and until a determination regarding responsibility is made only at the conclusion of the formal resolution process once all evidence has been collected and analyzed by a preponderance of the evidence.

8.1.1. Requests for Investigation

The following people have the right to make a Complaint and request that the University investigate and make a determination about alleged **Sex Discrimination**:

- a. A Complainant; a parent, guardian, or authorized legal representative with the legal right to act on behalf of a Complainant; the Title IX Coordinator; any student or employee; any person other than a student or employee who was participating or attempting to participate in a program or activity at the time of the alleged sex discrimination.

The following people have the right to make a Complaint and request that the University investigate and make a determination about alleged **Sex-Based Harassment and Other Prohibited Misconduct**:

- b. A Complainant; a parent, guardian, or authorized legal representative with the legal right to act on behalf of a complainant; or the Title IX Coordinator.

OAE will make the ultimate determination about whether an investigation will proceed.

8.1.2. Status of the Parties

If a person other than the Complainant requests that OAE investigate and make a determination, they do not become the Complainant and they do not assume any rights of the Complainant as laid out in these procedures.

In matters where there is an allegation that a policy or practice is resulting in sex discrimination and there is not a person identified as a Respondent, and OAE determines to move forward with a formal investigation, the area or unit of the University which owns the policy or practice will be identified. OAE will provide the leader of the identified area with the rights afforded to Respondents, with the exception of supportive measures, although they will not become the Respondent.

8.2. Preliminary Inquiry

OAE may conduct a Preliminary Inquiry upon request or at its own discretion. The purpose of a Preliminary Inquiry is to determine whether there is a reasonable suspicion of a policy violation. This includes, but is not limited to, gathering evidence and interviewing witnesses. The Respondent will not be contacted as part of the Preliminary Inquiry, however OAE may reach out to other third parties in conducting the Preliminary Inquiry.

8.3. Formal Grievance Process — Investigation for all allegations of Sex-Based Misconduct

8.3.1. Notice of investigation and allegations (NOIA)

For allegations of Sex-Based Misconduct (not including student-Complainant sex-based harassment allegations), the Investigator will provide the parties with notice of the allegations and investigation (written or orally) that includes:

- a. Grievance procedures,
- b. Information regarding the allegations, including the identities of the parties involved, the conduct alleged to constitute Sex-Based Misconduct, and the date(s) and location(s) of the alleged incidents, if known,
- c. Prohibition against retaliation,
- d. Confirmation that parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of the evidence.

For allegations including student-Complainant sex-based harassment allegations, the Investigator shall provide a written notice of allegations and investigation prior to any initial party interviews. The written notice of allegations for such cases will include all the above information required for sex discrimination notice and additionally includes:

- a. Statement the respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedure and that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Decision-maker,
- b. Statement that the parties may have an advisor of their choice,
- c. Statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence and opportunity to access the relevant and not otherwise impermissible evidence upon request,
- d. Prohibition against knowingly making false statements or knowingly submitting false information.

The University may reasonably delay providing the NOIA to address reasonable concerns for the safety of any person as a result of issuing the NOIA. Reasonable concerns will be based on an individualized safety and risk analysis which evaluates the severity and imminence of a threat to the safety of any person arising from the allegations of Sex-Based Misconduct.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available which may warrant the addition or dismissal of various charges. Notice will be given to all Parties of any amendments to the NOIA.

After receiving the NOIA, the Respondent shall submit a written response within five (5) days.

Parties and Advisors are prohibited from disclosing information obtained by OAE through the Resolution Process, to the extent that information is the work product of OAE (meaning it has been produced, compiled, or written by OAE for purposes of its investigation and resolution of a Complaint), without authorization. Parties and Advisors are prohibited from publicly disclosing institutional work product that contains a party or witness's personally identifiable information without authorization or consent. Doing so can be subject to discipline under the University of Illinois Code of Conduct or the University of Illinois Student Code.³

8.3.2. Ensuring impartiality

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator, or Decision-Maker, may neither have nor demonstrate a conflict of interest or bias for a Party generally, or specifically. An appeal panelist will not have previously participated in the grievance procedure prior to the appeal.

³ Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of Sex Discrimination or Sex-Based Harassment is authorized.

The Parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Director, or their designee, will determine whether the concern is objectively reasonable and supportable. If so, another person 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 Director, concerns should be raised with the Associate Vice Chancellor for Access and Equity. Where these procedures provide a timeline for raising objections at different points in the process, this section will not be read in contradiction.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including inculpatory and exculpatory evidence. Credibility determinations may not be based on an individual's status or participation in this process.

The University presumes that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined by the Decision-Maker to be responsible for a policy violation by the applicable standard of proof at the end of the grievance procedure.

8.3.3. Steps in the investigation process

All investigations are adequate, reliable, impartial, prompt, and fair. Investigations involve an equal opportunity for the Parties to present fact witnesses and collection of inculpatory and exculpatory evidence that is relevant and not otherwise impermissible.

For meetings with a Party involving allegations of Sex-Based Harassment with a Student Party, the Investigator will provide written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate. The Investigator gathers, assesses, and determines the relevance and permissibility of evidence. The Investigator will interview available and relevant Parties and witnesses to ask questions and assess credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of Sex-Based Misconduct. After each interview with Parties or witnesses, the Investigator will provide the interviewee an opportunity to review and verify the Investigator's summary notes of the relevant evidence and/or testimony from their respective interviews.

Interviews cannot be recorded without express written consent by all individuals involved, and no unauthorized recording is permitted by anyone participating in the investigative interviews. Parties and witnesses may take notes during investigation meetings. Requests for recording of an interview must be submitted with the rationale for consideration to the Director or their designee at eeodivision@illinois.edu.

Prior to the conclusion of the investigation, the Investigator will provide the Parties and their respective Advisors of Choice (if so desired by the Parties) an electronic copy of the draft investigation report as well as all of the relevant and not otherwise impermissible evidence obtained as part of the investigation. The draft investigation report will include a summary of the facts gathered by the investigator. Parties will have a five (5) day review and comment period so that each

Party may meaningfully respond to the evidence in writing to the Investigator. The Parties may elect to waive the full five (5) days.

The Investigator will incorporate relevant elements of the Parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report.

The final report, along with all relevant and not otherwise impermissible evidence, will then be shared with all Parties and their Advisors through secure electronic transmission.

After receiving the final report, each party will have five (5) days to review the report and provide a written response to the Investigator. Each party's response will be shared with the other party and the Decision-Maker. Any information contained in the response that was not shared during the investigation will be considered Newly Offered Evidence and handled in accordance with Section 8.5.4, below.

8.3.4. Expectations of the parties with respect to advisors

The Parties are expected to inform the Investigator(s) of the identity of their Advisor of Choice at least three (3) days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The Parties are expected to provide timely notice if they change their Advisor of Choice at any time. For cases that go to hearing, Parties are expected to inform the Hearing Facilitator of the identity of the Advisor of Choice, if any, that will accompany them to a hearing at least five (5) days before the hearing.

8.3.5. Impermissible Evidence

The investigator will exclude the following types of evidence, and questions seeking that evidence, as impermissible, regardless of whether they are relevant. The investigation does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of:

- a. Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
- b. A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that Party's or witness's voluntary, written consent for use in this process.
- c. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or is evidence

about specific incidents of the Complainant's prior sexual conduct with the Respondent and is offered to prove consent to the alleged Sex-Based Harassment.

Evidence surrounding romantic or social relationships between parties and witnesses may be relevant to determining the credibility of, and the weight to be given to, testimony. This evidence may be introduced if it does not violate this section.

8.3.6. Referral for determination by live hearing or by investigator

Formal investigations of Sex-Based Harassment that meet the criteria described in Section 2.2.2 will be resolved via hearing in accordance with Section 8.5 (including its subsections). Therefore, in such cases, the provisions of Section 8.4 will be set aside.

All formal investigations of Sex-Based Misconduct not falling within the criteria set forth in the previous paragraph will be resolved via an Investigator in accordance with Section 8.4. Therefore, in such cases, Section 8.5 (including its subsections) will be set aside.

8.4. Formal Grievance Process – Determination by Investigator

In cases resolved under this section, the Investigator will act as the Decision-Maker.

Once the final report has been issued to the Parties, and the five (5) days to submit a response has lapsed as described in section 8.3.3, the Investigator will engage in an objective evaluation of all the relevant and not otherwise impermissible evidence to determine by a preponderance of the evidence whether there has been a violation of the applicable university policy. If the Decision-Maker is not persuaded by a preponderance of the evidence that Prohibited Conduct occurred, whatever the quantity of the evidence, the Decision-Maker must not determine that Prohibited Conduct occurred. Credibility determinations must not be based on a person's status as a Complainant, Respondent, or witness.

The Investigator has the authority to hear and make determinations on all allegations of discrimination, harassment, retaliation and Sex-Based Misconduct under the Nondiscrimination Policy and the Sex-Based Misconduct Policy that were included in the NOIA. The Parties will be notified simultaneously in writing of the determination which will include the rationale for such determination, and the procedures and permissible bases for appeal.

The written determination will additionally include a description of the allegations, a description of the policies and procedures that were used to evaluate the allegations, an evaluation of the relevant and not otherwise impermissible evidence, the findings of fact, determination of responsibility for a violation of policy, the evidence used in support of its determination as well as any evidence disregarded

After the issuance of the determination, the Investigator will convene a meeting with the department head and/or the Respondent's supervisor, the Title IX Coordinator, human resources, legal counsel,

and the Provost's and Dean's offices (when investigations involve faculty respondents) to discuss the results of the investigation and address next steps. When there is a finding of responsibility on one or more of the allegations, the stakeholders will determine what the appropriate sanction is for the violation of policy. The Title IX Coordinator will coordinate the provision and implementation of remedies to a Complainant and other persons identified as have had equal access to the program or activity limited or denied by the conduct.

Within seven (7) days of the meeting, the department head and/or Respondent's supervisor shall submit a written response to OAE's determination. In the event that a case is pending an appeal, this deadline is stayed, and the departmental response will be due within seven (7) days after the department receives the decision of the appeal panel. If the department's response is not received within the timeframes set forth above and no extension is requested, the report will be deemed to be accepted by the respondent's department. The complainant and the respondent will receive a copy of the departmental response.

Following a determination, the steps outlined in Section 8.6 (including its subsections) and the following sections shall be followed as appropriate.

8.5. Formal Grievance Process – Determination by live hearing

This section of the procedures will be used to determine allegations of Sex-Based Harassment including a student Complainant or a student Respondent.

Once the final investigation report is shared with the Parties, the Investigator will refer the matter for a live hearing. The hearing must be at least ten (10) days after the day the final investigation report was transmitted to the Parties and the Decision-Maker unless all Parties and the Decision-Maker agree to a written expedited timeline that renegotiates all elements of the timeline including deadlines and notice periods. At least five (5) days before the hearing, the Hearing Facilitator will send notice of the hearing to the Parties by email.

The Hearing Facilitator will select an appropriate Decision-Maker. Any Decision-Maker who has a conflict of interest that would render them incapable of making an objective determination must recuse themselves from the proceedings when notified of the identity of the Parties, witnesses, and Advisors of Choice in advance of the hearing.

All objections to the Decision-Maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Director or their designee within two (2) days of receiving the notice of hearing. The Decision-Maker will only be removed if the Hearing Facilitator determines that a reasonable person would conclude that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Decision-Maker has the authority to hear and make determinations on all allegations of discrimination, harassment, retaliation and Sex-Based Misconduct under the Nondiscrimination Policy and the Sex-Based Misconduct Policy that were included in the NOIA.

8.5.1. Pre-hearing preparation

The Decision-Maker will determine who to call to participate as a witness and notify the Parties of the hearing witnesses at least seven (7) days prior to the hearing. The Parties may request that the Decision-Maker call additional witnesses who were previously interviewed by the Investigator. The Decision-Maker will decide whether to include the suggested witnesses based on relevance and inform the Parties of their decision.

8.5.2. Hearing participation

Hearings are held virtually with all Parties, witnesses, and other participants appearing at the live hearing virtually. All attendees of the hearing will appear with technology enabling participants simultaneously to see and hear the party or witness while that person is speaking. If a Party or witness does not have access to the technology to join a virtual meeting, does not have a private space from which to join the meeting, or would be unable to participate in a virtual hearing for any other reason, they should inform the Hearing Facilitator at least seven (7) days prior to the hearing. OAE will provide private space and the technology needed to join the hearing upon request.

8.5.3. Testimony and Questioning

At the hearing, all questions directed to the Parties, Investigator, and witnesses will be asked by the Decision-Maker. Parties may propose relevant and not otherwise impermissible questions and follow-up questions of the opposing Party and witnesses. These questions may include questions challenging credibility. All cross-examination questions should be submitted to the Decision-Maker at least three (3) days prior to the hearing.

The Decision-Maker will determine whether the proposed questions are relevant and not otherwise impermissible prior to posing the question during the hearing. The Decision-Maker will explain any decision to exclude a question as not relevant or otherwise impermissible. If a Decision-Maker determines that a party's question is relevant and not otherwise impermissible, they must ask the question except that the University will not permit questions that are unclear or harassing of the person being questioned. The Decision-Maker will give a Party an opportunity to clarify or revise a question that the Decision-Maker has determined is unclear, irrelevant, or harassing and, if the party sufficiently clarifies or revises a question to satisfy the terms of this section, the question must be asked.

8.5.4. Evidentiary considerations in the hearing

Any evidence that the Decision-Maker determines is relevant may be presented during the hearing. The Decision-Maker will determine what weight to give all evidence based on the totality of the evidence received. The Decision-Maker does not consider evidence that would be contrary to Section 8.3.5 of these procedures.

Any evidence to be presented at the hearing must have been first considered by the Investigator and provided to the opposing Party for review, unless all Parties and the Decision-Maker assent to its inclusion in the hearing. For the purpose of this section, “Newly Offered Evidence” consists of physical/documentary evidence (e.g. records in paper or electronic form, photographs, emails, voicemails, or text messages) offered by a party or witness at the hearing that were not provided to the investigator during the investigation, and statements by parties or witnesses at the hearing that are substantially distinct from statements made to the investigator during the investigation. As with any evidence or statement at the hearing, the Decision-Maker will first evaluate the evidence to determine its relevance. If a party or the Decision-Maker, during the hearing, believes that evidence being offered by a Party or a witness is Newly Offered Evidence, they may make an objection to the Decision-Maker on those grounds. The Decision-Maker may also raise concerns of their own accord. If no party or Decision-Maker objects, and the evidence has not been excluded by the Decision-Maker on grounds of irrelevance or any other grounds, the evidence shall be admissible and may be considered by the Decision-Maker.

Upon an objection being made, the Decision-Maker will evaluate whether the evidence in question constitutes Newly Offered Evidence as defined above. The Decision-Maker may ask questions of the investigator, the person offering the evidence in question, and any party, as needed. If the evidence in question is testimony from a person at the hearing, the Decision-Maker may determine that the testimony is sufficiently related to that person’s statements to the Investigator during the investigation to determine that the testimony is admissible. If the Decision-Maker determines that the evidence is not admissible (e.g. because it is irrelevant, impermissible, or duplicative of evidence already on the record), the evidence will be excluded from the hearing and will not be considered by the Decision-Maker when reaching a finding. If it is determined that the evidence is relevant, not otherwise impermissible, and not duplicative, the Decision-Maker will adjourn the hearing and instruct the Investigator to re-open the investigation to consider that evidence.

If, during the hearing, information is presented that identifies a new potential witness (i.e., a person who was not previously identified to, or interviewed by, the Investigator and who the Decision-Maker determines is likely to have information or observations relevant to the subject matter of the hearing that could alter the outcome of the hearing), the Decision-Maker may adjourn the hearing and instruct the Investigator to re-open the investigation to interview the new witness. Alternatively, if the witness is available and both Parties and the Decision-Maker assent to the witness being called to testify, the witness may testify during the hearing.

When the Investigator has completed their review of the newly offered evidence and provided an updated report to the parties in the manner described above, the Decision-Maker will reconvene the hearing pursuant to these procedures.

8.5.5. Hearing procedures

Participants at the hearing will include the Decision-Maker, the Investigator who conducted the investigation, the Parties, Advisors of Choice (if so desired by the Parties), any called witnesses, and

anyone providing authorized accommodations or assistive services. The Hearing Facilitator will also be present at the hearing to provide support; they will not participate in questioning or offer any opinions. The hearing will be closed to the public.

The Decision-Maker will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf. Witnesses who have relevant information will appear at the hearing to respond to specific questions from the Decision-Maker and the Parties, through the Decision-Maker. All witnesses except Advisors will be excluded from the hearing while they are not testifying.

8.5.6. Order of hearing

The Decision-Maker explains the procedures and introduces the participants.

The Complainant and Respondent will be given the opportunity to provide an opening statement. The Investigator, Parties and witnesses will then be questioned in the order determined by the Decision-Maker. Each Party and witness will first submit to questioning by the Decision-Maker, to include questions submitted by the parties prior to the hearing. Redirect questioning after initial questioning will be permitted at the discretion of the Decision-Maker. Parties will be given a brief recess to draft and send redirect questions to the Decision-Maker in writing. The Parties are not permitted to directly cross-examine or address each other or any witnesses.

All questions are subject to a relevance determination by the Decision-Maker. The Decision-Maker will explain their decision if disallowing or requiring the question be rephrased. The Decision-Maker may also instruct the questioner to reword a relevant question that is asked in a manner that, in the Decision-Maker's opinion, is intended to disparage, intimidate, or otherwise harass the individual being questioned. Rephrased questions will be emailed to the Decision-Maker for consideration and then asked by the Decision-Maker as appropriate during the hearing.

The Decision-Maker has final say on all questions and determinations of relevance. The Decision-Maker may ask a Party to explain why a question is or is not relevant, but the Decision-Maker will not entertain argument from the participants on relevance once the Decision-Maker has ruled on a question.

Once all Parties and witnesses have testified, the Complainant and Respondent will each be given the opportunity to provide a short closing statement.

8.5.7. Refusal to respond to questions

If a Party or witness chooses not to respond to relevant and not otherwise impermissible questions at the hearing, that choice will not limit the Decision-Maker from considering any statement or evidence provided by that Party or witness at, or prior to, the hearing (including those contained in the investigation report) in the ultimate determination of responsibility for allegations of Sex-Based Misconduct. The Decision-Maker may choose to place less or no weight upon statements by a party

or witness who refuses to respond to questions deemed relevant and not impermissible. Any statements or evidence considered by the Decision-Maker from a Party or witness not present at a hearing or who was not subjected to cross-examination shall be assessed for credibility and relevance in the same manner as other evidence presented.

The Decision-Maker may not draw any inference about whether Sex-Based Harassment occurred solely from a Party's or witness's absence from the hearing or refusal to answer 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.

8.5.8. Recording hearings

Hearings (but not deliberations) will be audio and video recorded by the University for purposes of review in the event of an appeal. No other hearing participant (including, but not limited to Parties, Advisors, witnesses) is authorized to record the proceedings. Any Party may review this recording at any time during the seven years following its creation (subject to any procedures or limitations OAE has in place at the time the review is requested). No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

8.5.9. Deliberation, Determination, and Standard of Proof

The Decision-Maker will determine whether the Respondent is responsible or not responsible for the Prohibited Conduct in violation of the Sex-Based Misconduct Policy at issue and any accompanying alleged violations of the Nondiscrimination Policy. The Preponderance of the Evidence standard of proof is used (i.e., whether it is more likely than not that the Respondent violated the Prohibited Conduct provision of the Sex-Based Misconduct Policy, as alleged). The Decision-Maker will engage in an objective evaluation of all the relevant and not otherwise impermissible evidence and evaluate its persuasiveness. If the Decision-Maker is not persuaded by a preponderance of the evidence that Prohibited Conduct occurred, whatever the quantity of the evidence, the Decision-Maker must not determine that Prohibited Conduct occurred. Credibility determinations must not be based on a person's status as a Complainant, Respondent, or witness.

The Decision-Maker will prepare a written determination of whether Prohibited Conduct under the Sex-Based Misconduct Policy occurred including the rationale for such determination and permissible bases for the Complainant and Respondent to appeal.

The written determination will additionally include a description of the allegations, a description of the policies and procedures that were used to evaluate the allegations, an evaluation of the relevant and not otherwise impermissible evidence, the findings of fact, determination of responsibility for a violation of policy, the evidence used in support of its determination as well as any evidence disregarded, credibility assessments, and when the Decision-Maker finds that sex-based harassment occurred, any disciplinary sanctions the University will impose on the Respondent and whether

other remedies will be provided by the University to the Complainant, and the procedures for the Parties to appeal.

When there is a finding of responsibility on one or more of the allegations, the Decision-Maker will notify the Title IX Coordinator of the need to coordinate the provision and implementation of remedies to a Complainant and other persons identified as have had equal access to the program or activity limited or denied by the conduct. The Decision-Maker will also consult with the Title IX Coordinator and other appropriate administrators in determining and coordinating the appropriate sanction for the Respondent.

When there is a finding of responsibility, the written determination will include any disciplinary sanctions the University will impose on the Respondent.

This written determination must be submitted to the Hearing Facilitator within seven (7) days of the end of the hearing, unless the Hearing Facilitator grants an extension and provides notice to the Parties of such. The Hearing Facilitator will provide the written determination to the Parties simultaneously.

The determination regarding responsibility becomes final either on the date that the outcome of the appeal is shared with the Parties, or if no Party appeals, the date on which the Appeal would no longer be considered timely.

After the issuance of the determination, the Investigator will convene a meeting with the department head and/or the respondent's supervisor, human resources, legal counsel, and the Provost's and Dean's offices (when investigations involve faculty respondents). Within seven (7) days of the meeting, the department head shall submit a written response to OAE's determination. In the event that a case is pending an appeal, this deadline is stayed, and the departmental response will be due within seven (7) days after the department receives the decision of the appeal panel. If the department's response is not received within the timeframes set forth above and no extension is requested, the report will be deemed to be accepted by the respondent's department. The complainant and the respondent will receive a copy of the departmental response.

8.6. Steps following determination

8.6.1. Sanctions

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

Sanctions can include a range of actions, including but not limited to educational conversations, training, discipline, discharge, termination, withdrawal from an academic program, and recommendations to pursue revocation of tenure and dismissal. See the Non-Exclusive List of Possible Sanctions for Employees at wecare.illinois.edu.

In matters of Sex Discrimination or Sex-Based Harassment, any sanctions imposed on the Respondent will be communicated to the Complainant.

For findings of Sex-Based Misconduct not including Sex Discrimination or Sex-Based Harassment, sanctions will not be shared with the Complainant.

8.6.2. Remedies and other actions

Following the conclusion of the formal grievance process, if there is a determination that Sex-Based Misconduct occurred, in addition to any sanctions implemented through the Resolution Process, the Title IX Coordinator or their designee may implement additional remedies or actions with respect to the Complainant and/or other persons identified as having had equal access to the University's education program or activity limited or denied by sex discrimination. Remedies or actions help ensure that sex discrimination does not continue or recur within the University's education program or activity.

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

- a. Referral to counseling and health services,
- b. Referral to the Employee Assistance Program or Faculty Staff Assistance and Well-Being Services,
- c. Course and registration adjustments, such as retroactive withdrawals,
- d. Education to the individual and/or the community,
- e. Permanent alteration of housing assignments,
- f. Permanent alteration of work arrangements for employees,
- g. SafeWalks,
- h. Climate surveys,
- i. Policy modification and/or training,
- j. Implementation of long-term contact limitations between the Parties,
- k. Implementation of adjustments to academic deadlines, course schedules, etc.

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

8.6.3. Failure to comply with sanctions and/or responsive actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified in the written determination.

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).

8.6.4. Appeals

Any Party may file a written request for an appeal from a determination regarding responsibility or from OAE's dismissal of a Complaint or any allegations therein. The appellant must submit the written request for an appeal in writing to the Director or AVC within five (5) days of the delivery of the written determination or notice of dismissal.

A request for appeal must contain the specific grounds for appeal, the specific outcome requested, and the appellant's reasons in support of the ground identified and outcome requested. The request for appeal must bear the appellant's signature. Oral appeals are not accepted.

Appeals must be based on one or more of the following grounds:

- 1) A procedural irregularity occurred that would change the outcome. If citing this ground for appeal, the appellant is required to cite the section of these procedures that was not followed along with how this irregularity changed the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Misconduct occurred or dismissal was made. If citing this ground for appeal, the appellant is required to specify what new evidence they are now aware of, why it was not reasonably available to them at the time of investigation, and when they became aware of it along with how this evidence would change the outcome.
- 3) The Title IX Coordinator, Investigator(s), 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. If citing this ground for appeal, the appellant is required to specify who has a conflict of interest or bias for or against whom. The appellant must also specify what the bias is for or against, and the evidence of the bias.

If the EEO Division determines that the appellant has not included the specific ground(s) for appeal, the specific outcome requested, reasons in support of the ground identified, and affix their signature, the appeal will not be considered. The Director or AVC will notify the appellant that their appeal is not going to be considered and cite the pertinent deficiencies. Should this communication be necessary, it will not automatically extend the timeframe for filing an appeal.

The Appeal Process relies on a pool of eligible appeal panel members ("Pool") to carry out the Appeal process. The Pool acts with independence and impartiality. Members of the Pool are trained annually. The Members of the Pool selected to carry out the Appeal process shall not have a conflict of interest with either party, shall not have a bias, and shall not have participated previously in the grievance procedure.

8.6.5. Appeal procedures

Upon receipt of the written appeal, OAE will notify the other Party of the submission and grant the other Party access to all submitted documentation.

For appeals of a determination, the other Party will have five (5) days from the date of the notification to submit a written response to be considered as part of the appeal. If both Parties submit a notice of appeal, both Parties will be informed, granted access to all submitted documentation, and given five (5) days to submit a written response.

For appeals of a dismissal of a complaint, both parties will have five (5) days from the date of the dismissal to make a statement in support of or challenging the outcome.

OAE will disclose to the Parties a list of all the appeal panel members. At this point, the Respondent and Complainant may challenge the objectivity of any person on this list within three (3) days from the disclosure of the appeal panel members. Such a challenge must be based on a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent (e.g. a prior relationship that may result in bias). The challenge is to be submitted with a detailed description of the concern to eeodivision@illinois.edu. The Director or their designee will consider these challenges when making a final decision regarding appeal panel membership. OAE will convene a three-person appeal panel from the Grievance Process Pool consisting of faculty and/or staff to conduct a review of the relevant documents.

The request for appeal, along with any response or statements submitted by a Party will be forwarded to the appeal panel for consideration to determine if the request meets the grounds for appeal. This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds. If the request for appeal does not meet the grounds enumerated in this section, the request will be denied by the appeal panel. The Parties and their Advisors will be notified in writing of the denial and the rationale.

If an appeal is not submitted within five (5) days following the delivery of the written deliberation statement or decision to dismiss, and no extension was requested, the request for appeal will not be forwarded to the appeal panel.

Prior to convening to discuss the appeal, the appeal panel will receive the investigatory report or complaint including all relevant evidence and the written deliberation statement if applicable. The appeal panel can request any additional documentation from OAE's file regarding the matter under appeal if they determine it would assist their deliberation.

The appeal panel will receive introductory remarks from the Director or their designee and will have the opportunity to ask questions of the Investigator and Decision-Maker. OAE staff will not be involved in the appeal panel discussion and will not have a vote on the appeal. Neither the Respondent nor the Complainant will be allowed to attend the deliberations of the appeal panel, but

the Director or Senior Associate may authorize other non-voting individuals to be present in an advisory role if requested by the panel.

If the request meets one or more grounds for appeal, the appeal panel will consider the appeal. The standard of review undertaken by the appeal panel will be the Clearly Erroneous Standard. The appeal panel will not substitute their own judgement for that of the Investigator where matters of credibility, fact-finding, and policy interpretation are at issue.

The appeal panel may affirm the Decision-Maker's decision, modify the Decision-Maker's decision, or remand the case to the Decision-Maker with instructions.

The appeal panel will render a written appeal decision in no more than five (5) days from the day the appeal panel convened, barring exigent circumstances. If the appeal panel requires an extension, they should request such from the Director. If an extension is granted, the Director or their designee will notify both Parties in writing. The appeal panel's decision is based on a majority vote. The decision of the appeal panel cannot be appealed and represents the final decision in the Formal Grievance Process.

The written appeal decision will be sent to all Parties simultaneously and will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law.

8.6.6. Sanctions status during the appeal

Any sanctions imposed after the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the supportive measure procedures detailed in Section 5 of these procedures.

9. Conflicts of Interest

9.1. Complaint against the Title IX Coordinator

When there is a report of Sex-Based Misconduct against the Title IX Coordinator, the Chancellor designates an appropriate Investigator or administrator for purposes of implementation of these procedures. The designated Investigator or administrator must have the requisite training and experience and have no conflict of interest or prior involvement in the case. The designated Investigator or administrator could include, but is not limited to, an external Investigator or the System Office's Title IX Coordinator or an official from the University of Illinois at Springfield or the University of Illinois at Chicago, subject to the concurrence of the President or the respective Chancellor, as appropriate. Additionally, the Chancellor will designate an appropriate administrator to serve in the role of the Title IX Coordinator for the limited purpose of overseeing the investigation into the Title IX Coordinator.

The Complainant can submit a complaint directly in writing to the Chancellor of the University of Illinois Urbana-Champaign, 516 Swanlund Administration Bldg., 601 E. John Street M/C 304, Champaign, IL 61820, 217-333-6290.

9.2. Complaint against an administrator in the Office for Access and Equity

When there is an a report of Sex-Based Misconduct against the Director or other staff in the Equal Employment Opportunity Division of OAE, the complainant should notify the Associate Vice Chancellor for Access and Equity (217-333-0885 or accessandequity@illinois.edu). The AVC will consult with appropriate individuals, including the Title IX Coordinator if the report is related to Sex-Based Misconduct and the ADA Coordinator if the report is also related to discrimination on the basis of disability, to designate an appropriate investigator or administrator for purposes of implementation of these procedures. If there is a conflict of interest involving the AVC, the complaint may be submitted to the Vice Chancellor for Diversity, Equity and Inclusion (217-300-9580 or diversity@illinois.edu). If there is a conflict of interest involving the Vice Chancellor or successively higher-level administrators, the complaint may be submitted directly to the Chancellor.

The designated Investigator or administrator must have the requisite training and experience and have no conflict of interest or prior involvement in the case. The designated Investigator or administrator could include an external Investigator or the System's Associate Vice President and Chief HR Officer, the System Office's Title IX Coordinator, or an official from the University of Illinois at Springfield or the University of Illinois at Chicago, subject to the concurrence of the President or the respective Chancellor, as appropriate.

9.3. Complaint against the Chancellor

When there is a Report of Sex-Based Misconduct against the University of Illinois Urbana-Champaign Chancellor, the Complainant should submit a complaint in writing to either the Title IX Office or directly to the President of the University of Illinois, 364 Henry Administration Bldg., 506 S. Wright St. Urbana, Illinois 61801, (217-333-3071). If the complaint comes to the Title IX Office, the Title IX Office will route the complaint to the President. The President will consult with appropriate individuals to designate an appropriate Investigator or administrator for purposes of implementation of the applicable policy and procedures.

10. Other Provisions

10.1. Confidentiality, privacy, and anonymity

While every effort is made to preserve the privacy of Reports, Parties, and witnesses, the University cannot guarantee confidentiality or anonymity to anyone participating in the investigation process. Information about Parties and witnesses, including their identity and what information they share with the Investigator is shared with those individuals involved in the investigation and resolution of a complaint who have a need to know. OAE will share information with other University personnel in

limited situations as necessary. The University will not share the identity of Reporters, Complainants, Respondents, or witnesses, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

OAE may share anonymized, aggregated information about complaints with relevant personnel for the purpose of allowing unit, department, college, or University leadership to determine what independent action could be taken to learn about and improve their respective culture and or learning/working environment.

10.2. Duty to cooperate

All people involved in the investigation are expected to cooperate and provide truthful information throughout the investigation.

10.3. Promptness

All allegations are acted upon promptly once notice or a Complaint is received. Written determinations via Investigators are generally completed within seventy (70) days of a Complaint being filed. Written determinations following a hearing are generally completed within ninety days (90). However, extenuating circumstances can cause delays. The University will avoid all undue delays within its control and provide written notice to the Parties of the delay, the cause of the delay, and an estimate of the additional time that will be needed as a result.

10.4. Extensions

These procedures are designed to allow ample time for parties to review and respond to information. It is in the best interest of Parties and the University to complete investigations in a timely manner. Should a Complainant or Respondent want additional time, a written request for extension of time may be submitted to the Investigator. The Investigator will refer the request to a Senior EEO Associate or Director, who will be responsible for granting or denying the request. Requests must be submitted 24 hours before the original deadline and should include the rationale for requesting the extension along with a proposed deadline. Requests for extension of time will be considered on their merits and will not be granted automatically. Requests for reasonable extensions will be granted when there is good cause shown. The Parties will be notified when an extension is granted including the reason for the delay.

10.5. Reports to law enforcement

A Complainant may elect to file a police report. At the request of the Complainant, OAE will assist with contacting law enforcement agencies. Except in compliance with legal obligations and in very limited circumstances (e.g. child abuse), OAE will not transmit Reports they receive to law enforcement.

A criminal investigation and an investigation filed pursuant to these Procedures may be conducted simultaneously. At the request of law enforcement, OAE may agree to temporarily suspend its investigation for a brief period during a criminal investigation. OAE will promptly resume its investigation once law enforcement has concluded its evidence gathering. A decision whether to file a criminal case or not does not determine the outcome of an investigation under these Procedures.

10.6. False allegations and evidence

Deliberately false and/or malicious accusations under these procedures (as opposed to allegations which, even if erroneous, are made in good faith) are a serious offense and will be subject to appropriate disciplinary action under the University of Illinois Code of Conduct or the University of Illinois Student Code. Furthermore, OAE, in consultation with the Title IX Coordinator, may determine that the investigation will not continue if the Complaint is determined to have been deliberately false and/or malicious.

Additionally, witnesses and Parties knowingly providing false evidence, tampering with, or destroying evidence after being directed to preserve such evidence, or deliberately misleading an Investigator can be subject to discipline under the University of Illinois Code of Conduct or the University of Illinois Student Code.

Parties and witnesses will not be disciplined for making a false statement or for engaging in consensual sexual conduct based solely on the University's determination of whether a violation of the Sex-Based Misconduct Policy occurred. The fact that a decisionmaker (a) reached a conclusion that was contrary to the statement of a party or witness, and/or (b) found a statement of party or witness to be lacking in credibility, is not sufficient on its own to demonstrate that the party or witness in question gave a deliberately false statement or acted in bad faith.

10.7. Reasonable accommodations for individuals with disabilities

The University is committed to providing reasonable accommodations to qualified individuals with a disability to ensure equitable access and participation in OAE's resolution processes. Individuals seeking reasonable accommodation should contact the Accessibility and Accommodations Division to facilitate the interactive process in consultation with the Title IX Coordinator. If a participant in these procedures is a registered DRES student, OAE will work to implement their DRES accommodations into these procedures where applicable.

10.8. Time limits

There is no time limitation on reporting an allegation to the Title IX Coordinator or OAE. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be limited.

10.9. Joint procedures for employee misconduct

When a Report alleges that an employee has engaged in conduct that would constitute Sex-Based Misconduct and would also constitute misconduct under other policies governing the conduct of university employees, OAE and Illinois Human Resources may conduct the fact-gathering portion of the investigation jointly in order to enable Illinois Human Resources to reach determinations regarding potential violations of policies other than the Nondiscrimination Policy and the Sex-Based Misconduct Policy.

10.10. Joint procedures for student employee misconduct

When a report alleges that an undergraduate or graduate student employee has engaged in Sex-Based Misconduct, OAE and OSCR will work closely to determine which office will conduct the investigation and may conduct a joint investigation.

In determining which offices will be involved in the investigation, the University will make a fact-specific inquiry to determine which procedures to follow. This inquiry will at a minimum consider whether the Respondent's primary relationship with the postsecondary institution is to receive an education and whether the alleged Sex-Based Misconduct occurred while the party was performing employment-related work.

10.11. Campus-based University Administration Employees

University of Illinois System Office employees working on the University of Illinois Urbana-Champaign campus should communicate relevant concerns or initiate complaints and grievances regarding Sex-Based Harassment with the System Office's Title IX Coordinator, whose policies and procedures apply.

If the Complainant is a U of I System Office employee and the Report of Sex-Based Misconduct is against an employee or student of one of the three universities (Urbana, Springfield, or Chicago), the System Office's Title IX Coordinator will report the incident to the appropriate campus, whose policies and procedures apply. The U of I System Office employee Complainant may also report directly to the appropriate University if the Respondent is a University employee or student. The University Title IX Coordinator will review reporting options with the Complainant and connect the U of I System Office employee to the System Office's Title IX Coordinator for resources and support services.

10.12. Resignation while charges pending

Should a non-student employee Respondent resign, or should their employment be ended for other reasons while unresolved allegations are pending, the Title IX Sexual Harassment resolution process may continue at OAE's discretion. Additionally, the University will continue to address and remedy any systemic issues that contributed to the alleged violation(s), and any ongoing effects of the alleged Sex-Based Misconduct.

The employee whose employment ends with unresolved allegations pending is not eligible for rehire with the University. All University responses to future inquiries regarding employment references for that individual will follow the guidance provided in the University of Illinois System Policy on Consideration of Sexual Misconduct in Prior Employment.

10.13. Recordkeeping

OAE will maintain, for a period of at least seven (7) years, OAE's records of:⁴

- 1) Each Sex-Based Misconduct investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation; any disciplinary sanctions imposed on the Respondent; any Remedies provided to the Complainant designed to restore or preserve equal access to the University's Education Program or Activity; any appeal and the result therefrom.
- 2) Any actions, including any supportive measures, taken in response to a Report or Complaint of Sex-Based Misconduct, including: the basis for all conclusions that the response was not deliberately indifferent; any measures designed to restore or preserve equal access to the University's Education Program or Activity; and if no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

10.14. Revision of these procedures

The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, in consultation with the Title IX Coordinator, OAE may make minor modifications to procedures that do not materially jeopardize the legal rights owed to any Party. OAE may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in these procedures.

These procedures will be construed to comply with the applicable laws, regulations, and court decisions.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame it.

⁴ Other university offices, including but not limited to Illinois Human Resources, other Human Resources offices, and the Provost's Office, may also retain their own records regarding a matter that OAE has investigated. This document does not address the retention of such records or how long they may be retained.