

## **1. What is the University's August 14, 2020 – July 31, 2024 policy on Sexual Misconduct?**

The University's Sexual Misconduct Policy & Procedures (SMPP), effective August 14 – July 31, 2024 pertains to matters that occurred prior to August 1, 2024. The policy sets forth prohibited conduct (including the definitions of Title IX Sexual Harassment, Other Sexual Misconduct (“OSM”), and related Retaliation), as well as procedures for handling reports. Definitions of all of the above prohibited conduct are contained in the Johns Hopkins University's (JHU) [Sexual Misconduct Policy and Procedures \(effective August 14, 2020 – July 31, 2024\)](#).

## **2. What is the difference between a report and a Formal Complaint of sexual misconduct?**

The University will respond to all reports of sexual misconduct. A [Formal Complaint](#) is a specific type of report that may result in the use of the [Procedures for Title IX Sexual Harassment](#). If you want to file a Formal Complaint of Title IX Sexual Harassment, submit your written report describing the allegations and specifically requesting an investigation, and sign this written report. Please know that you can submit a report and then later decide to file a Formal Complaint. Formal Complaints can be submitted electronically (e-mail) or in hard copy. A Formal Complaint of Title IX Sexual Harassment can also be filed using the form [here](#).

**Anonymous Reports:** There are several ways that you can file an anonymous report. You can [file an anonymous report](#) on OIE's website. You can e-mail, call or make appointments with OIE without sharing your name or identifying information. There is also a general compliance hotline referred to as SPEAK2US that you can call **1-844-SPEAK2US (1-844-773-2528)** and [a website](#) with more information about the hotline.

If you want to remain anonymous, you should **not** share your name or any information that would reveal who you are (such as using your JHU email address or another email address that contains your name). You can always decide to identify yourself later on if you would like.

Please note that [Formal Complaints](#) of Title IX Sexual Harassment cannot be filed anonymously.

## **3. What happens when a report of sexual misconduct that occurred prior to August 1, 2024 is made to OIE?**

[Click here](#) to find a flowchart that illustrates how Title IX Sexual Harassment matters are assessed and handled under the Sexual Misconduct Policy and Procedures.

[Click here](#) to find a flowchart that illustrates how matters that do not constitute Title IX Sexual Harassment are assessed for further action/handling under the Procedures for OSM or other appropriate university process.

Please note that in some cases, the Title IX Coordinator will take additional action to determine what procedures apply to incidents that occurred prior to August 1, 2024 but are reported to the university after August 1, 2024.

## **4. Why are there separate procedures for handling Title IX Sexual Harassment and OSM?**

On May 6, 2020, the United States Department of Education released revised regulations governing higher education institutions' handling of sexual misconduct matters under Title IX of the Education Amendments of 1972. These regulations require additional processes for a subset of sexual misconduct called Title IX Sexual Harassment that occurs in the United States within a university program or activity, and where a formal complaint has been filed. In such cases, the regulations require some additional adjudication processes, such as a live hearing conducted by a trained panel, with cross-examination by hearing advisers. The Title IX adjudication process is set forth in full in the [Procedures for Title IX Sexual Harassment \(Appendix G\)](#).

If alleged sexual misconduct does not meet the definition of Title IX Sexual Harassment or does not satisfy other requirements - for example, if the sexual misconduct occurred abroad - the University will apply the [Procedures for Other Sexual Misconduct \(Appendix H\)](#). Both procedures utilize the preponderance of the evidence standard. OIE will determine which procedures apply once a report has been made.

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*[Procedures for Title IX Sexual Harassment matters the occurred prior to August 1, 2024](#)*

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## **5. What happens during an investigation and adjudication of a Formal Complaint under the Procedures for Title IX Sexual Harassment?**

Investigation and adjudication of a Formal Complaint includes the following general steps:

- OIE sends Notice of Allegations to both parties;
- OIE conducts thorough, objective investigations where both parties have the opportunity to provide information and documents, including suggesting witnesses and questions for the other party;
- Both parties have the right to review and respond to OIE's evidence file;
- OIE drafts an investigative report to summarize the relevant information gathered and make recommendations as to findings of fact and policy determinations;

- Both parties have the right to review and respond in writing to the OIE investigative report;
- The university will conduct a live hearing, which may be held virtually, with cross-examination, presided over by a trained determination panel in order to reach a decision about whether a policy violation(s) more likely than not occurred;
- All parties must have a Hearing Advisor present at the live hearing, who may be an attorney. (If a party does not have a Hearing Advisor present at the hearing, the University must provide one to the party without fee or charge to conduct cross-examination on behalf of the party during the live hearing.);
- After the determination panel has reached a decision, a detailed report is issued regarding the outcome and sanctions; and
- Both parties have a limited opportunity to appeal to a trained appellate officer.

## **6. Can I have someone present with me at meetings related to proceedings under the Procedures for Title IX Sexual Harassment?**

In addition to the supporter(s) and attorney assistance referenced in FAQs # \_\_\_ and \_\_\_, parties in Title IX matters are entitled to a Hearing Advisor in the event of a live hearing. If a party does not identify their own Hearing Advisor, the University will provide a Hearing Advisor to the party without fee or charge in the event of a live hearing. The Hearing Advisor may be, but is not required to be, an attorney. The Hearing Advisor also may be, but is not required to be, an individual whom a party has selected as a personal or legal supporter. During a live hearing, only one Hearing Advisor for each party may be present – no other supporter(s) may attend the hearing, whether virtual or in-person. For more information on the role of a Hearing Advisor – which includes conducting live questioning – please see [Appendix G – Procedures for Title IX Sexual Misconduct](#).

## **7. Who will conduct a hearing and determine the outcome after a Title IX Sexual Harassment investigation?**

A determination panel comprised of three trained members will adjudicate Title IX Sexual Harassment matters. For students, the determination panel will be comprised of 1 external legal professional and 2 university staff or faculty. For staff, the determination panel will be comprised of 1 external legal professional, 1 staff member, and 1 additional university staff or faculty member. For faculty, the determination panel will be comprised of 1 external legal professional, 1 faculty member, and 1 additional university staff or faculty member.

The determination panel will conduct any live hearing (with the external legal professional chairing the panel and making any determination regarding the appropriateness of evidence and/or cross-examination questions). After the hearing, the panel will issue its written decision, including any sanctions, if appropriate. Faculty matters will be referred to the divisional Dean's Office for sanctioning pursuant to the applicable divisional faculty misconduct procedures.

## **8. What appeal rights do I have in Title IX Sexual Harassment matters?**

As stated here in the Procedures for Title IX Sexual Harassment, both parties have limited appeal rights in connection with any dismissal of a Formal Complaint and in connection with a determination panel decision.

Appeals will be handled by the following individuals:

- The Vice Provost for Student Affairs (or designee) in student Respondent matters;
- The Vice President for Human Resources (or designee) in staff Respondent matters; and
- The Dean of the Respondent's division (or designee) in faculty Respondent matters.

## **9. What happens if I want to informally resolve a Title IX Sexual Harassment matter?**

At any time prior to reaching a determination regarding a Formal Complaint of Title IX Sexual Harassment, the Title IX Coordinator or designee may facilitate an informal resolution process (such as mediation) that does not involve a full investigation and adjudication, if the following circumstances are met:

- The parties each receive a written notice disclosing the allegations and the requirements of the informal resolution process;
- The parties each provide voluntary, written consent to participating in the informal resolution process; and
- The Formal Complaint does not allege that a University employee engaged in Title IX Sexual Harassment of a student.

If the parties agree to engage in the informal resolution process, either party may withdraw from that process at any time prior to agreeing to a resolution of the Formal Complaint. If either party decides to withdraw from informal resolution, the investigation and adjudication process for the Formal Complaint will resume.

If, through the informal resolution process, the parties agree to a resolution of the Formal Complaint, the parties' agreement will be confirmed in writing, the Formal Complaint will be closed, and the parties may no longer resume the investigation and adjudication process on the same allegations. However, an Informal Resolution does not prevent either party from reporting new allegations that were not part of a Formal Complaint that was informally resolved.

## **10. Why are there separate procedures for handling Title IX Sexual Harassment and Other Sexual Misconduct (“OSM”)?**

On May 6, 2020, the United States Department of Education released revised regulations governing higher education institutions’ handling of sexual misconduct matters under Title IX of the Education Amendments of 1972. These regulations require additional processes for a subset of sexual misconduct called Title IX Sexual Harassment that occurs in the United States within a university program or activity, and where a formal complaint has been filed. In such cases, the regulations require some additional adjudication processes, such as a live hearing conducted by a trained panel, with cross-examination by hearing advisers. The Title IX adjudication process is set forth in full in the [Procedures for Title IX Sexual Harassment \(Appendix G\)](#).

If alleged sexual misconduct does not meet the definition of Title IX Sexual Harassment or does not satisfy other requirements - for example, if the sexual misconduct occurred abroad - the University will apply the [Procedures for Other Sexual Misconduct \(“OSM”\) \(Appendix H\)](#). Both procedures utilize the preponderance of the evidence standard. OIE will determine which procedures apply once a report has been made.

## **11. What is other sexual misconduct?**

OSM includes conduct that does not meet the Title IX Sexual Harassment definition, such as non-sex-based stalking and certain forms of sexual and gender-based harassment. These are defined in the SMPP as:

- Non-Title IX Sexual Harassment;
- Non-Title IX Sex-Based Harassment; and
- Non-Title IX Stalking.

OSM also includes Title IX Sexual Harassment that does not meet the Title IX Sexual Harassment jurisdictional requirements (for example, any type of sexual assault, sexual harassment, relationship violence or stalking that occurs outside of a university program or activity or outside of the United States).

[Click here](#) for a link to the Sexual Misconduct Policy and Procedures definitions of the above conduct.

## **12. What are the investigation procedures for OSM?**

Investigation and adjudication of a matter under the Procedures for OSM include the following general steps:

- OIE sends Notice of Allegations to both parties;
- OIE conducts thorough, objective investigations where both parties have the opportunity to provide information and documents, including suggesting witnesses and questions for the other party;
- OIE drafts an investigative report to summarize the relevant information gathered and make recommendations as to findings of fact and policy determinations;
- Both parties have an opportunity to review and comment in writing on the OIE investigative report; and
- The OIE report is forwarded to the decision-maker along with any comments submitted by the parties.

For matters involving:

- *Student* respondents, the OIE report is forwarded to Student Affairs for a resolution panel process;
- *Staff* respondents, the OIE report is forwarded to divisional Human Resources and management; and
- *Faculty* respondents, the OIE report is forwarded to the relevant Dean's Office.

After a decision has been reached, the decision-maker issues the outcome to both parties. Students have a limited opportunity to appeal to a trained appellate officer. Faculty and staff parties may have appeal rights as set forth in divisional and Human Resources policy, or when a student is the Complainant.

### **13. Do investigations of OSM result in a hearing?**

For OSM matters involving a student Respondent, a hearing is possible but often does not occur. The student Resolution Panel reviews OIE's investigative report as well as any comments submitted by the parties and then may: 1) determine that the case can be decided without hearing from witnesses or receiving further evidence, 2) remand the case for further investigation or clarification of the investigative report, or 3) convene a hearing. If the resolution panel determines that a case can be decided without hearing from witnesses or receiving further evidence, both the Complainant and Respondent will nonetheless have the opportunity to make a statement to the resolution panel in person or in writing if they so choose. If the Resolution Panel decides to convene a hearing, the general format for hearings is set forth in [Appendix H – Procedures for Other Sexual Misconduct](#).

For OSM matters involving a staff Respondent, there are generally no hearings unless the matter involves bargaining unit employees and a hearing is required by the applicable Collective Bargaining Agreement.

For OSM matters involving a faculty Respondent, applicable faculty professional misconduct policies apply and determine the process.

## **14. What appeal rights do I have in OSM matters?**

Matters involving *student respondents*:

In OSM matters involving a student Respondent, both parties have the right to appeal the resolution panel's finding of responsibility and/or imposition of sanction(s) within seven calendar days from receipt of the resolution panel's determination. An appeal will involve a review of the file, including the investigative report, recording or transcript of the hearing, and decision of the resolution panel; the appeal does not involve another hearing, or meetings with the Complainant or Respondent. The grounds for appeal are:

- A procedural error that could have affected the determination or sanction(s);
- New information that was not available at the time of the investigation or hearing and that could reasonably have affected the determination or sanction(s); and
- Excessiveness or insufficiency of the sanction(s).

Matters involving *staff and faculty respondents*:

In staff or faculty respondent cases that do not involve a student, appeal rights (if any) are determined by applicable divisional or unit procedures. If there is a right to appeal, it will be available equally to the Complainant and Respondent.

## **15. What happens if I want to informally resolve a matter of OSM?**

If both parties agree, certain OSM matters may be resolved informally. Cases involving allegations of sexual assault or sexual coercion, however, are not suitable for informal resolution. Informal resolution may also be unavailable if the Title IX Coordinator determines that it is inappropriate based on the facts and circumstances of the particular case. All informal resolutions will be conducted or overseen by the Title IX Coordinator or a trained designee, and a party will not be asked or required to resolve a matter directly with the other party.

Even if the parties express interest in informal resolution of the report, either party may withdraw their agreement to proceed informally at any time before a final resolution agreement is reached. If both parties are satisfied with a proposed informal resolution and the Title IX Coordinator believes the resolution satisfies the University's obligation to provide a safe and non-discriminatory environment, the resolution will be implemented and the informal resolution process will be concluded. If informal resolution efforts are unsuccessful, the formal resolution process will continue.

If a matter is resolved through informal resolution, the parties will receive a written notice of the outcome memorializing the terms of the informal resolution.