

---

*Information Regarding the Interim Sexual and Sex-Based Misconduct Policy and Procedures (“SMPP”), Effective August 1, 2024*

---

## **1. What is sex-based harassment under the Interim SMPP?**

The term “Sex-Based Harassment” means sexual and other harassment on the basis of sex, including based on sex characteristics, gender identity or expression, sexual orientation, sex stereotypes, pregnancy or related conditions, and parental or marital status, that satisfies one or more of the following:

- Quid pro quo harassment: An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University’s education program or activity explicitly or implicitly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;
- Hostile environment harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, unreasonably creates a work or academic environment that a reasonable person would perceive to be abusive or hostile; or
- Sexual assault, dating violence, domestic violence and stalking.

Click [here](#) for the definitions of the above conduct under the Sexual and Sex-Based Misconduct Policy and Procedures.

## **2. What is sex-based discrimination under the Interim SMPP?**

Sex based discrimination means treating an individual differently based on their sex characteristics, gender identity or expression, pregnancy or related conditions, sexual orientation, or sex stereotypes. Sex-based discrimination can also include treating an individual differently based on their parental or marital status, if such differential treatment is based on sex.

## **3. What is a university education program or activity?**

While there is no single determining factor of a university education program or activity, the University typically looks to whether the alleged misconduct occurred in the context of an event, program or activity funded, promoted, or sponsored by the school. The University would also look at whether it had or exercised substantial control over the Respondent and the context in which the harassment occurred, or whether an incident occurred as part of the general operations of the University. Programs and activities can include, but are not limited to: admissions, hiring, workplace, academic instruction, residential life, amenities on campus, sports teams, work study, games, concerts, speeches, and off-campus trips organized by the University.

## **4. What is the standard of evidence used to make decisions in all investigations under the Interim Sexual and Sex-Based Misconduct Policy and Procedures?**

We use the preponderance of the evidence standard. This means that the investigation and adjudication process determine whether the evidence *more likely than not* supports a determination that the Respondent is responsible for the alleged misconduct.

## **5. I noticed that the time frame language in the Interim Sexual and Sex-Based Misconduct Policy and Procedures has changed. Why?**

Yes, some time frames have changed to reflect r how long case resolutions can take based on the complexity and volume of cases and more specifics have been provided as to how long each step of the process typically takes. The parties will be notified in writing when extension to the specified time frames is necessary.

## **6. What happens during an investigation and adjudication under the SMPP?**

Investigation and adjudication of a 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;
- 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 and evidence file;
- Once OIE reviews the party comments and finalizes its report (if applicable), OIE will transfer the report to the appropriate decision-maker depending on the parties' affiliation and the allegations of the complaint.
- After reviewing the final investigative report and any party comments, the decision-maker(s) determines whether credibility is in dispute and is relevant to evaluating one or more allegations of sex discrimination or sexual/sex-based harassment. If so, the decision-maker(s) has the opportunity to question parties and witnesses to aid in evaluating allegations and assessing credibility. This credibility assessment process differs depending upon whether one or more of the parties is a student and on the nature of the claims, as explained in [FAQ #31](#) below.
- Regardless of whether a party is questioned for purposes of credibility assessment, each party will have the opportunity to make a statement to the decision-maker(s) prior to the

decision-maker making a determination of responsibility. If a party chooses to make such a statement, it can be made live (in-person or virtually), via recording, or in writing and their statement will be made available to the other party(ies) for review. The decision-maker(s) will provide a written determination of responsibility simultaneously to both parties. If it is determined that a policy violation has occurred, the decision-maker will also issue the appropriate sanction. and

- Both parties have a limited opportunity to appeal to a trained appellate officer.

## 7. What does the credibility assessment process look like?

The credibility assessment process differs depending upon whether one or more of the parties is a student and on the nature of the claims, as explained below:

Party Affiliation	Allegations	Process
Employee (includes faculty and staff)	Either sexual or sex-based discrimination or harassment	<ul style="list-style-type: none"> <li>• The decision-maker will question each party and/or witness in <u>separate</u> zoom or in-person meetings with supporters present (for parties) but not otherwise participating.</li> <li>• The questioning sessions will be recorded and/or transcribed.</li> <li>• Both parties will have access to the recordings/transcriptions of the questioning.</li> </ul>
At least one party is a student	Sex-based and sexual harassment, sexual assault, dating violence, domestic violence and stalking	<ul style="list-style-type: none"> <li>• A (typically virtual) hearing will be conducted.</li> <li>• In advance of the hearing, each party will have the opportunity to propose questions for the decision-makers to ask of the other party(ies) and witnesses during the hearing.</li> <li>• Prior to the decision-maker(s) asking such proposed questions, the decision-maker must determine whether each question is relevant and not otherwise impermissible.</li> <li>• During the hearing, a party can propose follow-up questions for the decision-</li> </ul>

		<p>maker(s) to ask of the other party(ies) and witnesses.</p> <ul style="list-style-type: none"> <li>• The decision-maker(s) will use the same assessment process to determine whether to ask the proposed follow-up questions.</li> <li>• Hearings will be audio and/or audio/visually recorded and/or transcribed. Both parties will have access to the recordings and/or transcriptions of the questioning</li> </ul>
<p>At least one party is a student</p>	<p>Sex-based discrimination</p>	<ul style="list-style-type: none"> <li>• The decision-maker will question each party and/or witness in separate zoom or in-person meetings with supporters present (for parties) but not otherwise participating.</li> <li>• The questioning sessions will be recorded and/or transcribed.</li> <li>• Both parties will have access to the recordings/transcriptions of the questioning.</li> </ul>

## 8. What kind of sanctions can be imposed on a Respondent found responsible for sexual or sex-based misconduct?

The University may impose any one or more of the following sanctions on a Respondent found responsible for sexual or sex-based misconduct, or other such appropriate sanction as the circumstances may dictate:

- Reprimand/warning;
- Changing the Respondent’s academic or employment schedule;
- Disciplinary probation;
- Revocation of honors or awards;
- Loss of privileges;
- Imposition of conditions of employment;
- Restricting access to University facilities or activities, including student activities and campus organizations;
- Mandatory training;

- Service hours;
- Alcohol and/or drug assessment or counseling;
- Issuing a “no contact” order to the Respondent or requiring that an existing order remain in place;
- Moving the Respondent’s on-campus residence;
- Dismissal, termination or restriction from University employment;
- Making a former University employee or student (including those expelled or terminated pursuant to these sanctions) ineligible for hire or rehire by the University;
- Removal from student housing;
- Demotion or other removal from a management, supervisory or leadership role(s);
- A full or partial ban from campus (either limited time or indefinite);
- Transcript notations;
- Deferred suspension
- Restriction from University sponsored or affiliated events;
- Pay reduction;
- Loss of raise;
- Loss of supervision or oversight duties;
- Referral for further sanctioning pursuant to applicable policies or procedures;
- Employment record notations, including an ineligibility for rehire notation;
- Suspension;
- Expulsion; and
- Revocation of degree.

In addition to the imposition of sanctions, the Title IX Coordinator or designee may implement additional measures that are designed to prevent the recurrence of sexual and sex-based misconduct or respond to the effects of the sexual and sex-based misconduct on the University community. Such measures may include, but are not limited to: increased monitoring, supervision, or security at locations or activities where the sexual or sex-based misconduct occurred; additional training and/or educational materials for students, employees or groups; revision of the Policy; and campus climate surveys.

## **9. What appeal rights do I have under the Interim SMPP?**

All parties have the right to appeal a finding of responsibility and/or imposition of sanction(s). A party has seven (7) calendar days from receipt of the decision-maker’s determination to appeal. Any appeal must be filed in writing with the Title IX Coordinator, who will forward the appeal to the appropriate appeal officer. The appeal officer must have received all required training and must not have taken part in the investigation of the allegations or the determination of responsibility. An appeal may involve a review of the file, including the investigative report, recording or transcript of the credibility determination/hearing (if applicable), and determination of the decision-maker(s); the appeal does not involve another hearing, or meetings with the Complainant or Respondent.

The sole grounds for appeal are:

- A procedural irregularity that would change the outcome;

- New evidence that would change the outcome and was not reasonably available when the determination of responsibility was made; and
- The Title IX Coordinator, investigator, or decisionmaker 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.

In cases where one or more of the parties is a student and the allegations included sexual or sex-based harassment, a party may appeal the determination of responsibility or sanction.

## **10. What happens if I want to informally resolve a complaint of sexual or sex-based misconduct?**

If both parties agree, certain 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.

The informal resolution process is voluntary and either party may withdraw their agreement to proceed informally at any time prior to a resolution agreement being finalized. Upon both parties' agreement to engage in the informal resolution process, the Title IX Coordinator or designee will issue both parties notice explaining:

- The allegations;
- The requirements of the informal resolution process;
- That, prior to agreeing to a resolution, any party has the right with withdraw from the informal resolution process and to initiate or resume the investigation process;
- That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming the University's investigation process;
- The potential terms that may be requested or offered in the informal resolution agreement, including notice that the informal agreement is binding only on the parties; and
- The information that will be maintained by the University and whether that information will be disclosed if the University's formal resolution process is resumed.

If both parties are satisfied with a proposed informal resolution and the Title IX Coordinator considers the resolution to satisfy 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 investigation 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.