

# **University of the Virgin Islands**

## **Sexual Harassment Policy**



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**David Hall**  
**President**

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**Chairman of the Board**

## I. POLICY STATEMENT, SCOPE AND DEFINITIONS

### A.1. POLICY STATEMENT

The University of the Virgin Islands is committed to uncompromised integrity and to doing all within its power to ensure a working environment that is inclusive and respectful of diversity and which promotes intellectual growth and development, and support the academic pursuits of faculty, students and staff. It is critically important that we create a safe and supportive environment for all students, employees and visitors. We must always be mindful of our responsibilities to others and ensure that there are clear guidelines for the resolution of concerns and complaints. The University strictly prohibits any acts of sexual harassment. Sexual harassment in the workplace is unacceptable and will not be tolerated in any form. It is our goal to build on the positive environment that exists at the University of the Virgin Islands and ensure that it remains a safe and inviting place to study, work and meet.

### A.2. SCOPE

This policy applies to all members of the University of the Virgin Islands (UVI) community in both on-campus and off-campus sponsored events and activities, or through the use of electronic and/or digital media. Members of the UVI community are encouraged to promptly report observance of and/or complaints about sexual harassment, sexual misconduct, and unlawful sexual contact to any of the following: supervisor or manager; Title IX Coordinator; EEO Officer; **Human Resources**; or other UVI administrator/official. Persons found to be in violation of this policy shall be subject to a transfer, or may face disciplinary action which may include, but is not limited to, written warning, demotion, suspension, expulsion, dismissal or termination.

## B. DEFINITIONS

### 1. Sexual Harassment

Sexual harassment is a form of sex discrimination and is prohibited by Title VII of the Civil Rights Act of 1964, as amended, and Title IX of the Education Amendments of 1972, and their implementing regulations, as revised from time to time. Sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following:

- i. The conditioning of any educational or employment opportunity or benefit on the participation in unwelcome sexual conduct or the granting of sexual favors (i.e. quid pro quo); or
- ii. Unwelcome conduct that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies a person equal access to the University's educational programs or activity;
- iii. Any form of sexual assault, dating violence, domestic violence or stalking as defined by the Clery Act. Under the Clery Act, Sexual assault is defined as rape, fondling, incest, and

statutory rape.

Sexual Harassment pursuant to Sections B(1)(i) and (iii) are not evaluated for severity, pervasiveness, offensiveness or denial of equal educational access.

2. **Formal Complaint.** A formal complaint is defined as a document filed by a complainant or signed by a Title IX Coordinator alleging sexual harassment and requesting the University to investigate. The complaint may be submitted by any and all direct or technological means available at the institution.
3. **Other gender-based Misconduct:** Physical harm, extreme verbal abuse, or other conduct that threatens the health or safety of any person on the basis of actual, expressed, or perceived gender identity, including:
  - a. *Discrimination:* actions that deprive others of access, benefits, or opportunities based on irrelevant criteria
  - b. *Hazing:* acts likely to cause physical or psychological harm or social exclusion or humiliation
  - c. *Bullying:* repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or degrade another person physically or mentally
  - d. *Intimate Relationship Violence:* violence between those in a sexual and/or comparably personal and private relationship
  - e. *Stalking:* repeated or obsessive unwanted attention or a menacing pursuit directed toward an individual or group that is likely to cause alarm, fear, or substantial emotional distress. Stalking may take many forms, including following, lying in wait, monitoring, and pursuing contact. Stalking may occur in person or through a medium of communication, such as letters, e-mail, text messages, or telephone calls. In some circumstances, two instances of such behavior may be sufficient to constitute stalking.

#### 4. Unlawful Sexual Contact (Virgin Islands Code)

Title 14, Chapter 85 of the Virgin Islands Code prohibits unlawful sexual contact. The University of the Virgin Islands will be guided by the relevant University policy in addressing instances of unlawful sexual conduct by any University student or employee. Examples of unlawful sexual contact, which may also violate this policy on Sexual Harassment, may include, but are not limited to, acts of force, coercion, or intimidation when used to accomplish unlawful sexual contact; physical contact that includes touching, assaulting, impeding or blocking movements. Such acts include but are not limited to rape, assault to commit rape, sexual battery, aggravated sexual battery, statutory rape, sodomy and aggravated sodomy

5. Actual Knowledge

The University may not be held liable for Sexual Harassment where the University does not have actual knowledge of the alleged conduct occurring within an educational program or activity; or where it has actual knowledge of an alleged act of sexual harassment, it has not acted with deliberate indifference to such knowledge.

6. Deliberate Indifference

The University acts with deliberate indifference only where it responds to a complaint of sexual harassment in a manner that is clearly unreasonable in light of the known circumstances. The University will not be determined to be deliberately indifferent where:

- i. It is prompt in responding to a complaint of sexual harassment
- ii. Its response consists of offering supporting measures to the complainant;
- iii. Ensures that the Title IX Coordinator contacts each complainant (i.e. the person who is alleged to be the victim of sexual harassment) to discuss supportive measures)
- iv. Considers the complainant's wishes regarding supporting measures
- v. Informs the complainant of the availability of supporting measures with or without the filing of a formal complaint
- vi. Explains to the complainant the process for filing a formal complaint

7. Misconduct Occurring External to the United States

Title IX does not establish liability on the part of the University for conduct which is not perpetuated in the United States of America. However, the University may convene a disciplinary process in connection with such conduct to determine whether a violation has occurred under its Student Code of Conduct, its Faculty Policy Manual, the Human Resources Policy Manual, and any other policy or regulation of the University, as may be revised from time to time.

C. RESPONSIBILITY

Individuals who are aware of, or have experienced, an incident of Sexual Harassment, should promptly report the matter to the Title IX Coordinator, or any University official with authority to institute corrective measures. Those University officials with such authority are members of the President's Cabinet and Academic Deans. Under this policy, a third party may also file a complaint if the sexual conduct of others in the education or work environment permeates the work or education environment, even if such conduct is not directed at the third party, but occurs in his or her presence, and has the purpose or effect of substantially interfering with the third party's welfare, or academic or work performance.

D. RETALIATION

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity.

No employee, applicant for employment, student, vendor or member of the public shall be subject to

restraints, interference, coercion or reprisal for action taken in good faith to seek advice concerning a sexual harassment matter, to file a sexual harassment complaint, or to serve as a witness or a panel member in the investigation of a sexual harassment grievance, or to refuse to participate in any Title IX grievance process. Retaliatory acts are a violation of federal law and the Virgin Islands Code and of this Sexual Harassment Policy. Acts of retaliation should be reported immediately to the Title IX Coordinator or to a University Official with authority to institute corrective measures. Acts of retaliation will be investigated and resolved consistent with this Policy.

#### E. MALICIOUS, FALSE ACCUSATIONS

Any person filing a complaint that is found to be false or brought with malicious intent will be subject to a transfer, or may face disciplinary action which may include, but is not limited to, written warning, demotion, suspension, dismissal, expulsion, or termination.

## F. CONSENT

### 1. WHAT IS CONSENT?

Consent is defined as permission to act. It may be given by words or actions, as long as those words or actions create clear, mutually understood permission to engage in (and the conditions of) sexual activity. A party granting consent as defined herein, retains the authority at all times to withdraw their consent.

#### a. STANDARDS FOR AFFIRMATIVE CONSENT:

Consent Must Be:

- i. Active, not passive. Silence, in and of itself, cannot be interpreted as consent. There is no requirement that an individual resist a sexual act or advance, but resistance is a clear demonstration of non-consent.
- ii. Given freely. A person cannot give consent under force, threats, or unreasonable pressure (coercion). Coercion includes continued pressure after an individual has made it clear that he/she does not want to engage in the behavior.
- iii. Provided knowingly. Legally valid consent to sexual activity cannot be given by:
  1. A person under the legal age to consent. In the United States Virgin Islands, the age of consent is 16 or
  2. An individual who is known to be (or based on the circumstances should reasonably be known to be) mentally or physically incapacitated. An incapacitated individual is someone who cannot make rational, reasonable decisions because he or she lacks the capacity to understand the “who, what, when, where, why, or how” of a sexual interaction. This includes a person whose incapacity results from mental disability, sleep, involuntary physical restraint, unconsciousness, use of alcohol or other drugs.
  3. Specific permission to engage in one form of sexual activity does not imply permission for another activity.
  4. Previous relationships or prior consent do not imply consent to future sexual acts. It is the responsibility of the initiator of the act to receive permission for the specific act. As a result, consent may be requested and given several times by multiple parties during a sexual encounter involving multiple acts.

### 2. POLICY CONSIDERATIONS REGARDING CONSENSUAL RELATIONSHIPS

- a. Sexual, romantic, or intimate relationships between persons in an unequal power relationship that appear to be voluntary and welcome may nonetheless constitute sexual harassment under this Policy. Relationships between persons in an unequal power status carry an inherent

risk. The relationship may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, past consent may not remove grounds for a later charge of a violation of applicable sections of this Policy.

b. Relationships with Power Differentials:

- i. Relationships between faculty and subordinate faculty or staff, between administrators and subordinate staff or students, between a supervisor and those employees whom he or she supervises, between a faculty member or teaching assistant and his or her student, or between an employee and a vendor or contractor, may give rise to legal and ethical concerns or to conflicts between personal and professional interests. Although such a relationship may be viewed by the parties involved as consensual, that fact alone does not mean that no sexual misconduct exists.
- ii. In addition, such relationships can result in discrimination or harassment (1) where third parties are adversely affected in academic or employment matters because of a consensual relationship between others; (2) where a consensual relationship creates a hostile and intimidating work or learning environment for third parties; or (3) when a consensual relationship ends, and one of the parties continues behavior which the other party has made clear is now unwelcomed.
- iii. Administrators, supervisors, instructors or mentors shall avoid beginning or having an amorous relationship with a person under their charge, and if he or she is already involved in such a relationship, has the obligation to, disclose such relationship to the University; and to remove him- or herself from the supervisory or mentoring role. In instances where the administrator, supervisor, instructor, or mentor is not in a position to remove him or herself from the supervisory or mentoring role, the relationship shall be terminated unless the amorous relationship existed prior to the supervisory or mentoring role and has been disclosed, in writing, to the University. Except as otherwise permitted hereunder, in the event the relationship is not terminated, the conduct of the administrator, supervisor, instructor or mentor shall be evaluated under and be governed by the applicable University disciplinary policy.

In keeping with UVI's commitment to uncompromised integrity, employees in positions of authority and employees who may have supervisory and/or management oversight of students or other employees should be mindful of their duty to maintain a workplace or educational environment free from discrimination on the basis of sex. Faculty members or administrators residing in University housing or other accommodations are prohibited from cohabitating with a subordinate, faculty, staff or student, unless both parties are married or engaged in an amorous relationship prior to the faculty member or administrator taking up residence in University housing or other accommodations, and the pre-existing relationship has been disclosed and written confirmation of consent to the relationship is made, in writing, to the University prior to taking up residence in the University housing or other accommodations.

## FEDERAL AND TERRITORIAL LAWS AND UNIVERSITY POLICIES

Sexual misconduct and Sexual harassment are forms of sex discrimination that are prohibited by law and policy including:

□ **Federal Law**

Title VII of the Civil Rights Act of 1964  
(Employment) Title IX of the Education Amendments  
of 1972 (Education); and their implementing  
regulations as revised from time to time

□ **Territorial Law**

Virgin Islands Code, Title 24, Chapter 17: Discrimination in  
Employment Virgin Islands Code, Title 10, Chapter 5: Civil  
Rights Commission Virgin Islands Code, Title 14, Chapter 85:  
Rape and Related Offenses

□ **University of the Virgin Islands Documents**

Employee Policy Manual  
Faculty Policy Manual  
Student Handbook

## **II. GENERAL PROCEDURES AND INFORMATION**

### **A. CONFIDENTIALITY AND REPORTING OF OFFENSES UNDER THIS POLICY**

The University is obligated to respond meaningfully and to investigate every complaint of sexual harassment which meets the definition as set forth in Section I hereof, and which satisfies the conditions of actual knowledge; involves conduct within a program or activity at the University; and occurred within the geographic location of the United States of America, whether or not the complainant files a formal complaint. University officials, depending on their roles at the University, have varying reporting responsibilities and abilities to maintain confidentiality. Please see Section II(B) below for the identification of those University officials who have an affirmative duty to report. In order to make informed choices, University employees, students and vendors should be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality, offering options and advice without any obligation to inform an outside agency or individual unless the University employee, student or vendor have requested information to be shared. Other resources exist for you to report crimes and policy violations and these resources will take action when victimization is reported to them. Most resources on campus fall in the middle of these two extremes; neither the University, nor the law, requires them to divulge private information that is shared with them, except in rare circumstances. The following describes the three reporting options at the University.

#### **1. Confidential Reporting**

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with on-campus counselors, campus health service providers, off-campus local rape crisis counselors, domestic violence resources, or local assistance agencies, all of whom will maintain confidentiality except in extreme cases of immediacy or threat of danger or abuse of a minor. Campus counselors are available for students and the Human Resources Department is available for employees to help free of charge and can be seen on an emergency basis during normal business hours.

#### **2. Informal Reporting**

Except in severe cases of sexual harassment as defined in Section I(B) of this Policy, this policy provides for an early resolution process which is intended to encourage persons who feel that they are subjected to any conduct which is prohibited by this Policy and by law to avail themselves of the informal reporting mechanism outlined in Section III(A) of this Policy.

#### **3. Formal Reporting Options**

University officials who are identified in Section II (B) hereof have an affirmative duty to report a complaint that is within the purview of this Policy. Parties bringing a complaint may want to consider carefully whether they should share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator and/or or designated officials at the University. Non-confidential employees must share all details of the reports they receive with the Title IX Coordinators and/or other designated University officials. A formal complaint may be

filed by the complainant; or an investigation may be opened by the University's Title IX Coordinator even where a formal report is not made by the complainant.

#### 4. Safe Harbor Rules

Where no formal complaint is filed and the University is requested by a complainant to not file a formal complaint, the University still must act reasonable in light of known circumstances. The University is afforded a safe harbor against a finding of deliberate indifference with respect to its response to knowledge of an allegation of sexual harassment when: (a) it documents the complainant's knowing request that no formal complaint be initiated, and (b) it offers the complainant supportive measures. The regulations to Title IX of the Education Amendments have described supportive measures as non-disciplinary and non-punitive individualized services offered as appropriate, as reasonably available and without fee or charge, to protect the safety of all parties and deter sexual harassment. Supportive measures may be available to both complainants and respondents to preserve each party's equal access to the University's programs and activities pending the outcome of an investigation. See 34 CFR 106.44(e)(4). The University must provide due process protections to both parties before restricting a respondent's educational access to University programs and activities.

#### 5. Repeat Offenses

The University's Title IX Coordinator shall initiate a formal investigation and move forward with a formal complaint against a respondent, in instances involving possible serial predator or repeat offender situations even where no reporting complainant wants to file a complaint. The University shall follow its grievance procedures in advancing such a complaint against the respondent.

### B. RESPONSIBILITIES OF UNIVERSITY OFFICIALS

It is imperative that managers and supervisors assist in the establishment of the tone for the strict enforcement of this Policy. University officials with authority to institute corrective measures have an affirmative duty and are promptly required to report any discrimination, harassment, retaliation or sexual assault that they observe, learn about from others, or reasonably suspect has occurred with respect to any person covered by this Policy. University officials who have an affirmative duty to report are referred to herein as Non-confidential employees for purposes of the reporting obligations under this Policy.

### C. INFORMATION, COUNSELING / ADVOCACY

The University of the Virgin Islands encourages members of the University community to reach out to University resource persons regarding sexual harassment matters, irrespective of whether there is a desire to lodge an informal or formal complaint. Students, faculty, and staff are encouraged to seek information, advice, or counseling on matters related to sexual harassment, generally, or in instances where there is uncertainty about whether the behavior being experienced is sexual harassment.

#### 1. WHERE TO GO FOR HELP

##### a. STAFF

Staff members who would like to report an incident of sexual harassment which may involve them personally or a third party should do so as soon as possible after the incident has occurred. Generally, the University will make every effort to complete investigations of sexual harassment complaints within 45 business days, unless there are compelling reasons why this timeframe cannot be met. In instances where an investigation may take longer than 45 business days, the individual who made the complaint will be apprised of the delay and will be provided the reason(s) for the delay.

Staff members will be asked to complete the Sexual Misconduct Reporting Form for Faculty and Staff [See Appendix II] whether the complaint is to be pursued formally or informally. If a complainant is desirous of pursuing a complaint formally, the Department of Human Resources will facilitate the process with the designated campus Title IX Investigator.

In instances where sexual harassment complaints are made to immediate supervisors and managers, the matter should be addressed through the procedures set forth in Section III, hereof, in coordination with the Human Resources Department, either as a part of the Early Resolution process, or through the internal Grievance Procedure.

#### b. FACULTY

Faculty members who would like to report an incident of sexual harassment that may involve them personally or a third party should do so as soon as possible after the incident has occurred. Faculty will be asked to complete the Sexual Harassment Reporting Form for Faculty and Staff [See Appendix II]. Generally, the University will make every effort to complete investigations of sexual harassment complaints within 45 business days, unless there are compelling reasons why this timeframe cannot be met. In instances where an investigation may take longer than 45 business days, the individual who made the complaint will be apprised of the delay and will be provided the reason(s) for the delay.

Faculty members are urged to consult the Faculty Policy Manual, or subsequent governing policy, as may be amended from time to time, for details regarding the procedures that govern sexual harassment charges that faculty members bring against a fellow faculty member.

In instances where sexual harassment complaints are made to the Deans of Schools and Colleges, the Chair of an academic department, or to any immediate supervisor or manager, the matter should be addressed through the procedures set forth in Section III, hereof, in coordination with the Human Resources Department, either as a part of the Early Resolution process, or through the internal Grievance Procedure.

c. STUDENTS

Students should be aware that the procedures that govern the review of incidents of sexual harassment differ depending on whether the alleged sexual harassment incident involved faculty or staff persons, or whether an alleged incident involves another student.

Students who would like to report an incident of sexual harassment either on their own behalf or involving another student, should do so as soon as possible after the incident has occurred. Generally, the University will make every effort to complete investigations of sexual harassment complaints within 45 business days, unless there are compelling reasons why this timeframe cannot be met. In instances where an investigation may take longer than 45 business days, the individual who made the complaint will be apprised of the delay and will be provided the reason(s) for the delay.

In instances where sexual harassment complaints are made to the Deans of Schools and Colleges, the Chair of an academic department, or to any student advisor, supervisor or manager, the matter should be addressed through the procedures set forth in Section III, hereof, in coordination with the Human Resources Department, either as a part of the Early Resolution process, or through the internal Grievance Procedure. Students will be asked to complete a Student Sexual Harassment Reporting Form [See Appendix III] whether the complaint is to be pursued formally or informally. For formal complaints, the Dean of Students on the campus where the reported incident is alleged to have occurred will facilitate the process with the designated campus Title IX Coordinator.

***Special Note to Students:*** Students are advised that the University of the Virgin Islands' response to students' reports of alleged sexual harassment will be based on the U.S. Department of Education's Office of Civil Rights Title IX of the Education Amendments of 1972, and its implementing regulations, as amended from time to time. Title IX applies to all higher education institutions that receive federal funds. Thus, as a recipient of federal funds, Title IX applies to UVI. Under Title IX, sexual harassment of students and employees is considered to be a form of sexual discrimination, and as such, is prohibited. Essentially, based on the referenced guidelines by the Office of Civil Rights of the U.S. Department of Education, once a "responsible employee" or an employee who is in a position to make a decision regarding an allegation of sexual harassment, has knowledge of such an incident involving a student, UVI is then obligated to investigate the complaint and timely and effectively address the matter with corrective action, such that the sexual harassment does not recur, and a hostile environment is either not established or is removed. This obligation exists whether a student decides to follow the early resolution or formal grievance process within this policy.

## 2. GENERAL INFORMATION APPLICABLE TO STUDENTS, FACULTY AND STAFF

The University of the Virgin Islands is committed to providing support for all of its employees and to ensuring a workplace free of hostility. As such, in addition to the Title IX Coordinators on each campus, the University provides opportunities for faculty, staff and students seeking information or needing advice and guidance on issues related to sexual harassment to speak with a liaison. A listing of liaisons is set forth in the Appendix to the Policy.

I. Additionally, a copy of the University's Sexual Harassment Policy and the procedures governing the investigation and resolution of sexual harassment complaints may be found at the University's website at [www.uvi.edu](http://www.uvi.edu), in the University's libraries, the Student Affairs Office, the Human Resources Department, and the offices of the Title IX Coordinators.

### **III. RESOLUTION PROCESS**

#### **A. SEXUAL HARASSMENT COMPLAINT RESOLUTION PROCEDURES**

The University of the Virgin Islands will act on any formal complaint or informal report or actual notice of violation of this Policy that is received by the Title IX Coordinator or EEO Designee or any University official with authority to institute corrective measures whether such complaint is made by the complainant or by a third party. Upon the filing of a formal complaint, the University shall give written notice to the parties containing sufficient details to permit a party to prepare for any initial interview and proceed with a factual investigation.

Except as otherwise obligated to disclose in accordance with applicable local and federal laws, the University will maintain the confidentiality of all complaints of sexual harassment and is obligated to respond meaningfully and to investigate every complaint of sexual harassment which meets the definition as set forth in Section I hereof, and which satisfies the conditions of actual knowledge, involves conduct within the University's program or activity; and geographic location within the United States of America, whether or not the complainant files a formal complaint.

A presumption of innocence shall be afforded to the respondent at all stages of the grievance process. Any University official with the authority to institute corrective measures who has notice of sexual harassment, as defined herein and who receives a report of a potential violation of this Policy is expected to promptly contact the Title IX Coordinator within the next business day after receiving a report. In accordance with Section II (B) hereof, a complaining party should be advised by any University official with authority to institute corrective measures that such University official has an affirmative duty to report the complaint of sexual harassment or other misconduct to the appropriate University official for investigation, where the University's interest in safety and security of the campus outweighs the interest in maintaining strict confidentiality. If the complaining party refuses to initiate, or authorize the initiation of the Early Resolution or Formal Grievance procedure on his/her behalf, then such University official with authority to institute corrective measures shall prepare and execute a sworn affidavit of the conversation(s), and the affidavit shall be submitted to the Title IX Coordinator. The Title IX Coordinator will then proceed on the basis of the steps outlined in the procedure and shall investigate the report of a violation of this Policy, and if warranted based on application of this policy, may advance through the grievance procedures on the basis of a formal complaint initiated by the Title IX Coordinator.

The procedures set forth herein will apply to all complaints involving members of the University community, including faculty, staff and students, contractors, subcontractors and all vendors. Redress and requests for responsive actions for complaints against non-members of the University community are also covered by these procedures. All Title IX Coordinators, Investigators, decision-makers and University representatives who facilitate informal resolutions shall be free of conflicts of interest or bias for or against complainants or respondents; and shall be trained to serve impartially without prejudging the facts at issue.

#### **B. EARLY RESOLUTION**

The Early Resolution process is intended to encourage any person who feels that he or she is being sexually harassed, and provides several avenues of communication, information and resolution. The

process of Early Resolution is voluntary for all parties after being fully informed and written consent is provided by both the complainant and the respondent, the University may facilitate an informal resolution of a sexual harassment complaint. Early Resolution may include mediation, restorative justice or other models of alternative dispute resolution. The aim of the Early Resolution process is not to determine whether there was intent to harass, but to ensure that the alleged offending behavior ceases and the matter is resolved promptly. No disciplinary action is taken in resolving a complaint as a part of the Early Resolution process. The Early Resolution process is inappropriate and should not be used for severe cases of sexual harassment/sexual assault, or cases where the alleged victim has filed a previous complaint of sexual harassment; or where the alleged harasser has had a previous complaint of sexual harassment filed against him or her. In each instance where an Early Resolution Process is initiated, a respondent is entitled to a presumption of innocence. The University shall offer supportive measures to the complainant and to the respondent to allow each party to equitably continue access to the University's educational programs and activities.

1. For purposes of this Section III (B), severe cases shall include cases where unwelcomed conduct of a sexual nature involves:
  - a) physical touching;
  - b) the display or dissemination of sexually suggestive objects, photographs, cartoons, posters, videotapes, audio recordings, emails, or other material of a sexual nature that is degrading, derogatory or inappropriate in the work or academic environment (excepting therefrom material that is used, or to be used, in the furtherance of the work or the academic subject);
  - c) any incident involving the presence or dissemination of pornographic material;
  - d) any incident that is coupled with threats of physical violence or bodily harm; or
  - e) A threat or actual adverse employment action or the unreasonable interference with, denial or limitation on an employee, student or vendor's ability to participate in or benefit from an educational program or activity.
2. The foregoing list of examples of unwelcomed conduct which characterizes "severe cases" is not intended to be an exhaustive list.
3. There is no requirement that the complainant use the Early Resolution process before filing a formal grievance, or that the grievance be put into writing by the complainant party before the Early Resolution procedures are utilized.
4. Once invoked, a party may withdraw from the Early Resolution procedures and formally request that their complaint be considered under the Formal Investigation procedures herein.
5. Early Resolution takes place in consultation with the Department of Human Resources and may involve:
  - i. Requesting that the Title IX Coordinator speak with the alleged offender regarding the conduct for which there has been a complaint.

- ii. Meeting with the alleged offender and a third party to explain the complainant's feelings of being sexually harassed, and to discuss the University's Policy on sexual harassment.
6. Possible Outcomes of an Early Resolution process:
    - i. The complaint is resolved to the satisfaction of both the complainant and the respondent.
    - ii. The complaint is not resolved. In this case where resolution of the complaint is not possible, utilizing the Early Resolution process, the Title IX Coordinator shall advise the grievant of the option to file a formal grievance, in accordance with the procedures herein, or the Title IX Coordinator shall initiate a formal investigation of the complaint through the University's grievance procedure.

### **C. FORMAL GRIEVANCE PROCEDURE**

1. If the decision is made to move to a Formal Investigation, the investigation must commence within five (5) business days of the receipt of the complaint from either the complainant or the Title IX Coordinator. The University commits itself to an adequate, reliable and impartial investigation of all complaints of sexual harassment including the opportunity to present witnesses and other evidence. Although a formal written complaint is not required to initiate an investigation, the complainant should be encouraged to create a formal written complaint. Upon initiation of the complaint, by written submission or orally, the Title IX Investigator is responsible for leading the investigation of the allegations and forwarding a recommendation to the Provost. At the outset of the investigation, the Title IX Investigator shall provide written notice to both parties of the procedures for the investigation including the right of the parties to select an advisor of choice, which may or may not be an attorney. The Title IX Coordinator shall assist in presenting the complaint of sexual harassment in instances where a complainant has declined to advance a formal complaint against the respondent. Both the complainant and the respondent shall be treated equitably in the grievance process.
2. The investigation will proceed as follows:
  - i. Interviews will be conducted by the Title IX Investigator of all persons who have or may have knowledge of facts related to the allegations. All investigations will be thorough, reliable and impartial. Statements will be compiled and reviewed, and the accused will be advised of the allegations at the onset of the formal investigation into the allegations and shall be accorded a presumption of innocence throughout the formal grievance process until a determination is reached and a finding of responsibility is rendered. The Title IX Investigator shall consider and objectively evaluate all relevant evidence, both inculpatory and exculpatory; and shall present all such evidence to the University Provost, or other designated official. In the presence of a representative from Human Resources, the respondent (accused) will be advised of the allegations, the process which will be followed to investigate the allegations, and the appeals process.
  - ii. If in the judgment of the Title IX Investigator, in consultation with the Human Resources

Department and Legal Counsel, the safety or security of any member(s) of the campus community is in imminent jeopardy by the presence on-campus of the accused individual or the ongoing activity of a student organization whose behavior is in question, the Title IX Investigator (or his or her designee) may recommend to the Provost supportive measures and/or interim remedies intended to address the immediate or short-term effects of the alleged harassment, discrimination and/or retaliation; i.e. to redress harm to the alleged victim and the community and to prevent further violations. In no event shall such interim measures be implemented to affect any access by the Respondent to any educational program or activity unless a determination is first made that the complainant or a third party is deemed to be in imminent danger of physical harm, or there is an imminent threat of destruction to University property. Respondent shall be entitled to a presumption of innocence throughout the formal grievance process until a determination is reached and a finding of responsibility is rendered. The interim remedies and/or supportive measures may include referral to counseling, altering the housing situation of an accused student or resident employee (or the alleged victim, if desired), altering work arrangements or employees, implementing contact limitations between the parties, offering adjustment to academic deadlines and/or course schedules.

- iii. Upon a finding of an imminent or continuing threat of physical harm to the complainant or a third party, or an imminent threat of destruction to University property, the University Provost may suspend a student, employee or organization on an interim basis pending completion of the formal investigation and procedures. In all cases in which interim measures are imposed, the student, employee or student organization, will be given an opportunity to meet with the Title IX Investigator prior to such measures being imposed, or as soon thereafter as reasonably possible, to show cause why the interim measures should not be implemented. For purposes of this policy, the University Provost has the sole discretion to implement or to stay any interim measures and to determine its conditions, scope and duration; provided however, all such interim measures shall be narrowly tailored to address the imminent threat of physical harm or property damage. Respondent shall be provided with a written statement setting forth the grounds for the University's decision to take such interim measures. Where the University instituted such interim measures against a respondent, the Grievance Procedures shall be advanced to conclusion within forty-five (45) days following the institution of such interim measures. In no event shall the interim measure extend for more than forty-five (45) days. Violation of an interim suspension under this policy will be grounds for expulsion or termination. During an interim suspension or administrative leave, a student or employee may be denied access to University housing, and/or to campus facilities and events. As determined by the Provost or designee, this restriction includes classes and/or all other University activities or privileges for which the student or employee might otherwise be eligible. At the discretion of the Provost or designee, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the accused student or employee. Employees suspended on an interim basis will normally continue to be paid during the suspension.
- iv. The Title IX Investigator shall, within fifteen (15) business days of the receipt of a sexual harassment complaint, prepare a detailed report containing investigative findings and recommendations and forward the same to the Provost for review and review. The Provost's review can include meeting with the complaining party and the respondent to discuss the Title IX Investigator's investigative report and proposed findings; or speaking with witnesses or requesting additional information not contained in the investigative summary in order to prepare the record for submission to the Title IX decision-making body.

- v. The Provost's record must be rendered within fifteen (15) business days from the date that the Title IX Investigator's investigative findings are presented to her/him for review.

#### **D. THE TITLE IX HEARING**

1. After investigation, the investigatory report must be delivered to both parties and provide them with an equal opportunity to review and respond to the evidence gathered during the investigation. The investigatory report must be sent together with the complaint of sexual harassment explaining in sufficient detail the allegations made against the respondent. Respondent shall be accorded a presumption of innocence throughout the Title IX investigatory phase and throughout the formal grievance process until a determination is reached and a finding of responsibility is rendered.
2. After the investigation, the decision-making panel shall objectively evaluate all relevant evidence and shall render a determination regarding whether the respondent is responsible or not responsible for the sexual harassment.
3. At least one week prior to the decision-making hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the Chair of the decision-making body will send written notification [by any reasonable means] to the parties with the following information. Once sent, emailed and/or received in-person, notice will be presumptively delivered. The notification will contain the following:
  - i. A description of the alleged violation(s) in sufficient detail to permit a party to prepare for the Title IX decision-making process; a description of the applicable procedures to be applied to the hearing; a copy of the University's Policy on Sexual Harassment; information regarding the range of remedies and disciplinary sanctions the University may impose; and such other documents as are germane to the hearing.
  - ii. The University shall provide written notice of the date, time and location of the hearing which shall be conducted live, and a reminder that attendance is mandatory, superseding all other campus activities. If any party does not appear at the scheduled hearing, the hearing will be held in their absence. For good cause shown, the Chair may reschedule the hearing.
  - iii. Both the complainant and the respondent are allowed to have an advisor of their choosing at the Title IX hearing. Such advisor may be but is not required to be an attorney.
  - iv. No less than ten (10) business days in advance of the Title IX hearing, the Complainant and Respondent shall submit their questions for the other parties and witnesses, in writing, to the Chair of the Title IX decision-making body for review and approval. Within three (3) days prior to the Title IX Hearing, the Chair of the Title IX decision-making body shall return the list of approved questions to the parties. Only questions which have been approved by the

Chair of the Title IX Decision-making body shall be allowed during the Title IX Hearing.

- v. The parties to the hearing are expected to ask and respond to questions on their own behalf, without representation by their advisor. During the hearing, a party may seek a brief recess to consult with the advisor outside of the hearing room.
- vi. Both parties shall be provided with an equal opportunity to review and respond to the evidence gathered during the investigation, including the ability to receive the University's investigative report prior to the University reaching a determination as to responsibility; and to present evidence including fact and expert witnesses.
- vii. The University shall not restrict a party's ability to discuss the allegations or to gather evidence prior to the Title IX hearing.
- viii. All hearings during the grievance process shall be live or conducted using remote or virtual means, with cross-examination conducted by the parties' advisors, subject to the prior review and approval of each question by the decision-making body.
- ix. Each party, complainant or respondent or both, shall have the right to appeal a decision of the Title IX decision-making body. The right to receive written notification of the outcome of an appeal, including any changes that were made to the decision of the Title IX decision-making body.

**E. PROCEDURES FOR HEARING BEFORE  
THE TITLE IX DECISION-MAKING BODY**

1. The procedures for investigating and resolving complaints shall be carried out promptly, fairly and impartially. Complaints for sexual harassment will be immediately and thoroughly investigated by the appropriate University administrator or a designee serving as the Title IX Investigator.
2. The Title IX Investigator shall be familiar with this Policy and the appropriate supportive measures and sanctions which are available. The Title IX Investigator shall discharge the Investigator's obligations fairly and impartially. In the event the Investigator develops a conflict of interest with respect to the persons involved in a complaint, a new Investigator who is free from a conflict of interest will be appointed. During the investigations, the Investigator may receive counsel from officers/supervisors of the University, the University's legal counsel, and other parties as needed.
3. The Title IX decision-making hearing will occur live and may be conducted with all participants in the same location, or with some or all of the participants appearing virtually with technology which will allow for every participant to see and hear each other simultaneously.
4. The preponderance of the evidence standard shall apply to the decision-making hearing.
5. The Title IX decision-making body has the authority to hear all collateral misconduct, meaning that it hears all allegations of discrimination, harassment and retaliation, but also may hear any additional alleged policy violations that have occurred in concert with the discrimination,

harassment or retaliation, even though those collateral allegations may not specifically fall within its jurisdiction. Accordingly, investigations should be conducted with as wide a scope as necessary.

6. Participants in the hearing will be the Chair and members of the Title IX decision-making body as appointed by the University President; the Human Resources Director or designee; the Title IX Investigator or designee who conducted the initial investigation, the complainant and respondent(s), their respective advisors; up to three organizational representatives in a case where an organization is charged), and any called witnesses. The Chair of the Title IX decision-making body will provide the names of witnesses the parties intend to call and all pertinent documentary evidence at least two business days in advance of the hearing. In addition, the parties will be given a list of the names of each member of the Title IX decision-making body at least two business days in advance of the hearing. Should any party object to any member of the Title IX decision-making body, he/she must raise all objections, in writing, to the Chair within twenty-four hours of receipt of the list of members of the Title IX decision-making body. Panel members will only be unseated if the Chair, in consultation with the Title IX Investigator or designee and the University's legal counsel, concludes that their actual or potential bias or conflict of interest may preclude an impartial hearing of the complaint and/or response thereto. Additionally, any member of the Title IX decision-making body or the Chair who feels he/she cannot make an objective determination must recuse himself or herself from the proceedings when notified of the identity of the parties and witnesses in advance of the hearing.
7. All parties will have ample opportunity to present facts and arguments in full and question all present witnesses during the hearing. If alternative questioning mechanisms are desired (screens, Skype, questions directed through the Chair, etc.), the parties should request them from the Chair at least two business days prior to the hearing. Only the advisors for the complainant or the respondent may engage in the cross-examination of either party, subject to the provisions of Section III(D)(iv) hereof.
8. Once the procedures are explained and the participants are introduced, the Chair of the Title IX decision-making body shall present the allegations of the complaint and the report of the Title IX Investigator. The Chair may then permit any introductory statements to be made by both the Complainant and the Respondent and may then permit questioning of and by the parties, and of any present witnesses. Questions may be directed solely in the discretion of the Chair.
9. Formal rules of evidence will not apply. Any evidence that the panel believes is relevant and credible may be considered however, there are very limited circumstances under which a complainant's prior sexual history or a respondent's prior pattern of conduct may be introduced in the proceedings. The Chair of the Title IX decision-making body will make determinations regarding any evidentiary issues prior to and/or during the hearing; may exclude irrelevant or immaterial evidence and may ask the panel to disregard evidence lacking in relevance. The Chair will determine all questions of procedure and admissibility of evidence into the record. Anyone appearing at the hearing to provide information will respond to questions on his/her own behalf.
10. Unless the Chair determines it is appropriate, no one will present information or raise questions concerning: (1) incidents not directly related to the possible violation, unless allegations of a

- pattern have been made, or (2) the sexual history of or the character of the victim/complainant.
11. Where issues of competency or job performance are concerned, the Title IX decision-making panel will not substitute its judgment of competency or performance for the judgment of other appropriate campus officials; the function of the hearing panel is to determine whether violations of the University's policies regarding harassment and nondiscrimination have been committed, and issues of competency or performance may only be considered in that context.
  12. No observers will be allowed in the hearing unless the Title IX decision-making panel, by majority vote, determines otherwise. The Chair may allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the panel or the parties involved. The panel will not hear from character witnesses, but will accept up to two letters supporting the character of the individuals involved.
  13. In hearings involving more than one accused individual or in which two complainants have accused the same individual of substantially similar conduct, the standard procedure will be to hear the complaints jointly; however, the Title IX decision-making panel may permit the hearing pertinent to each respondent to be conducted separately upon a majority vote of the members of the decision-making body. In joint hearings, separate determinations of responsibility will be made for each respondent.
  14. Proceedings are confidential. All persons present at any time during the hearing are expected to maintain the privacy of the proceedings, subject to University disciplinary consequences for failure to do so. While the contents of the hearing are confidential, the parties have discretion to share their own experiences if they so choose and should discuss doing so with their advisors.
  15. Hearings are recorded, by the Title IX decision-making body only, for purposes of review in the event of an appeal. Members of the Title IX decision-making body, the parties and/or the persons who initiated the action, and appropriate administrative officers of the University will be allowed to listen to the recording in a location determined by the Title IX Coordinator or designee. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator. Persons given access to the recording will be required to sign an agreement confirming that they will protect the privacy of the information contained in the recording.

## **F. DECISIONS**

1. The Title IX decision-making body will deliberate in closed session to determine whether the respondent is responsible or not responsible for the alleged violation(s) in question. The panel will base its determination on a preponderance of the evidence (i.e., whether it is more likely than not that the accused individual committed the alleged violation(s)). If an individual respondent or organization is found responsible by a majority of the decision-making body, the Title IX decision-making body will recommend appropriate sanctions to the University Provost.

2. The Chair of the Title IX decision-making body will prepare a written deliberation report and deliver it to the Provost if he/she is not the respondent or to the Board Chair if the President or Provost is the respondent, detailing the findings of the Title IX decision-making body, how each member voted, the information cited by the decision-making body in support of its recommendation and any information the hearing panel excluded from its consideration and why. The report should conclude with any recommended sanctions. A copy of the Title IX decision-making body's report shall be delivered to the Title IX Coordinator as the custodian of the records.
3. At the conclusion of the hearing, a written determination, including findings of facts and conclusions, will be sent by the Chair of the Title IX decision-making body to the Provost, who may determine: (a) whether the hearing was conducted in a manner which afforded due process to the respondent; (b) whether the hearing allowed for the equitable participation in the process by both parties; (c) whether the determination of the Title IX decision-making body is complete and consistent with this Policy; (d) whether the Title IX decision-making Body is required to engage in additional hearings; and (e) whether the sanctions proposed and the supportive measures recommended are consistent with fairness, equity and existing University policy.
4. Where a finding of responsibility is made against the respondent, the written determination must describe what remedies the University will provide to the complainant to restore or preserve equal access to the University's educational programs or activities, or any sanctions imposed on the respondent.
5. If no further proceedings are required, the Provost will send notice of the findings and written determination to both parties explaining for each allegation whether the respondent is responsible or not responsible including the facts and evidence on which the conclusion is based. The determination must be made by the decision-making body. No member of the decision-making body may have served as either the Title IX Coordinator or Investigator in connection with the complaint at hand. The determination must be made by applying the preponderance of the evidence standard. Where a respondent is found responsible the complainant must be given remedies designed to restore or preserve equal access to education (these remedies may be similar to supportive measures in place during the investigation).
6. The written determination will be sent by the Provost via certified mail or by hand delivery, if possible.
7. The entire record of the sexual harassment proceedings, including the investigative report, the written determination of the Title IX decision-making body, the communication(s) from the Provost and the notifications to the complainant and the respondent shall be forwarded to the Title IX Coordinator who shall serve as the custodian of the files and records of matters under this procedure. After receiving the decision from the Provost, if either party disagrees with the decision, he or she may file a notice of appeal with the Provost to request an impartial review in accordance with Section III hereof. The notice of appeal must be served upon the Provost by either the Complaining party or the Respondent within five (5) business days of receipt of the written determination from the Provost. If either party fails to file an appeal within the five (5) business days, the decision from the Title IX decision-making Body shall become final.

8. The Title IX Hearing shall be conducted in such a manner as to protect information protected by legally recognized privileges and ensure that a party's treatment records are not used in a grievance process without the party's voluntary, written consent.
9. Hearings for possible violations that occur near or after the end of an academic term will be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the 45-day resolution period of this Policy.
10. For good cause shown, the University may extend the timelines for the resolution of a complaint of sexual harassment.

## **G. APPEALS**

1. Both the complainant and the respondent are authorized to appeal the sexual harassment decision of the Title IX decision-making body. An appeal pursuant to this Policy must be based on procedural deficiencies; newly discovered evidence; the insufficiency or extent of the sanctions imposed; bias or conflict of interest which affected the outcome.
2. For purposes of appeals pursuant to this Policy, the appeal decision-maker shall not be the same person who served as the Title IX Coordinator, investigator or a member of the decision-making body in the first instance; and must be free from bias or conflicts of interest. Each party may submit written arguments for or against the outcome in the appeal process in accordance with the applicable appeal procedure set forth in Section D (1), or D (2) below.
3. The complainant has no right to demand a particular disciplinary sanction against a respondent who is found responsible, but can challenge, on appeal, the adequacy of the remedies designed to ensure the complainant's equal access to education. Remedies, such as supportive measures, can burden a respondent who is found responsible, i.e. no-contact order requiring the respondent to leave a common area were the complainant arrived first.

### **I. Appeals to The Faculty Grievance Committee**

- a. If the party appealing the decision of the Title IX Decision Making Body is a faculty member (as defined in Section 4.1 of the Faculty Policy Manual (2008)) and is the Respondent, the appeal shall be made to the Faculty Grievance Committee ("FGC"). The FGC is established in accordance with Article 9.iii of the Faculty Policy Manual. The appeal must be in writing and must state the nature of the complaint, the grounds upon which the appeal is being made, and if applicable, the remedy being sought.
- b. The Faculty Grievance Committee shall hear the appeal of the Title IX Decision-Making Body's findings and decision in accordance with Article 9.v of the Faculty Policy Manual, as may be amended from time to time.
- c. Within ten (10) business days from the date the appeal is presented to the FGC, the Committee shall review the findings and decision of the Title IX Decision-Making Body and shall submit its

written recommendation to the Complainant, Respondent and to the President no later than five (5) business days following the conclusion of the hearing on the appeal. Either the Complainant or the Respondent may appeal the recommendation of the Faculty Grievance Committee within three (3) business days following the receipt of the recommendation. The appeal must be in writing and must state the nature of the complaint, the grounds upon which the appeal is being made, and if applicable, the remedy being sought and must be submitted to the President, or his designee, within three (3) business days following the receipt thereof, or it is untimely. The President shall have the right to act on the appeal in accordance with Section D herein.

- d. In the event the appeal to the Faculty Grievance Committee is denied and thus the determination of the Title IX decision-making body is affirmed, then the Provost will review the decision of the FGC and, in the case of a recommendation for the disciplinary suspension or termination of the Respondent, will prepare a report to the University President including her recommendation on the issue of the disciplinary sanction. The Provost shall make her recommendation to the University President within five (5) working days of receipt of the decision of the FGC.
- e. In the event the appeal to the Faculty Grievance Committee is to be heard, the Faculty Grievance Committee will constitute the Grievance Hearing Panel that will consist of 3 to 9 individuals. Hearing Panels will be selected from members of the faculty by the Faculty Grievance Committee with one member selected from any other component involved in the Title IX complaint. The Faculty Grievance Committee shall follow the process established in Section 9.v of the University's Faculty Policy Manual, as amended from time to time.
- f. At the conclusion of the appeal hearing process before the Faculty Grievance Committee, the FGC shall submit its findings and recommendation to the University Provost which may either accept or reject the recommendation of the Faculty Grievance Committee. In the event the University Provost accepts a recommendation for a disciplinary suspension or termination of the Respondent, she shall prepare a report to the University President including her recommendation on the issue of the disciplinary sanction. The Provost shall make her recommendation to the University President within five (5) working days of receipt of the decision of the FGC.
- g. The President or the Presidents designee shall then have the right to make the final decision, subject in all cases involving a dismissal or suspension of a faculty member, to their right to timely appeal to the Board of Trustees.

## **II. Appeals to the Personnel Review Committee**

- a. Except for Respondents who are either the University President, Provost or faculty members, all other parties may appeal to the Personnel Review Committee, as constituted in the Human Resources Policy Manual, as may be amended from time to time. The appeal must be in writing and must state the nature of the complaint, the grounds upon which the appeal is being made, and if applicable, the remedy being sought.
- b. The Personnel Review Committee shall consist of (3) three members selected and appointed by the President, such appointment to be made no more than five (5) business days after the appeal is filed with the Provost; provided however that in the case of a Respondent who is a student, the President shall include no less than one student as a member of the Personnel Review

Committee who will be charged with reviewing an appeal concerning charges which are brought under this Policy against a student-Respondent.

- c. In the event the appeal to the Personnel Review Committee is denied and thus the determination of the Title IX decision-making body is affirmed, then the Provost, or such other University administrator having authority over the Respondent, will review the decision of the PRC and, in the case of a recommendation for the disciplinary suspension or termination of the Respondent, will prepare a report to the University President including the recommendation on the issue of the disciplinary sanction. The Provost, or such other University administrator having authority over the Respondent, shall make a recommendation to the University President within five (5) working days of receipt of the decision of the PRC.
- d. In the event the PRC determines that it will hear the appeal, the Chair of the Personnel Review Committee shall, within ten (10) business days from the date the appeal is presented to the Committee, convene a hearing to review the findings and decision of the Title IX Decision-Making Body, if requested by the Complainant or Respondent.
- e. At the hearing, the Personnel Review Committee shall give the Complainant and Respondent an opportunity to present evidence and to otherwise be heard, within the discretion of the Committee. The hearing shall be recorded by the Committee.
- f. At the conclusion of the appeal hearing process before the Personnel Review Committee, the PRC shall, within five (5) business day following the conclusion of the hearing on the appeal, submit its findings and recommendation to the University Provost, or such other University administrator having authority over the Respondent, which may either accept or reject the recommendation of the Personnel Review Committee. In the event the University Provost accepts a recommendation for a disciplinary suspension or termination of the Respondent, she shall prepare a report to the University President including her recommendation on the issue of the disciplinary sanction. The Provost shall make her recommendation to the University President within five (5) working days of receipt of the decision of the FGC.
- g. The President or the Presidents designee shall then have the right to make the final decision, subject in all cases involving a dismissal or suspension of an employee, to their right to timely appeal to the Board of Trustees.
- h. The President shall have the right to act on the appeal in accordance with Section D herein.

## **H. DECISION OF THE PRESIDENT**

Upon receipt of the recommendation from either the Faculty Grievance Committee or the Personnel Review Committee, the President will review the investigative findings and recommendations and shall make a final decision to accept, reject, or modify the Committee's recommendations, or may request further information. In reviewing the matter under consideration, the President, may in his discretion, but is not obligated to, conduct interviews, meet with witnesses and engage in a de novo review of the matter before rendering his decision.

In all cases arising under these procedures, the decision of the President shall be final unless appealable to the Board of Trustees and a notice of appeal is filed with the Board within ten (10) days of the date of receipt of the President's decision, made in accordance with applicable law or policies of the University. The decision of the President may include, but is not limited to, demotion, suspension with or without pay, termination or dismissal from employment or enrollment at the University.

## **I. TITLE IX REVIEW PROCESS FOR PARTICULAR RESPONDENTS**

In the event a complaint pursuant to this Policy is made against the Title IX Coordinator, the Investigator, the Provost or the President the procedures shall be as follows:

1. In the event a complaint pursuant to this Policy is made against the Title IX Coordinator or the Title IX Investigator, the University President shall designate a substitute Title IX Coordinator and Investigator and the process set forth above shall be followed with the substitute Title IX Coordinator or Investigator investigating the charge of sexual harassment, discrimination, retaliation or other violation of this Policy and reporting his/or findings and determination to the University Provost.
2. In the event a complaint pursuant to this Policy is made against the Provost or the President, the Chairperson of the Board of Trustees for the University shall within seven (7) business days of such complaint designate an Investigator to review the complaint, to interview witnesses, marshal the evidence and to prepare a report of their Findings and Recommendations for submission to Chairperson of the Board of Trustees. The Investigator shall submit his/her Findings and Recommendation to the Board Chairperson within fifteen (15) business days of the receipt of the complaint of sexual harassment. The Chairperson, in consultation with legal counsel, shall prepare his report and determination for the consideration and decision of the Executive Committee of the Board of Trustees and such report shall be submitted to the Executive Committee of the Board of Trustees within fifteen (15) business days of the date the Investigator submits his/her report to the Board Chair. The decision of the Executive Committee, shall be subject to review and ratification or modification by the Board of Trustees and its decision with respect to such matters shall be final.
3. If the President or Provost is the respondent, the Chair of the University's Board of Trustees shall select the members of a Title IX Decision Making Body, which may consist of members of the Executive Committee of the Board of Trustees, or such other members as the Board Chair shall deem appropriate. In this instance, the Title IX Decision-Making Body shall review the report of the Title IX Investigator, appointed by the Board Chair, and shall make a decision in consultation with Legal Counsel. The Report of the Title IX Decision-Making Body constituted by the Board Chair shall be submitted to the Chair within fifteen (15) business days of the date the Body receives the report from the Title IX Investigator. The decision of the Executive Committee, shall be subject to appeal to the full Board of Trustees, whose decision shall be final with respect to such matter. The members of the University Board who served as members of the Title IX Decision-Making Body shall recuse themselves from the deliberation and the decision on appeal to the University Board of Trustees. The Board of Trustees may accept, reject or modify any decision of the Title IX Decision-Making Body.



## **F. EDUCATIONAL PROGRAMS**

### **1. GENERAL**

Educational programs are essential to the establishment of a campus community that is free of sexual harassment and in which high standards of conduct in consensual relations are maintained. The University of the Virgin Islands seeks to achieve four goals through its educational programs related to sexual harassment awareness: (a) notifying individuals of conduct that is prohibited; (b) ensuring that all faculty, staff and students are aware of their rights; (c) informing administrators about the proper way to address complaints of violations of this policy; and (d) helping educate the faculty, staff and students about the issues addressed within this policy.

### **2. PREPARATION AND DISSEMINATION OF INFORMATION**

The Director of Human Resources is charged with developing, coordinating, and disseminating the sexual harassment policy and procedure for the University. Accordingly, the Human Resources Department will provide summaries of this policy to current members of the University community and to those who join the community in the future. A summary of this policy will be included in student and employee orientation materials and handbooks for employees and for undergraduate and graduate students. In addition, copies of this policy will be made available on UVI's website, [www.uvi.edu](http://www.uvi.edu), the Employee Policy Manual, offices, libraries, and other appropriate campus locations, and will be distributed in sexual harassment awareness and prevention training sessions.

### **3. TRAINING / EDUCATION**

Sexual harassment awareness and prevention training, workshops, and professional development seminars are available and scheduled from time to time during the academic year. Such training and education will be available to all new employees and periodic updates and training will be provided for current employees. For further information regarding sexual harassment training or education, please contact the Human Resources Office at 340-693-1421.

The University shall provide training to the Title IX Coordinators, Investigators and decision-makers and such training materials must foster impartial determinations without relying on sex stereotypes.

# APPENDICES

## Appendix I: Sexual Harassment Information Liaisons

Type of Incident	Name of Liaison*	Contact Number
Faculty ↔ Faculty		
Faculty ↔ Staff		
Faculty ↔ Student		
Staff ↔ Staff		
Staff ↔ Faculty		
Staff ↔ Student		
Student ↔ Faculty		
Student ↔ Staff		
Student ↔ Student	ACA for Student Affairs – St. Croix	340-692-4188
	ACA for Student Affairs – St. Thomas	340-693-1121

*\*To be determined in consultation with key constituency groups, through the University's Shared Governance process. Liaisons will be identified prior to the promulgation of the approved Policy.*




3. Please provide the names and contact information of any person(s) with whom you discussed or shared information about the incident(s) that gave rise to this written complaint prior to the filing of this report.

Name	Contact Information	Date Information was Shared

4. Please provide any supporting materials that you have relative to the complaint being filed. (Supporting documents may include e-mails; facsimiles; notes; pictures or other graphics; recorded messages, etc.)

5. How would you like your complaint addressed?
- a. Through the Early Resolution Process
  - b. Through the Formal Grievance Process

**Acknowledgment**

To investigate your complaint, it will be necessary to interview you, the alleged harasser(s), and any witnesses with knowledge of your complaint. The University will notify everyone involved of the confidential nature of the process and that unauthorized disclosures of information concerning the investigation could result in disciplinary action, up to and including termination of employment. The University is committed to handling your complaint with the highest level of professional integrity and confidentiality and to ensuring due process to both the complainant and the respondent.

The information provided in this complaint is true and correct to the best of my knowledge. I will cooperate fully in the investigation of my complaint and provide requested evidence deemed relevant by the University.

\_\_\_\_\_ **Complainant's Signature**

\_\_ **Month** /\_\_ **Day** /\_\_ **Year**

**University Official Receiving Complaint Form:**

Name: \_

Position Title: \_

\_\_\_\_\_  
**Signature**

.\_ /\_ /\_  
**Month Day Year**




3. Please provide the names and contact information of any person(s) at UVI with whom you discussed or shared information about the incident(s) before you completed and submitted this written complaint.

Name	Contact Information	Date Information was Shared

4. Please provide any supporting materials that you have relative to the complaint being filed. (Examples of supporting materials include, but are not limited to, documents; e-mails; facsimiles; notes; pictures or other graphics; and recorded messages)

5. How would you like your complaint addressed?

- a. Through the Early Resolution Process
- b. Through the Formal Grievance Process

**Acknowledgment**

To investigate your complaint, it will be necessary to interview you, the alleged harasser(s), and any witnesses with knowledge of your complaint. The University will notify all persons involved in the investigation that it is confidential and that unauthorized disclosures of information concerning the investigation could result in disciplinary action. The University is committed to handling your complaint with the highest professional integrity and confidentiality and to ensuring due process to both complainant and the respondent.

The information provided in this complaint is true and correct to the best of my knowledge. I will cooperate fully in the investigation of my complaint and provide requested evidence deemed relevant by the University.

\_\_\_\_\_   
 Complainant's Signature

\_\_ Month /\_\_ Day /\_\_ Year

**University Official Receiving Complaint Form:**

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

\_\_\_\_\_   
 Signature

\_\_ /\_\_ /\_\_   
 Month Day Year

Date submitted to Title IX Coordinator:

-

/  
Month

/  
Day

Year

## References

1. Brown University Sexual Harassment Policy, September 2010.
2. Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties: Title IX. January 2001. U.S. Department of Education, Office of Civil Rights.
3. The Ohio State University Sexual Harassment Policy 1.15 (Revised 2006).  
[[hr.osu.edu/policyhome.htm](http://hr.osu.edu/policyhome.htm)]
4. V.I. Code Title 14, Chapter 85: Rape and Related Offenses. Sections 1699 – 1709. Michie’s Legal Resources. [<http://www.michie.com/virginislands>]
5. V.I. Code Title 10, Chapter 5: Civil Rights Commission. Sections 61-64a. Michie’s Legal Resources. [<http://www.michie.com/virginislands>]
6. Virgin Islands Code, Title 21, Chapter 17: Employment Discrimination – Rules and Regulations; V.I. Department of Labor, 1981.
7. V.I. Code. Title 21, Chapter 17: Discrimination in Employment. Sections 451 – 462. Michie’s Legal Resources. [<http://www.michie.com/virginislands>]
8. University of the Virgin Islands Employee Policy Manual.