

OAKLAND UNIVERSITY

ADMINISTRATIVE POLICIES AND PROCEDURES

626 POLICY PROHIBITING SEX-BASED HARASSMENT INVOLVING A STUDENT

SUBJECT:	POLICY PROHIBITING SEX-BASED HARASSMENT INVOLVING A STUDENT
NUMBER:	626
AUTHORIZING BODY:	TBD
RESPONSIBLE OFFICE:	OFFICE OF TITLE IX AND EQUAL OPPORTUNITY COMPLIANCE
DATE ISSUED:	AUGUST, 2024
LAST UPDATE:	AUGUST, 2024
LAST REVIEW:	AUGUST, 2024

POLICY:

Section 1: Introduction and General Information

1.1 Nondiscrimination Policy Statement: Oakland University (OU) does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

1.2 Purpose: OU takes all reported discrimination on the basis of sex seriously. Sex-based harassment is a form of sex discrimination. OU will promptly discipline any individuals within its control who are found responsible for violating this Policy.

1.3 Applicability:

1. Students: This Policy applies to students when at least one of the parties to a sex-based harassment allegation is a student.^[1]
2. Employees: This Policy applies to employees when at least one of the parties to a sex-based harassment allegation is a student.^[2]

1.4: Title IX Coordinator and Title IX Designees: The Title IX Coordinator is the OU administrator who oversees OU's compliance with Title IX. The Title IX Coordinator is responsible for the response to notifications of discrimination on the basis of sex, including sex-based harassment. The Title IX Coordinator is available to discuss the grievance procedures, coordinate supportive measures, modifications related to pregnancy and related conditions, explain OU's policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate other employees to facilitate these responsibilities.

Individuals may contact the Title IX Coordinator or designees with questions.

The contact information for the Title IX Coordinator and designees is as follows:

Name and Title: Chad Martinez, Title IX and Compliance Director

Phone: (248) 370-2450

Email: chadmartinez@oakland.edu or titleix@oakland.edu

Office Location: Oakland Center, Suite 150, 312 Meadow Brook Rd., Rochester, MI

Name and Title: Jessie Hurse, Associate Dean of Students & Deputy Title IX Coordinator

Phone: (248) 270-3352

Email: jhurse@oakland.edu

Office Location: Oakland Center, Suite 150, 312 Meadow Brook Rd., Rochester, MI

1.5 Communication: OU will use OU electronic mail (email) for purposes of communication under this Policy.

1.6 Free Speech: Constitutionally protected expression cannot be considered discrimination on the basis of sex under this Policy.

1.7 Dissemination of Policy of and Notice of Nondiscrimination: OU will publish the Notice of Nondiscrimination on its website and in each handbook, catalog, announcement, bulletin, and application form made available to students, parents/guardians, and employees, or which are otherwise used in connection with the recruitment of students. This posting will include a link to this Policy and reporting options.

1.8 Effective Date: The effective date of this Policy is August 29, 2024. Matters that occurred prior to August 29, 2024 will be resolved using the policy and procedures in place at the time of the alleged event.

1.9 False Reports, Statements, and Evidence: The OU Student Code of Conduct prohibits knowingly creating, furnishing, possessing or otherwise using any false, falsified or forged materials, documents, accounts, records, identification or financial instruments; or misrepresentation of documents submitted to any office, OU official or any individual acting on behalf of OU. Any student found to have engaged in this prohibited conduct during these grievance procedures may be subject to discipline

pursuant to the Student Code of Conduct. Likewise, an employee found to have provided a false report, statement, or evidence during these grievance procedures may also be disciplined.

1.10 Amnesty: Reporting discrimination on the basis of sex and other inappropriate conduct is encouraged at OU. Thus, it is imperative that parties and witnesses share information without fear of potential consequences for minor violations of the Student Code of Conduct or other OU policies. OU offers parties and witnesses amnesty from the following minor violations when those violations involve reporting instances of – and/or proceedings relating to – discrimination on the basis of sex or other inappropriate conduct: drug or alcohol possession or consumption. However, an individual may be responsible for such violations if the conduct harmed or placed the health or safety of any other person at risk. After granting amnesty, OU may require educational opportunities for individuals in lieu of a finding of responsibility or punitive sanctions with the student or employee. This Section does not apply to reports to the police; rather, it applies only to discipline for violations of OU policies.

See also <https://www.oakland.edu/deanofstudents/student-code-of-conduct/medical-amnesty-provision/>

1.11 Other OU Policies: This Policy takes precedence over any other OU policies and procedures concerning discrimination on the basis of sex in the event of a conflict.

1.12: Modification and Review of this Policy: OU reserves the right to modify this Policy to take into account applicable legal requirements. OU will regularly review this Policy to determine whether modifications should be made.

1.13 Additional OU Policy Violations: Alleged violations of other OU policies that arise from the same events as the alleged discrimination on the basis of sex under this Policy will be investigated and resolved under the grievance procedures in this Policy unless the sex-based harassment has been dismissed under Section 5.4 of this Policy.

1.14 Standard of Proof: The burden rests with OU to determine whether a violation of this Policy occurred by a preponderance of the evidence (more likely than not).

1.15 Application: This Policy applies to all sex-based harassment occurring under OU's education program or activity in the United States.

Conduct that occurs under OU's education program or activity includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by OU, and conduct that is subject to OU's disciplinary authority. OU has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside of OU's education program or activity or outside the United States.

1.16 Prohibited disclosure of personally identifiable information: OU will not disclose personally identifiable information obtained in the course of complying with this Policy and/or grievance procedures except in the following circumstances:

1. When OU has obtained prior written consent from a person with the legal right to consent to the disclosure;
2. When the information is disclosed to an authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
3. To carry out the purposes of this Policy and procedure including action taken to address conduct that reasonably may constitute sex-based harassment under this Policy in OU's education program or activity;
4. As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
5. To the extent such disclosures are not otherwise in conflict with Title IX or this Policy when required by State or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

Section 2: Definitions

2.1 Definitions of Prohibited Conduct Under this Policy

2.1.1 Sex-Based Harassment: A form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

1. **Quid pro quo harassment:** An employee, agent, or other person authorized by OU to provide an aid, benefit, or service under OU's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
2. **Hostile environment harassment:** Unwelcome sex-based conduct that: (i) based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from OU's education program or activity (i.e., creates a hostile environment); or (ii) has the purpose or effect of unreasonably interfering with an individual's work or academic performance or participation in an OU program or activity. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - i. The degree to which the conduct affected the complainant's ability to access OU's education program or activity;
 - ii. The type, frequency, and duration of the conduct;
 - iii. The parties' ages, roles within OU's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - iv. The location of the conduct and the context in which the conduct occurred; and

- v. Other sex-based harassment in OU's education program or activity.
3. **Specific offenses:** Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined in this Policy.

2.1.2 Sexual Assault: An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including rape, fondling, incest, and statutory rape as defined in this Policy.

2.1.3 Rape[3]: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

2.1.4 Fondling[4]: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

2.1.5 Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

2.1.6 Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

2.1.7 Dating Violence: Violence committed by a person:

1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. Where the existence of such a relationship shall be determined based on a consideration of the following factors
 - i. The length of the relationship;
 - ii. The type of relationship; and
 - iii. The frequency of interaction between the persons involved in the relationship.

2.1.8 Domestic Violence: Felony or misdemeanor crimes committed by a person who:

1. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of OU, or a person similarly situated to a spouse of the victim;
2. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
3. Shares a child in common with the victim; or
4. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction of OU.

2.1.9 Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. Fear for the person's safety or the safety of others; or
2. Suffer substantial emotional distress.

2.1.10 Retaliation, including Peer Retaliation: Intimidation, threats, coercion, or discrimination against any person by OU, a student, or an employee or other person authorized by OU to provide aid, benefit, or service under OU's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, including in an informal resolution process, in grievance procedures, and in any other actions taken by OU under this Policy. Nothing in this definition or this Policy precludes OU from requiring an employee or other person authorized by OU to provide aid, benefit, or service under OU's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing.

2.2 Definitions Related to Sex-Based Harassment: Consent, Course of Conduct, Incapacitation, Reasonable Person, Substantial Emotional Distress

2.2.1 Consent: Consent is affirmative, conscious, voluntary, and revocable. Consent to sexual activity requires of each person an affirmative, conscious, and voluntary agreement to engage in sexual activity.

It is the responsibility of each person to ensure they have the affirmative consent of the other to engage in the sexual activity. Lack of protest, lack of resistance, or silence does not, alone, constitute consent. Affirmative consent must be ongoing and can be revoked at any time during sexual activity.

The existence of a dating relationship or past sexual relations between the complainant and respondent will never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of consent to prior conduct).

The respondent's belief that the complainant consented will not provide a valid defense unless the belief was actual and reasonable. In making this determination, the decisionmakers will consider all of the facts and circumstances the respondent knew, or reasonably should have known, at the time. In particular, the respondent's belief is not a valid defense where:

1. The respondent's belief arose from the respondent's own intoxication or recklessness;
2. The respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the complainant affirmatively consented; or
3. The respondent knew or a reasonable person should have known that the complainant was unable to consent because the complainant was incapacitated, in that the complainant was:
 - i. asleep or unconscious;
 - ii. unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication;
 - iii. unable to communicate due to a mental or physical condition;

2.2.2 Course of Conduct: Two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

2.2.3 Incapacitation: A person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of alcohol or other drugs such that the person does not have:

1. control over their body, is unaware that sexual activity is occurring, or
2. their mental, physical or developmental abilities render them incapable of making rational informed decisions.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking, using drugs, or taking medication.

A person violates this Policy when they engage in sexual activity with another person who is incapacitated and a reasonable person in the same situation would have known that the person is incapacitated. Incapacitation can be voluntary or involuntary. Signs of incapacitation may include, without limitation: sleep; total or intermittent unconsciousness; lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; emotional volatility; combativeness; vomiting; incontinence; unresponsiveness; and inability to communicate coherently. Incapacitation is an individualized determination based on the totality of the circumstances.

2.2.4 On the Basis of Sex (Scope): Includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

2.2.5 Reasonable Person: A reasonable person under similar circumstances and with similar identities to the victim.

2.2.6 Substantial Emotional Distress: Significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

2.3 Other Defined Terms

2.3.1 Business Day: Any weekday not designated by OU as a holiday or administrative closure day. When calculating a time period of business days specified in this Policy, the business day of the event that triggers a time period is excluded.

2.3.2 Complainant: A student or employee of OU who is alleged to have been subjected to conduct that could constitute sex-based harassment; or a person other

than a student or employee of OU who is alleged to have been subjected to conduct that could constitute sex-based harassment at a time when that individual was participating or attempting to participate in OU's education program or activity.

2.3.3 Complaint: An oral or written request to OU that objectively can be understood as a request for OU to investigate and make a determination about alleged discrimination.

2.3.4 Confidential Employee:

1. An employee of OU whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this Policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;
2. An employee of OU whom OU has designated as confidential under this Policy for the purpose of providing services to persons related to sex-based harassment. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex-based harassment in connection with providing those services; or
3. An employee of OU who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex-based harassment—but the employee's confidential status is only with respect to information received while conducting the study.

2.3.5 Disciplinary Sanctions: Consequences imposed on a respondent following a determination under this Policy that the respondent violated OU's prohibition on sex discrimination and/or sex-based harassment.

2.3.6 Education Program or Activity: Any academic, extracurricular, research, occupational training, or other education program or activity.

2.3.7 Impermissible Evidence: The following information must not be discussed, otherwise used, accessed or considered, even if relevant, except by OU to determine whether an exception exists.

1. Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
2. A party's or witness' records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless OU obtains that party's or witness' voluntary, written consent for use in OU's grievance procedures; and
3. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered

to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

2.3.8 Party: A complainant or respondent.

2.3.9 Pregnancy or Related Conditions:

1. Pregnancy, childbirth, termination of pregnancy, or lactation;
2. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
3. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

2.3.10 Relevant: Related to the allegations of sex-based harassment under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex-based harassment occurred, and evidence is relevant when it may aid the decisionmakers in determining whether the alleged sex-based harassment occurred.

2.3.11 Remedies: Measures provided, as appropriate, to a complainant or any other person

OU identifies as having had their equal access to OU's education program or activity limited or denied by sex-based harassment. These measures are provided to restore or preserve that person's access to OU's education program or activity after OU determines that sex-based harassment occurred.

2.3.12 Respondent: A person who is alleged to have violated OU's prohibition on sex-based harassment.

2.3.13 Student: A person who has gained admission.

2.3.14 Student with a Disability: A student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), including without limitation an individual registered with OU's Disability Support Services office, or a child with a disability as defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).

2.3.15 Supportive Measures: Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not

for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

1. Restore or preserve that party's access to OU's education program or activity, including measures that are designed to protect the safety of the parties or OU's educational environment; or
2. Provide support during OU's grievance procedures or during the informal resolution process.

Section 3: Reporting Sex-Based Harassment and Preservation of Evidence

3.1 Reporting to OU

3.1.1 Reporting to/ Notifying the Title IX Coordinator: Reports of sex-based harassment may be made to the Title IX Coordinator. The Title IX Coordinator may be notified at any time by email, phone, online form (https://cm.maxient.com/reportingform.php?OaklandUniv&layout_id=2), or mail. Notifications may be made in person during business hours. The Title IX Coordinator will promptly respond by offering supportive measures regardless of whether a complaint is initiated.

3.1.2 Reporting to All Employees Who are Not Designated as Confidential Employees: If any employee who is not designated as a confidential employee has information about conduct that may reasonably constitute sex-based harassment, the employee must notify the Title IX Coordinator.

3.1.3 Reporting to Confidential Employees: Confidential employees at OU include the following:

OU Counseling Center (for students)
Graham Health Center, East Wing
408 Meadow Brook Road
(248) 370-3465
<https://oakland.edu/counseling/index>

Reports made to confidential employees are considered confidential reports. The confidential employee must explain the following to a person who informs them of conduct that reasonably may constitute sex-based harassment.

1. The employee's status as confidential for purposes of this Policy, including any circumstances in which the employee is not required to report to the Title IX Coordinator;
2. How to contact the Title IX Coordinator and how to make a complaint of sex-based harassment; and

3. That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution or an investigation under the grievance procedures.

3.1.4 Public Awareness Events: When the Title IX Coordinator is notified of information that may reasonably constitute sex-based harassment that was provided during a public event to raise awareness about sex-based harassment that was held on OU's campus or through an online platform sponsored by OU, OU is not obligated to act in response to the information unless it indicates an imminent and serious threat to the health or safety of a complainant, any students, employees, or other individuals. However, OU must use the information to inform its efforts to prevent sex-based harassment.

3.1.5 Anonymous and Confidential Reporting: Anonymous reports may be made to the Title IX Coordinator by email, phone, online form (https://cm.maxient.com/reportingform.php?OaklandUniv&layout_id=2), or mail. A decision to remain anonymous, however, may greatly limit OU's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this Policy.

Individuals may file a report with the Title IX Coordinator and request to remain confidential. OU will evaluate the ability to afford confidentiality. However, doing so may greatly limit OU's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this Policy.

3.2 Reporting to Law Enforcement: Reports may be filed with campus and local law enforcement agencies. The Title IX Coordinator can assist with contacting law enforcement agencies. Law enforcement investigations are separate and distinct from OU investigations.

Oakland University Police Department
Police and Support Services Building
201 Meadow Brook Road
Rochester, MI 48309-4451
Campus Phone: 911
Cell Phone and Non-Emergency: (248) 370-3331
Campus Status Hotline: (248) 370-2000

Rochester Police Department
400 Sixth Street
Rochester, MI 48307
Non-emergency: (248) 651-9621

Auburn Hills P.D.
1827 N. Squirrel Rd.
Auburn Hills, MI 48326
Non-emergency: (248) 370-9444

Oakland County Sheriff's Office
1200 N. Telegraph Rd.
Building 38E
Pontiac, MI 48341
Non-emergency: (248) 858-4950

Macomb County Sheriff's Office
43565 Elizabeth Rd.
Mt. Clemens, MI 48043
Non-emergency: (586) 469-5151

Macomb Community College Police
4475 Garfield Rd.
Clinton Twp., MI 48038
Non-emergency: (586) 263-6242

3.3 Reporting to Outside Agencies: Reports may be made by students, employees, and others participating or attempting to participate in OU's education program or activity to external agencies:

Office for Civil Rights

U.S. Department of Education
1350 Euclid Avenue, Suite 325
Cleveland, Ohio 44115
Telephone: (216) 522-4970
TDD: (800) 877-8339
Fax: (216) 522-2573
Email: OCR.Cleveland@ed.gov
Website: <http://www.ed.gov/ocr>

Michigan Department of Health and Human Services

22 Center Street
Ypsilanti, MI 48198
Telephone: (734) 480-2000

Michigan Department of Civil Rights

3054 West Grand Boulevard, Suite 3-600
Detroit, MI 48202
Telephone: (517) 335-3165
Fax: (313) 456-3700
Email: MDCRServiceCenter@michigan.gov

U.S. Equal Employment Opportunity Commission (employees only)

Patrick V. McNamara Building
477 Michigan Avenue, Room 865

Detroit, Michigan 48226
Telephone: (313) 774-0020
TTY: (800) 669-4000
Fax: (313) 226-4610

3.4 Confidential Support and Resources:

3.4.1 OU Confidential Resources (see also § 3.1.3 above):

Uwill, Student Mental Health and Wellness, (833) 646-1526

Ulliance, Employee Life Advisor EAP, (800) 448-8326

3.4.1 Community Resources:

Graham Health Center
408 Meadow Brook Road
(248) 370-2341
health@oakland.edu

HAVEN
24-hour crisis and support line: (248) 334-1274
Toll-free crisis line: (877) 922-1274
<https://www.haven-oakland.org/>

Turning Point
24-hour crisis line: (586) 463-6990
<https://turningpointmacomb.org/>

Common Ground Sanctuary Victim Assistance Program
Crisis line: (800) 231-1127
Phone: (248) 456-8150
<https://commongroundhelps.org/>

Ascension Providence Hospital
1101 W. University Drive
Rochester Hills, MI 48307
(248) 652-5000
<https://healthcare.ascension.org/>

St. Joseph's Hospital
44405 Woodward Avenue
Pontiac, MI 48341
(248) 858-3000
<https://www.trinityhealthmichigan.org/>

3.4.2 State Resources:

State of Michigan

Sexual Assault Hotline (24/7): 1-855-864-2374

Text: (866) 238-1454

Online: <https://mcedsv.org/sexual-violence-hotline-chat/>

Michigan Domestic Violence Hotline

Phone: (866) 864-2338

Text: (877) 861-0222

Online: <https://mcedsv.org/hotline-domestic-violence/hotline-chat/>

3.4.3 National Resources:

National Sexual Assault Hotline

Phone (24/7): 1-800-656-4673

Online: <https://hotline.rainn.org/online>

National Domestic Violence Hotline

Phone: 1-800-799-7233

Text: Text "START" to 88788

3.5 Time Limits on Reporting: There are no time limits on reporting sex-based harassment to the Title IX Coordinator or OU. If the respondent is no longer subject to OU's education program or activity or significant time has passed, OU may have limited ability to investigate, respond, and/or provide remedies and sanctions. See Section 5.4 below.

3.6 OU's Federal Reporting Obligations: Certain OU employees, called Campus Security Authorities, have a duty to report certain incidents of misconduct to comply with the Clery Act. Campus Security Authorities are not required to report personally identifiable information for Clery Act purposes, but statistical information must be sent regarding the type of incident that occurred and its general location (e.g., on or off-campus) for publication in an annual report of crime statistics, called the Annual Security Report. Statistics published in the Annual Security Report help to provide the campus community with a clearer picture of the extent and nature of campus crime, but the statistics do not personally identify complainants or respondents. Reports by Campus Security Authorities are not official police reports and do not initiate criminal investigations.

When sexual assault, domestic violence, dating violence, and/or stalking are reported under the Clery Act, OU must issue timely warnings for such incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

OU will not disclose a complainant's name and other identifying information in a timely warning but will provide sufficient information for OU community members to make informed safety decisions in response to potential danger.

3.7 Preservation of Evidence: OU recognizes that a complainant may need time to decide whether to report an incident of sex-based harassment to the police and/or OU. The purpose of this section is to provide complainants with suggestions on preserving evidence while they decide whether to report an incident.

OU encourages complainants, as soon as possible after experiencing sex-based harassment, to take steps to preserve evidence such as:

1. Have a forensic sexual assault nurse examination performed as soon as possible after the incident;
2. When possible, prior to having a forensic sexual assault nurse examination performed, avoid: changing clothing, bathing, showering, using a douche, using the bathroom, brushing one's teeth, drinking liquids, washing one's hands or face, or combing one's hair;
3. Preserve any clothing, sheets, or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
4. Preserve or capture electronic communications such as text messages, e-mails, social media posts, or exchanges (e.g., Snapchat, Facebook, Twitter);
5. Preserve or capture video, audio (e.g., voice mail messages), or photographs, including those stored on smartphones or other devices; and
6. Preserve any other physical, documentary, and/or electronic data that might be helpful to an investigator.

Section 4: Grievance Procedures - Evaluation and Supportive Measures

4.1 Initial Response to Notification of Sex-Based Harassment: Upon notification of conduct that reasonably may constitute sex-based harassment, the Title IX Coordinator will promptly contact the complainant regardless of whether the complainant was the individual who initiated the notification. During the initial contact with the complainant the Title IX Coordinator will:

1. Provide the complainant with notice of their rights and options;
2. Explain the process for initiating a complaint, including the factors considered to determine when the Title IX Coordinator will initiate a complaint;
3. Explain the grievance procedures and informal resolution process;
4. Discuss the availability of supportive measures regardless of whether a complaint is initiated;
5. Consider the complainant's wishes with respect to supportive measures.

4.2 Supportive Measures: Supportive measures must be offered and coordinated by OU.

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or OU's educational environment, or to provide support during OU's grievance procedures or during the informal resolution process. OU must not impose such measures for punitive or disciplinary reasons.

Supportive measures may differ based on what OU deems to be reasonably available. Examples of supportive measures include, but are not limited to:

1. Counseling;
2. Extensions of deadlines and other course-related adjustments;
3. Campus escort services;
4. Increased security and monitoring of certain areas of the campus;
5. Restrictions on contact applied to one or more parties;
6. Leaves of absence;
7. Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

Supportive measures may be modified or terminated at the conclusion of the grievance procedures or at the conclusion of the informal resolution process or OU may continue with the supportive measures indefinitely.

4.2.1 Supportive Measures Review: Complainants or respondents may seek modification or reversal of OU's decision to provide, deny, modify, or terminate supportive measures applicable to them. An impartial employee will have authority to modify or reverse the decision if that person determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures in this Policy. The parties will be provided with additional opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

Request for review of supportive measures must be made in writing to:

1. The Dean of Students by emailing deanofstudents@oakland.edu (for students) or the Vice President for Human Resources by emailing uhr@oakland.edu (for employees)
2. Within 5 business days of the initial decision on supportive measures.

Upon receipt of a request for review, the reviewer will evaluate the request and provide a written response with their determination as to whether the prior decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures in this Policy, within 5 business days. An extension of this time frame may occur for good cause. Written notice will be provided to the parties of any extension of the time frames with an explanation of the reasons for such action.

4.2.2 Privacy of Supportive Measures Information: OU will not disclose information about any supportive measures to individuals other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure, restore or preserve a party's access to the education program or activity, or unless one of the exceptions in 1.1.6 applies.

4.2.3. Consultation for Individual with Disability: If the complainant or respondent has a disability, the Title IX Coordinator may consult, as appropriate, with OU's Disability Support Services office in the implementation of supportive measures, including as to any supports or accommodations to be provided to enable full participation in the grievance process. The Title IX coordinator may also arrange for similar supportive measures or accommodations for employees.

Section 5: Complaint

OU will use the grievance procedures or the informal resolution process for all allegations of sex-based harassment in a complaint.

5.1 Initiating a Complaint: A complaint must be an oral or written request to OU that can objectively be understood as a request for OU to investigate and make a determination about alleged sex-based harassment.

The following persons have a right to initiate a complaint alleging sex-based harassment:

1. A complainant.
2. An authorized legal representative with the legal right to act on behalf of a complainant.
3. The Title IX Coordinator.

5.2 Title IX Coordinator Considerations for Initiating a Complaint: In the absence of a complaint or the withdrawal of all or some of the allegations in a complaint, the Title IX Coordinator must determine whether to initiate a complaint of sex-based harassment. The Title IX Coordinator must consider, at a minimum the following factors:

1. The complainant's request not to proceed with initiation of a complaint;
2. The complainant's reasonable safety concerns regarding initiation of a complaint;
3. The risk that additional acts of sex-based harassment would occur if a complaint is not initiated;
4. The severity of the alleged sex-based harassment, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
5. The age and relationship of the parties, including whether the respondent is an employee of OU;

6. The scope of the alleged sex-based harassment, including information suggesting a pattern, ongoing sex-based harassment, or sex-based harassment alleged to have impacted multiple individuals;
7. The availability of evidence to assist the decisionmakers in determining whether sex-based harassment occurred; and
8. Whether OU could end the alleged sex-based harassment and prevent its recurrence without initiating its grievance procedures.

5.2.1 Notification of Complainant: If the Title IX Coordinator initiates a complaint, the Title IX Coordinator must notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including providing additional supportive measures.

5.3 Response Regardless of Whether Complaint is Initiated: Regardless of whether a complaint is initiated, the Title IX Coordinator will take other appropriate, prompt and effective steps, in addition to steps necessary to effectuate remedies provided to an individual complainant, if any, to ensure that sex-based harassment does not continue to recur within OU's education program or activity.

5.4 Dismissal of a Complaint: OU may dismiss a complaint of sex-based harassment for any of the following reasons:

1. OU is unable to identify the respondent after taking reasonable steps to do so;
2. The respondent is not participating in OU's education program or activity and is not employed by OU;
3. The complainant voluntarily withdraws any or all of the allegations in the complaint in writing, the Title IX Coordinator declines to initiate a complaint under this Policy, and OU determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex-based harassment under this Policy even if proven; or
4. OU determines the conduct alleged in the complaint, even if proven, would not constitute sex-based harassment under Title IX or this Policy. Prior to dismissing the complaint under this section, OU will make reasonable efforts to clarify the allegations with the complainant.

5.4.1 Notification of Dismissal of a Complaint: Upon dismissal, OU will promptly notify the complainant of the basis for the dismissal in writing. If the dismissal occurs after the respondent has been notified of the allegations, then OU will simultaneously notify the respondent of the dismissal and the basis for the dismissal.

5.4.2 Appeal of Dismissal of a Complaint: OU will notify the complainant that a dismissal may be appealed. If the dismissal occurs after the respondent has been notified of the allegations, then OU will also notify the respondent that the dismissal may be appealed. The complainant and respondent (if respondent has been notified of the allegations) may appeal on the bases set forth in section 10. The appeal process set forth in section 10 shall be followed.

5.4.3 After Dismissal of Complaint: If OU dismisses a complaint, OU will, at a minimum:

1. Offer supportive measures to the complainant.
2. Offer supportive measures to the respondent if the respondent has been notified of the allegations.
3. Take other appropriate, prompt and effective steps to ensure that sex-based harassment does not continue or recur within the OU's education program or activity.

5.5 Consolidation of Complaints: OU may consolidate complaints of sex-based harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex-based harassment arise out of the same facts or circumstances.

Section 6: Grievance Procedures - General Requirements

6.1 Equitable Procedures: The grievance procedures within this Policy are designed to treat complainants and respondents equitably.

6.1.1 Burden of Proof and Burden of Gathering Evidence: All investigations and proceedings, including hearings, relating to sex-based harassment will be conducted using a "preponderance of the evidence" (more likely than not) standard. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on OU not the parties.

6.1.2 Presumption of Not Responsible: The respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the grievance procedures.

6.1.3 Time Frames for Grievance Procedures: OU strives to complete the grievance procedures within one hundred twenty (120) business days. OU strives to complete the evaluation period within five (5) business days after meeting with the complainant, the investigation period within sixty (60) business days after initiation of complaint, the determination period within thirty (30) business days, and the appeal within twenty-five (25) business days of receipt of the appeal. Temporary delays and/or extensions of the time frames within this Policy may occur for good cause. Written notice will be provided to the parties of the delay and/or extension of the time frames with an explanation of the reasons for such action. Examples of good cause for delay/extensions include, but are not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

6.1.4 Range of Disciplinary Sanctions: Sanctions that may be required if an individual is found responsible for violating this Policy include, but are not limited to:

For Students:

- Reprimand
- Probation
- Suspension
- Persona non grata
- Expulsion/Dissolution
- Developmental sanctions
- Fines/fees/restitution
- Revocation of degree
- Withholding of degree
- Other sanctions determined to be appropriate under the circumstances

For Employees:

- Warning – Written
- Performance Improvement Plan
- Enhanced supervision, observation, or review
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Delay of tenure track progress
- Assignment to new supervisor
- Restriction of stipends, research, and/or professional development resources
- Suspension without pay
- Termination
- Other Actions: In addition to or in place of the above sanctions/responsive actions, OU may assign any other responsive actions as deemed appropriate.

6.1.5 Prohibition Against Bias or Conflict of Interest: The Title IX Coordinator, investigator, decisionmakers, or appellate decisionmaker must not have a bias for or against complainants or respondents generally or an individual complainant or respondent.

6.1.6 Privacy Protection: OU will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the grievance procedures, provided that the steps do not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses, consulting with their family members, confidential resources, or advisors; or otherwise prepare for or participating in the grievance procedures.

6.1.7 Objective Evaluation of Evidence: OU will conduct an objective evaluation of all evidence that is relevant and not otherwise impermissible, including both inculpatory

and exculpatory evidence. Credibility determinations must not be based on a person's status as a complainant, respondent, or witness.

Section 7: Grievance Procedures - Investigation

OU will conduct an investigation following a complaint and notice of allegations. Investigations involve interviews with all relevant parties and witnesses and obtaining relevant and not otherwise impermissible evidence. OU may contract an individual external to OU to perform the investigation.

Although in person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break, virtual campus) may require individuals to be interviewed remotely. Google Meet, WebEx, or similar technologies may be used for interviews if the investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing.

7.1 Notice of Investigations: Upon initiation of OU's grievance procedures, OU will provide notice of the allegations to the parties whose identities are known which includes:

1. OU's grievance procedures.
2. Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes:
 - i. The identities of the parties involved in the incident(s),
 - ii. The conduct alleged to constitute sex-based harassment under this Policy, and
3. A statement that retaliation is prohibited.
4. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, and an investigative report that accurately summarizes the evidence.
5. A statement that the respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures and that, prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to trained, impartial decisionmakers.
6. An offer of supportive measures during the grievance procedures or informal resolution process;
7. A statement that the parties may have an advisor of their choice to serve in the role set out in paragraph 7.6 of this section, and that the advisor may be, but is not required to be, an attorney.
8. A statement that OU prohibits knowingly making false statements and providing false information during the grievance procedures; and
9. Information about how to request disability accommodations during the grievance procedures.

7.1.1 Updating Notice of Allegations: If, in the course of an investigation, OU decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the notice of allegations or that are included in a complaint that is consolidated, OU will provide notice of the additional allegations to the parties whose identities are known.

7.1.2 Reasonable Delay of Notice of Allegations to Address Safety: If OU has reasonable concerns for the safety of any person as a result of providing this notice, OU may reasonably delay providing written notice of the allegations in order to address the safety concerns appropriately. Reasonable concerns will be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

7.2 Burden: OU will ensure that the burden is on OU—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex-based harassment occurred.

7.3. Witnesses and Evidence: OU will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible. OU has discretion to determine whether parties may present expert witnesses and will make that determination equally to the parties.

7.4 Unauthorized Access: OU will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex-based harassment are authorized.

7.5 Written Notice of Meetings: Parties and witnesses will be provided notice of any meeting, interview, and/or hearing when their presence is invited or expected with sufficient time to prepare to participate. This notice will include the date, time, location, participants, and purposes of the meeting or proceeding.

7.6 Advisor of Choice: Parties may be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The advisor's role is limited to assisting, advising, and/or supporting a complainant or respondent. An advisor is not permitted to speak for or on behalf of a complainant or respondent or appear in lieu of a complainant or respondent. OU may establish restrictions regarding the extent to which the advisor may participate in the grievance procedures, but the restrictions will apply equally to the parties. Each party is required to have an advisor at the live hearing. If a party does not have an advisor for purposes of the hearing, OU will appoint the party with an advisor without fee or charge. During the live hearing, the advisor is permitted to ask relevant and not otherwise impermissible questions and follow-up questions orally, directly, and in real time of participants, as set forth in section 9.1.4.

7.7 Expert Witnesses: OU has discretion to determine whether parties may present expert witnesses and will make that determination equally to the parties. OU will not use any medical experts that have an actual or apparent conflict of interest.

Section 8: Grievance Procedures - Review of Evidence

OU will provide an equal opportunity to the parties and their advisors to access the relevant and not otherwise impermissible evidence.

The parties will be provided a reasonable opportunity to respond to the evidence. Upon receipt of the evidence, the parties will have ten (10) business days to review and provide a written response to the evidence.

The opportunity to review and respond will occur prior to the live hearing.

Section 9: Grievance Procedures - Determination (Live Hearing)

9.1 Live Hearing: At the conclusion of the investigation and review of the evidence, OU will provide for a live hearing. The hearing may occur in person or virtually. OU will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decisionmakers and parties to simultaneously see and hear the other party or witness answering questions. Each party is required to have an advisor at the live hearing. If a party does not have an advisor for purposes of the hearing, OU will appoint the party with an advisor without fee or charge.

9.1.1 Recording of the Live Hearing: OU will create an audio or audiovisual recording of all live hearings (but not deliberations) and make the recording or a transcript of the hearing available to the parties for inspection or review. The parties may not record the hearing and no other unauthorized recordings are permitted.

9.1.2 Pre-Hearing Matters: In order to streamline the hearing process, the decisionmakers may request the submission of questions prior to the hearing through electronic submission and/or a pre-hearing conference.

- 1. Pre-Hearing Submission of Questions:** The Chair of the hearing panel may request the parties to submit questions, in writing, prior to the hearing. This submission does not preclude the advisor from asking additional questions live during the hearing. The decisionmakers may allow for the pre-hearing submission of questions regardless of whether a pre-hearing conference occurs.
- 2. Pre-Hearing Conference:** The Chair may hold a pre-hearing conference. During the pre-hearing conference, parties and their advisors may be asked to submit, in writing, any questions they wish to ask during the live hearing so that the decisionmakers can be prepared to respond to relevancy at the hearing. This

conference does not preclude the advisor from asking additional questions live during the hearing. At the pre-hearing conference, the Chair may also hear arguments regarding the relevance of the evidence identified as relevant or not relevant to the allegations.

9.1.3 Hearing Process and Phases: The live hearing will be conducted. OU may adopt rules of decorum for the hearing procedures. The live hearing will include the following phases:

1. **Notice of Hearing:** After the evidence has been provided to the parties, and at least three (3) business days prior to the date set for the hearing, the parties and their advisors will be provided with a notice of the hearing via email. The notice will include the date, time, location, name of the decisionmakers, names of all participants in the hearing, and the location of the hearing (in person or virtual).
 - i. If a party does not have an advisor, OU will provide an advisor for the purpose of advisor-conducted questioning. Nothing in this Policy prohibits OU from providing an advisor throughout the entirety of the grievance procedures.
2. **Hearing Panel Members (Decisionmakers):** The Title IX Coordinator will designate a three to five member hearing panel that will serve as the decision makers. The panel will be designated from a pool of trained decisionmakers. One of the members of the panel will be appointed as Chair and will be a voting member. OU may contract an individual external to OU to perform the role of Chair.
 - i. The parties will be given a list of the names of the panel at least five (5) business days prior to the date set for the hearing.
 - ii. If a party objects to any of the panel members, they must submit their objection in writing to the Title IX Coordinator as soon as possible, but no later than two (2) business days prior to the hearing. The written objection must detail the rationale for the objection. Hearing panel members will only be removed if the Title IX Coordinator concludes that they have a bias or conflict of interest that would preclude an impartial hearing of the allegations.
3. **Participants and Evidence in the Hearing:** Participants at the hearing include the decisionmakers, the investigator(s) who conducted the investigation, the parties, advisors to the parties, witnesses, and anyone providing authorized accommodations. In addition, OU may have a hearing facilitator present. Any witnesses scheduled to participate in the hearing must have been first interviewed by the investigator(s) or have provided a written statement or answered questions from the investigator in writing. Any evidence offered at the hearing must have been submitted to investigator(s) during the investigation. The Chair has the discretion to make exceptions to this rule depending on the facts and circumstances of each matter. The Chair will explain the rationale for any exceptions made. OU may proceed with the hearing even if the complainant and/or respondent elect not to participate in the hearing.
4. **Questioning of Hearing Participants (Parties and Witnesses):**

- i. By the Decisionmakers: The decisionmakers (hearing panel members) will ask initial relevant and not otherwise impermissible questions of the participants at the hearing.
- ii. By the Advisors: After the decisionmakers ask questions of a participant, each party's advisor will be permitted to ask relevant and not otherwise impermissible questions and follow-up questions orally, directly, and in real time of the participants. The Chair shall determine relevancy of questions. The parties are never permitted to ask questions of participants directly. The questioning of participants by advisors will be conducted in the following manner:
 - a. A question is asked by an advisor.
 - b. If the Chair determines that the question is not relevant or is impermissible, the Chair will instruct the participant not to answer the question and the Chair will explain their decision to exclude the question.
 - c. Advisors may not ask unclear or harassing questions. If the Chair determines that a question is unclear or harassing, the Chair will provide the advisor an opportunity to clarify or revise the question. If the advisor sufficiently clarifies the question or revises the question so that it is no longer harassing, the question may be asked.

The decisionmakers may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. However, the decisionmakers may not draw any inference about whether sex-based harassment occurred based solely on a party's or witness's absence from the hearing or refusal to answer questions.

5. Closing Statements: Each party will have the opportunity to present a closing statement to the decisionmakers.

9.2 Deliberation and Determination: At the conclusion of the hearing, the decisionmakers will deliberate in closed session to determine whether the respondent is responsible or not responsible for the alleged policy violation(s). A simple majority vote is required to determine the finding. The Chair will then prepare a written determination which will include:

1. A description of the alleged sex-based harassment;
2. Information about the policies and procedures that OU used to evaluate the allegations;

3. The decisionmakers' evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
4. If the decisionmakers find that sex-based harassment occurred, any disciplinary sanctions imposed on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided to the complainant, and, to the extent appropriate, other students identified to be experiencing the effects of the sex-based harassment; and
5. OU's procedures for the complainant and respondent to appeal.

The Chair will provide the written determination to the Title IX Coordinator within ten (10) business days of the end of deliberations. Within three (3) business days of receiving the written determination, the Title IX Coordinator will simultaneously notify the parties in writing of the determination whether sex-based harassment occurred.

9.2.1 Remedies and Disciplinary Sanctions: If there is a determination that sex-based harassment occurred, as appropriate, the decisionmakers shall also determine any disciplinary sanctions. In determining disciplinary sanctions, the decisionmakers may consult with the Title IX Coordinator, Human Resources, the Dean of Students, or any other necessary OU individual or office. Disciplinary sanctions will be imposed in accordance with applicable collective bargaining agreements, employment contracts, or employment policy, if any.

If the complainant is a student, and upon a finding of responsibility, the Dean of Students or his/her designee will determine any remedies for the complainant and other persons identified as having had equal access to OU's education program or activity limited or denied by sex-based harassment. If the complainant is an employee, and upon a finding of responsibility, the Vice President for Human Resources or his/her designee will determine and implement any remedies for the complainant and any other persons identified as having had equal access to OU's education program or activity limited or denied by sex-based harassment.

The Title IX Coordinator or their designee will coordinate the imposition of any disciplinary sanctions and the implementation of any remedies and will take other appropriate prompt and effective steps to ensure that sex-based harassment does not continue or recur.

9.2.2 Finality of Determination: The determination regarding responsibility becomes final either on the date OU provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

9.2.3 Discipline Outside of Grievance Procedures: OU will not impose discipline on a respondent for sex-based harassment prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex-based harassment.

OU will not discipline a party, witness, or others participating in OU's grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex-based harassment occurred.

Section 10: Appeals

Appeals are offered to both parties equitably to challenge the determination as to whether sex-based harassment occurred and the dismissal of a complaint and/or any allegation therein. Appeals must be filed within five (5) business days of the dismissal or determination.

10.1 Bases for Appeal: Appeals may be made on the following bases:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and
3. The Title IX Coordinator, investigator, or one or more of the decisionmakers 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.

10.2 Content of Appeal: The appeal must state the grounds for the appeal and the disposition the party seeks as a result of the appeal. If the appeal is based on a procedural irregularity, the appeal should specify in detail what the procedural irregularity was and how it changed the outcome. If the appeal is based on new evidence, the appeal should specify in detail what the new evidence is, how it affects the matter, and why it was not presented during the investigation or at the hearing. The new evidence should also be included with the appeal. If the appeal is based on a conflict of interest or bias, examples of objective conflict or bias must be presented with an explanation of how it affected the outcome.

10.3 Process when an Appeal is Filed: If a dismissal or determination is appealed, OU will:

1. Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
2. Implement appeal procedures equally for the parties;
3. Ensure that the appellate decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal or determination of the complaint;
4. Ensure that the appellate decisionmaker has been trained;
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. Strive to notify the parties in writing of the result of the appeal and the rationale for the result within twenty-five (25) business days of receipt of the appeal.

OU may contract an individual external to OU to perform the role of appellate decisionmaker; otherwise, OU's Vice Senior Vice President for Student Affairs or his/her successor will perform the role of decisionmaker if the respondent is a student and the Vice President for Human Resources will perform the role of decisionmaker if the respondent is an employee.

10.4 Appeal Outcomes: On appeal, the decision maker may: (i) uphold the decision; (ii) reverse the decision; and/or (iii) remand the matter for additional investigation, a new or additional hearing and/or additional proceedings.

Section 11: Informal Resolution

At any time prior to determining whether sex-based harassment occurred, the parties may agree, with the support of the Title IX Coordinator, to participate in an informal resolution process facilitated by OU, that does not involve the grievance procedures.

OU will not require or pressure the parties to participate in an informal resolution process and will not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment, continuing enrollment, employment, continuing employment, or exercise of any other right.

The facilitator for the informal resolution process will not be the same person as the investigator or any of the decisionmakers in the grievance procedures.

Types of informal resolution include, but are not limited to, mediation, facilitated dialogue, conflict coaching, restorative justice, and resolution by agreement of the parties.

11.1 Discretion of Title IX Coordinator: The Title IX Coordinator has discretion to determine whether it is appropriate to offer an informal resolution and may decline to offer informal resolution despite one or more of the party's wishes. When determining whether to offer informal resolution, the Title IX Coordinator will consider whether the alleged conduct presents a future risk of harm to others.

11.2 Informal Resolution Notice: Prior to the initiation of the informal resolution process, OU will provide the parties written notice that explains:

1. The allegations;
2. The requirements of the informal resolution process;
3. Notice that, prior to agreement to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the grievance procedures;
4. Notice that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;

5. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
6. What information OU will maintain and whether and how OU could disclose such information for use in grievance procedures if the grievance procedures are initiated or resumed.

11.3 Potential Informal Resolution Terms: Potential terms that may be included in an informal resolution agreement include but are not limited to:

1. Restrictions on contact; and
2. Restrictions on respondent's participation in one or more of OU's programs or activities or attendance at specific events, including restrictions OU could have imposed as remedies or disciplinary sanctions had the decisionmakers determined at the conclusion of the grievance procedures that sex-based harassment occurred.

Section 12: Emergency Removal and Administrative Leave

12.1 Emergency Removal: At any time after the Title IX Coordinator is on notice of sex-based harassment, OU may remove a respondent on an emergency basis. OU will only conduct an emergency removal after:

1. Undertaking an individualized safety and risk analysis,
2. Determining that an immediate and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex-based harassment justifies removal, and
3. Providing the respondent with notice and an opportunity to challenge the decision to the Title IX Coordinator, immediately following removal.

12.2 Administrative Leave: OU may place an employee respondent on administrative leave during the pendency of the grievance procedures in this Policy.

Section 13: Recordkeeping

The following records will be maintained by OU for at least seven (7) years:

1. Records documenting the informal resolution process or grievance procedures for each complaint of sex-based harassment including the resulting outcome.
2. Records documenting the actions OU took to provide supportive measures and remedies and a fair and equitable response under this Policy and Title IX.
3. Training materials used to provide training to all employees, the Title IX Coordinator, designees, investigators, decisionmakers, informal resolution

facilitators, appellate decisionmakers, and supportive measures review administrators.

[1] For all other allegations of sex discrimination involving students, the Policy Prohibiting Sex Discrimination applies.

[2] When all parties to a sex-based harassment allegation are employees, and/or non-employees who are participating in an OU education program or activity, the Policy Prohibiting Sex Discrimination applies. For all other allegations of sex discrimination involving employees and/or non-employees who are participating in an OU education program or activity, the Policy Prohibiting Sex Discrimination applies.

[3] Rape as defined in the uniform crime reporting system (UCR) includes:
Forcible Rape: The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault with an Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

[4] Fondling is referred to as Forcible Fondling in the UCR.