



**UW-Madison Policy on Sexual Harassment and Sexual Violence**

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<b>Functional Owner</b>	Title IX Coordinator
<b>Executive Sponsor</b>	Provost, Vice Chancellor for Legal Affairs, Vice Chancellor for Student Affairs, Office of Compliance
<b>Policy Contact</b>	Title IX Coordinator

**I. Purpose of Policy**

The mission of the University of Wisconsin-Madison (University) is to provide a teaching, learning and working environment in which faculty, staff, students, and guests can discover, examine critically, preserve, and transmit knowledge, wisdom, and values that will improve the quality of life for all. To promote the institutional mission, the University is committed to creating and maintaining a campus community that is free from sexual harassment and sexual violence.

**II. Policy Statement**

This policy prohibits acts of sexual harassment and sexual violence (including sexual assault, dating violence, domestic violence, stalking, and sexual exploitation) in all programs and activities of the University. Individuals who engage in such acts, hereafter referred to collectively as sexual harassment and sexual violence, are in violation of this policy and are subject to disciplinary action. This policy also prohibits retaliation against individuals who report sexual harassment or sexual violence, who assist others in reporting, or who participate in University proceedings related to such a report. Individuals who engage in retaliation are subject to disciplinary action.

The University will provide appropriate education about sexual harassment and sexual violence and this policy. All participants in University programs and activities are responsible for helping to ensure that our campus community is kept free of sexual harassment and sexual violence by refraining from engaging in such conduct, completing required training, and complying with reporting requirements when they become aware of sexual harassment or sexual violence.

Individuals who are subjected to acts of sexual harassment or sexual violence in violation of this policy are encouraged to report these incidents. All complaints will be treated seriously and investigated fully using a trauma-informed approach. Individuals who experience sexual harassment and sexual violence will have access to appropriate resources regardless of their decision to report.

**III. Scope of Policy**

This policy applies to:

- A. University sponsored or supported activities held both on and off campus, including those held

in other municipalities, states, and nations.

**B.** All students while they are on campus or if their off-campus conduct meets any of the following criteria (UWS Chapter 17.02(14) and 17.08):

1. The conduct constitutes or would constitute a serious criminal offense, regardless of the existence of any criminal proceedings;
2. The conduct indicates that the student presented or may present a danger or threat to the health or safety of self or others; or
3. The conduct demonstrates a pattern of behavior that seriously impairs the University's ability to fulfill its teaching, research, or public service missions.

**C.** All other members of the University community (including, but not limited to: employees, volunteers, visitors, guests, contractors, and third-party vendors) while they are on campus or engaged in University sponsored or supported activities.

#### **IV. Definitions**

For a list of definitions of terms used in this policy, see Appendix A.

#### **V. Conduct Prohibited by this Policy:**

The conduct listed below is prohibited by this policy.

**A. Sexual Harassment.** Conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the institution conditions the provision of an aid, benefit, or service of the institution directly or indirectly on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in a program or activity of the university that, when using the legal "reasonable person" standard:
  - a) Is so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the institution's education program or activity; or
  - b) Is so severe or pervasive and objectively offensive that it has the purpose or effect of unreasonably interfering with an individual's academic or work performance or participation in an university sponsored or supported activity, or creates an intimidating, hostile, or offensive academic, working, or program or activity related environment.

**B. Sexual Assault.** An offense that meets the definition of rape, fondling, incest, or statutory rape as defined below.

1. Rape: 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 the complainant, without the consent of the complainant.
2. Fondling: The touching of the private body parts of the complainant for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
3. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law (See s. 944.06, Stats.)
4. Statutory Rape: Sexual intercourse with a complainant who is under the statutory age of consent (See s. 948.02, Stats.)

**C. Dating Violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant; and where the existence of such a

relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

- D. Domestic Violence.** Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Wisconsin, or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of Wisconsin. (See ss. 813.12(1)(ag) and 968.075).
- E. Stalking.** Engaging in a course of conduct directed at the complainant that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.
- F. Sexual Exploitation.** Occurs when an individual attempts, takes, or threatens to take nonconsensual sexual advantage of the complainant. Examples include, but are not limited to:
1. Without the knowledge and consent of all participants:
    - a) observing, recording, or photographing private body parts or sexual activity of complainant;
    - b) allowing another person to observe, record, or photograph sexual activity or private body parts of complainant; or
    - c) otherwise distributing recordings, photographs, or other images of the same of complainant;
  2. Masturbating, touching one's genitals, or exposing one's genitals in complainant's presence without the consent of complainant, or inducing another person to do the same.
  3. Dishonesty or deception regarding the use of contraceptives or condoms during the course of sexual contact or sexual intercourse;
  4. Inducing incapacitation through deception for the purpose of making complainant vulnerable to non-consensual sexual activity;
  5. Coercing complainant to engage in sexual activity for money or anything of value;
  6. Threatening distribution of the following, to coerce complainant into sexual activity or providing money or anything of value:
    - a) Photos, videos, or recordings depicting private body parts or sexual activity of complainant, or
    - b) Other information of a sexual nature (for example, may include but is not limited to, sexual history or sexual orientation).
- G. Retaliation.** Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured in this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.
- H. Providing false information to a reporting or investigatory office.** Any person who makes intentionally false statements or provides intentionally false information when reporting a violation of this policy or during the course of any disciplinary or investigatory proceeding pursuant to this policy is subject to disciplinary action. The fact that a complaint of sexual harassment or sexual violence did not result in a finding of wrongdoing in a law enforcement or University disciplinary proceeding will not, by itself, be a basis for determining that this provision has been violated.
- I. Refusal to comply with a reasonable request on a University matter related to this policy.** Examples include failure to respond to requests for meetings, or failure to comply with a letter of expectations, No Contact Order, or campus exclusion.

## VI. **Resources**

### A. **Confidential Resources for those who have experienced sexual harassment or sexual violence**

Anyone who has been subjected to sexual harassment or sexual violence can access available confidential resources for assistance and support including medical care, mental health counseling, victim advocacy, and consultation regarding supportive and protective measures. These resources are available regardless of whether the person chooses to report the violation to the University, law enforcement, or any other agency. For a list of confidential resources available on campus and in the community, see Appendix B.

### B. **Resources for all members of the University community impacted by sexual harassment or sexual violence**

In addition to the resources above, anyone impacted by sexual harassment or sexual violence on campus or who become involved in the University investigatory or disciplinary process – including complainants, respondents, and witnesses – has access to confidential and non-confidential campus resources available to assist. Students may contact the Dean of Students Office or the Title IX Coordinator to learn more about the process, including their rights and obligations. Students may also contact University Health Services (UHS) for confidential medical or mental health services. Employees may also contact the Title IX Coordinator for process information, as well as the Employee Assistance Office for confidential services. To read more about the roles of these individual resources, see section IX of this policy, Role and Duties of University Offices, Employees, and Organizations.

## VII. **Reporting Options**

Anyone who has been subjected to sexual harassment or sexual violence or any other violation of this policy has options for reporting the violation, including the option not to report. For those who choose to report, the following offices are available to receive reports alleging violations of this policy:

### A. **Title IX Coordinator:** The Title IX Coordinator is available to receive any reports alleging violations of this policy.

Lauren Hasselbacher, 354 Bascom Hall  
(608) 890-3788  
[titleix\\_coordinator@wisc.edu](mailto:titleix_coordinator@wisc.edu)  
[compliance.wisc.edu/titleix/](http://compliance.wisc.edu/titleix/)

### B. **Dean of Students Office:** The Dean of Students Office is available to receive reports alleging violations of this policy by students.

Dean of Students Office, 70 Bascom Hall  
(608) 263-5700  
[dean@studentlife.wisc.edu](mailto:dean@studentlife.wisc.edu)  
[students.wisc.edu/doso/](http://students.wisc.edu/doso/)

**C. Office of Workforce Relations:** The Office of Workforce Relations is available to receive reports alleging violations of this policy by employees.

Workforce Relations Office of Human Resources, 21 N. Park Street, Suite 5101  
608-265-2257  
[wr@ohr.wisc.edu](mailto:wr@ohr.wisc.edu)  
[www.ohr.wisc.edu/workforce/](http://www.ohr.wisc.edu/workforce/)

In addition to constituting violations of this policy, acts of sexual harassment and sexual violence might also constitute criminal conduct that violates Wisconsin statutes. Regardless of whether these acts are reported to the University, anyone who has been subjected to sexual harassment or sexual violence that is also criminal conduct has the option of reporting to law enforcement. The following law enforcement agencies are available to receive reports:

**D. University of Wisconsin-Madison Police Department (for on-campus incidents)**

1429 Monroe Street  
(608) 264-2677 or 911 [UWPD](#)

For incidents that occurred off-campus, outside of the City of Madison, the University of Wisconsin-Madison Police Department can help identify the relevant law enforcement agency to receive a report.

**E. Madison Police Department (for off-campus incidents in the City of Madison)**

211 S. Carroll Street (608) 261-9694 or 911 [MPD](#)

Violations of Title IX may be reported directly to the [U.S. Department of Education, Office for Civil Rights \(OCR\)](#). A person **does not** have to utilize the University's procedures for addressing sexual harassment and sexual violence before filing with OCR.

**F. Office for Civil Rights, Chicago Office**

U.S. Department of Education  
John C. Kluczynski Federal Building  
230 S. Dearborn Street, 37th Floor  
Chicago, IL 60604  
Telephone: (312) 730-1560  
Facsimile: (312) 730-1576  
[Email: OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

**VIII. Investigatory and Disciplinary Procedures**

Investigations regarding alleged violations of this policy will be conducted using applicable University investigatory or disciplinary procedures. The disciplinary procedures that will be used are based primarily on the relationship of the respondent with the University.

Additionally, certain policy violations, based on the specific facts and circumstances, will also be considered "Title IX misconduct" (as defined in Appendix A) and will require specific procedures as detailed either in the applicable chapter of the University of Wisconsin Administrative Code listed below (for students, faculty, and academic staff), or as detailed in Appendix C of this policy for all other employees.

- A. When the respondent is a *student*, the University will use the investigatory and disciplinary procedures set forth in Chapter 17 of the University of Wisconsin Administrative Code (UWS).
- B. When the respondent is a *faculty member*, the University will use the investigatory and disciplinary procedures set forth in Chapters 4 and 6 of the UWS and Chapter 9 of the University's Faculty Policies and Procedures when not inconsistent with UWS Chapters 4 and 6.
- C. When the respondent is a *member of the academic staff* who has passed their initial evaluation period, the University will use the investigatory and disciplinary procedures set forth in Chapter 11 and 13 of the UWS and in Chapter 6 and Chapter 9 of the University's Academic Staff Policies and Procedures when not inconsistent with UWS Chapters 11 and 13.
- D. When the respondent is a *member of the University staff* who has passed their initial evaluation period, the University will use the investigatory and disciplinary procedures set forth in the Corrective Progressive Discipline for University Staff policy (CPP 18.01), except that when Title IX misconduct is involved, the procedure outlined in Appendix C will apply.
- E. When the respondent is a *limited appointee or an academic staff member or University staff member in their initial evaluation period (i.e., probationary period)*, temporary employee, project employee, or any other at-will employee the respondent's supervisor, in consultation with the Title IX Coordinator and, if appropriate, the employing unit's human resources staff and/or the central campus Office of Human Resources staff will determine the appropriate course of action. When Title IX misconduct is involved, the procedure outlined in Appendix C will apply.
- F. When the respondent is a *student employee, graduate assistant, or employee in training (i.e., student hourly, teaching assistant, research assistant, project assistant, resident, post doc, or fellow)* and is alleged to have engaged in the misconduct in their role as an employee, the respondent's supervisor in consultation with the Title IX Coordinator and, if appropriate, the employing unit's human resources staff and/or the central campus Office of Human Resources staff, will determine the appropriate course of action. When Title IX misconduct is involved, the procedure outlined in Appendix C will apply.
- G. A complainant can also request that the Office of Compliance conduct an investigation if the respondent is a participant in the University's programs or activities who does not fall into any of the above categories. The Office of Compliance will investigate the alleged policy violation using its established complaint procedures. The Office of Compliance may also address the allegations using alternative resolutions.

When the respondent falls into more than one of the categories described in this section, multiple procedures may be utilized to determine appropriate disciplinary outcomes for each of the respondent's statuses. For example, if a respondent is both a student and an academic staff member, the University will follow UWS Chapter 17 to assess whether to impose discipline on the respondent's student status and the University will follow Chapter 11 or 13 of the UWS to assess whether to impose discipline on the respondent's academic staff status.

## **IX. Rights**

### **A. Supportive and Protective Measures**

1. Regardless of whether an incident of sexual harassment or sexual violence is reported to the University for the purpose of initiating a disciplinary proceeding, the University will work with individuals who experience sexual harassment and/or sexual violence to undertake appropriate measures to promote their safety and wellbeing. These may include, but are not limited to, no-contact directives, academic or work modifications, and adjustments to living spaces for those who live in a

campus-operated facility, or to working spaces for employees of the University.

2. The University will maintain as confidential any supportive or protective measures provided as required or authorized by law and to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive or protective measures. (No-contact directives are not confidential, as they must be communicated to the respondent in order to be effective.)

## **B. Amnesty**

Individuals, including complainants, respondents, and witnesses, who have made a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing regarding incidents of sexual harassment or sexual violence generally will not be issued citations by campus law enforcement or subject to disciplinary sanctions for alcohol violations arising out of the same facts and circumstances of the alleged incident unless the institution determines that the violation was egregious, and/or placed the health or safety of any person at risk, and was beyond the amnesty provided by state law. [See also: Wisconsin Sexual Assault Victim Amnesty Law]

## **C. Confidentiality**

1. Complainants seeking a confidential consultation about protective measures or options for reporting to the University or law enforcement may contact one or more of the confidential resources listed in Appendix B to this policy.
2. Persons who report to any of the individuals or offices mentioned in Section VII of this policy or to any other non-confidential University employee cannot be assured the information they report will remain completely confidential due to the reporting requirements described in Section XI of this policy.
3. Information provided in a non-confidential report or any investigatory or disciplinary proceeding will be maintained in a secure manner. If a University investigatory or disciplinary process is initiated, the respondent will be informed of the identity of the complainant and the nature of the allegations.
4. The University may be required to release records pursuant to the Wisconsin Public Records law, subpoenas, governmental investigations, or other legal process. When responding to requests pursuant to the Wisconsin Public Records law, the University will redact personally identifiable information about complainants. Records containing personally identifiable information about students will only be disclosed to the extent permissible by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (FERPA).

## **D. Prompt and Equitable Resolution**

The offices and University officials responding to a report of sexual harassment or sexual violence pursuant to this policy will endeavor to resolve the matter in a prompt and equitable manner in accordance with the applicable procedures, taking into consideration the nature and complexity of the report and procedural due process requirements. The complainant and the respondent will be advised of any delays that occur during the process. Best efforts will be made for the university to complete an investigation and issue a final investigative report within ninety (90) calendar days. The ninety (90) calendar-day timeframe and any other disciplinary procedure timeframes referenced in the Wisconsin Administrative Code or Appendix C below related to conclusion of the grievance process and related appeals may be extended for good cause. Good cause for a temporary delay of the process or limited extension of time frames may include, but is not limited to, considerations such as the absence of a party, a party's advisor, or

a witness; concurrent law enforcement activity<sup>1</sup>; or the need for language assistance or accommodation of disabilities. The complainant and the respondent will be notified in writing of an extension for good cause.

#### **E. Potential Sanctions**

The procedures identified above provide for disciplinary action against anyone found responsible for violating this policy. The nature of the disciplinary action will be based on the preponderance of the evidence uncovered during the investigatory process and will take into account several factors, including the nature and severity of the incident, the sanctions available pursuant to the Disciplinary Procedures outlined in Section VIII above, and any past disciplinary history of the respondent. For students, sanctions may include, but are not limited to, restrictions on a course or program, probation, suspension, or expulsion. (Chapter UWS 17.10 provides a more comprehensive list of potential sanctions against students.) For employees, sanctions may range from a written warning to dismissal from employment. For program participants, sanctions may include restrictions upon participation in or exclusion from the program. For visitors to campus, sanctions may include a ban from portions or all of campus.

#### **F. Notice of Outcome**

Both the complainant and the respondent will be provided with written notice of the outcome of each stage of the applicable disciplinary process and of the final resolution of the investigation and recommended sanction.

### **X. Role and Duties of University Offices, Employees, and Organizations**

#### **A. Title IX Coordinator**

The duties of the UW-Madison Title IX Coordinator are described in the institutional position description. The duties include: receiving reports of sexual harassment and sexual violence; maintaining appropriate records; providing or supporting the provision of appropriate education and training; maintaining ongoing communication with any Deputy Title IX Coordinators and relevant University committees; ensuring that applicable policies, resources, and other information are up-to-date and properly disseminated; and as appropriate, investigating allegations of sexual harassment and sexual violence, in which the Title IX Coordinator will be guided by principles of trauma-informed care and impartiality.

#### **B. Title IX Deputies**

The Title IX Coordinator has designated several Title IX Deputies to assist the work of the Coordinator described above. These staff are trained on this policy, relevant procedures, reporting requirements, and can provide information and answer questions for their relevant campus community.

#### **C. Campus Advisory Group on Sexual Assault and Misconduct (CAGSAM)**

CAGSAM provides overarching leadership on campus efforts to prevent and respond to sexual assault and sexual violence (including, but not limited to: sexual harassment, dating and domestic violence, stalking, and sexual exploitation). The group advises senior campus leaders and ensures the coordination of campus prevention, policies, response, assessment, and accountability measures.



#### **D. University Health Services (UHS)**

UHS provides comprehensive services aimed at preventing violence *before* it happens and helping address the needs of student victims of sexual harassment, sexual assault, dating violence, domestic violence, stalking or sexual exploitation *after* it happens. UHS provides medical care, mental health counseling, victim advocacy, and campus-wide prevention and education. UHS is responsible for providing and ensuring compliance with all required student trainings as well as a range of education and prevention efforts. UHS provides consultation and technical assistance throughout campus on violence prevention and education.

#### **E. Dean of Students Office (DoSO)**

DoSO, a department in the Division of Student Life, is a place where students can report sexual harassment and sexual violence. DoSO is available to support students affected by these forms of violence by referring students to resources, helping them request supportive measures, and supporting them throughout relevant disciplinary or criminal processes (if applicable).

#### **F. The Office of Student Conduct and Community Standards (OSCCS)**

OSCCS, another department in the Division of Student Life, participates in the adjudication of sexual harassment and sexual violence allegations involving student respondents, including enforcement of any appropriate sanctions..

#### **G. Office of Human Resources (OHR)**

The Office of Human Resources provides programmatic and consultative HR services to the UW-Madison community, which includes developing and assisting with strategies to attract, develop, engage, and retain the faculty and staff needed for the campus to excel as a leading research and teaching institution. As part of its mission, OHR is a resource to support and provide guidance on effective methods to prevent sexual harassment and sexual violence. OHR's responsibility also includes consulting with and advising colleges, schools, and divisions on appropriate action steps when a violation of this policy involves an employee or otherwise impacts the workplace.

#### **H. Employee Assistance Office (EAO) and LifeMatters**

The EAO provides timely assistance to faculty and staff, and their family members or significant others as they work through life changes; chronic physical or emotional health issues; and work/life balance concerns. This service is provided free of charge and is completely confidential. Some of the services provided include: problem consultation/assessment, information about community resources, educational programs, and individual referrals.

Along with EAO, LifeMatters provides a wide variety of resources including training, financial and legal consultation, time-saving searches, one to five sessions with a counselor for personal or work-related issues, and management consultation regarding workplace concerns. Appointments with LifeMatters counselors are available in-person, via chat, text, or video.

#### **I. Office of Compliance (OC)**

OC staff investigate formal allegations of sex discrimination, including sexual harassment and sexual violence covered by this policy. The OC also supports training and policy development in matters related to sexual harassment and sexual violence.

#### **J. University Police Department, Clery Program**

The University of Wisconsin-Madison Police Department (UWPD) is responsible for coordinating Clery Act compliance for UW-Madison. In collaboration with other campus units, UWPD's Clery

Program Director and Assistant Director have the following responsibilities: collecting crime data and information, compiling the Annual Security Report and Annual Fire Safety Report, publishing the daily Clery Crime and Fire Log, coordinating identification and training of UW-Madison's Campus Security Authorities, and providing guidance for the issuance of timely warnings and emergency notifications. UWPD also manages the two Clery Act committees at UW-Madison: the Clery Act Leadership Committee, which is chaired by the Chief of Police, and the Clery Act Working Committee, which is chaired by the Clery Program Director.

## **K. Schools, Colleges, and Divisions**

School, college, and divisional leadership have responsibility for supporting the implementation of this policy throughout their unit. This includes identifying individuals with reporting responsibilities, promoting and facilitating required campus training, referring employees and students to on- and off-campus resources as appropriate, and cooperating with campus investigations.

## **XI. Reporting Responsibilities**

### **A. Responsible Employees (applies to all forms of sexual harassment and sexual violence)**

Responsible Employees have a duty to report to the Title IX Coordinator any information they receive that suggests a violation of this policy has occurred or is occurring; this report includes identifying information of known complainants and respondents. Responsible Employees are not allowed to keep confidential information reported to them suggesting such a violation has occurred or is occurring. These employees are required to:

1. Be familiar with the definitions of sexual harassment and sexual violence;
2. Be familiar with this and other related policies;
3. Be familiar with confidential and other resources on campus and in the community to which to refer a reporting individual;
4. Be familiar with the duty to report information they receive about potential acts of sexual harassment or sexual violence to the Title IX Coordinator and be prepared to explain this duty to anyone who is considering reporting such information to them.

Please see Appendix A for a definition of individuals considered to be Responsible Employees.

### **B. Officials with Authority**

“Officials with Authority,” under this policy are employees who have the authority to institute corrective measures on behalf of the university. All Officials with Authority are also Responsible Employees.

Please see Appendix A for a definition of individuals considered to be Officials with Authority.

### **C. Campus Security Authorities (CSAs) (applies to certain campus crimes, including all forms of sexual violence)**

Campus Security Authorities are responsible for reporting to the University Clery Program certain campus crimes that are reported to them, including all forms of sexual violence. CSAs are not allowed to keep information reported to them suggesting a campus crime has occurred confidential. CSAs are trained annually to identify which crimes they are responsible for reporting and how to report those crimes to the Clery Program.

Please see Appendix A for a definition of individuals considered to be Campus Security Authorities.

## D. All Employees

All UW-Madison employees, regardless of whether they are a Responsible Employee, Official with Authority, or Campus Security Authority, are required to comply with the following reporting obligations.

### 1. **Wisconsin Statute § 36.11(22)(c)** (applies to sexual assault)

Any University employee who witnesses an act of sexual assault, or who receives a first-hand report of sexual assault from an enrolled student, must report that information to the Title IX Coordinator in the Office of Compliance. The Title IX Coordinator shall compile reports for the purpose of disseminating statistical information. Confidential employees, as defined in this policy, are only required to report the occurrence of the sexual assault without any personally identifying information or details about the individuals involved.

### 2. **Executive Order #54** (applies to child abuse and neglect)

Executive Order #54 (EO 54) requires any University employee (other than employees who are mandatory reporters covered by Wis. Stats. § 48.981(2)(a)) to make a report of child abuse (including sexual abuse) or neglect immediately if, in the course of employment, the employee observes or learns of an incident or threat of child abuse or neglect, and the employee has reasonable cause to believe that child abuse or neglect has occurred or will occur. A report is required regardless of where the incident or threat of child abuse or neglect occurred (i.e., reporting is required if the abuse occurs on campus or in the child's home). The report must be made to the University of Wisconsin-Madison Police Department, Dane County Child Protective Services (CPS), or the jurisdiction in which the child abuse or neglect is reported to have occurred.

If the incident or threat of child abuse or neglect involves an allegation against a University employee or agent (e.g. student, volunteer, etc.), or the incident or threat of child abuse or neglect occurred on campus or during a University sponsored activity, *in addition to notifying law enforcement or CPS*, the reporter must also notify the UW-Madison Office of Youth Protection and Compliance.

The UW-Madison Policy on Mandatory Reporting of Child Abuse and Neglect can be accessed [here](#).

## XII. **Education and Training**

### A. **Campus Training Requirements**

All students and employees will be required to complete the campus-supported training addressing issues of sexual harassment and sexual violence. More in-depth training will be provided and required for employees identified as: Responsible Employees, Officials with Authority, Campus Security Authorities under the Clery Act, as well as any other employees who have direct responsibilities related to the coordination and enforcement of this policy.

Offices and committees with training and education responsibilities include:

- Students: University Health Services
- Employees: Office of Human Resources, Office of Compliance
- Responsible Employees: Title IX Coordinator
- Campus Security Authorities: Clery Program Director
- EO54: Office for Youth Protection and Compliance

CAGSAM advises campus offices on their training and educational programs related to this policy.

## **B. Consequences for non-compliance with training requirements:**

**Employees:** All employees, regardless of classification, must complete the campus-supported training for employees related to this policy. If a faculty or staff member does not complete the training, supervisors will document the deficiency (e.g., during performance management evaluation). The faculty or staff member will not be eligible for general wage adjustments (GWA) or performance pay increases that require satisfactory performance if the deficiency remains. Supervisors are also accountable for ensuring employees whom they supervise complete the training. If an employee has not completed the training, their immediate supervisor will also not be eligible for GWAs or performance pay increases that require satisfactory performance, unless the supervisor can demonstrate that they have made repeated efforts to obtain the employee's compliance without success. Supervisors must allow employees adequate time to complete the training during normal work hours.

**Students:** Students who fail to complete the campus-supported training for students related to this policy will have a hold placed on their registration and will not be allowed to register for classes in subsequent semesters until the training requirement has been completed.

## **XIII. Record Keeping and Data Collection**

The Title IX Coordinator will track compliance with mandatory sexual harassment and sexual violence training programs, and maintain a list of training and education offered on campus. University Health Services will collect and maintain data regarding mandatory student training. The Office of Human Resources and the Office of Compliance will collect and maintain data regarding mandatory employee training.

The institution will post a link to all training materials for Title IX Personnel (including the Title IX Coordinator, any investigator, any decision-maker, and any person who facilitates an informal resolution), whether developed internally or purchased externally, on their website for public viewing. All materials used to train Title IX Personnel will be maintained for at least seven (7) years.

The Title IX Coordinator will maintain records of reports and resolutions of sexual harassment and sexual violence consistent with the institutional records-retention policy and federal law, for a minimum of seven (7) years.

The University's Clery Program Director, or other appropriate office, will collect appropriate data and information and compile the Annual Security Report and Annual Fire Safety Report, consistent with the federal Clery Act. The Clery Program Director will also collect and maintain data regarding annual CSA training.

The Office of Compliance or other appropriate office, will collect appropriate data and compile the state report required under § 36.11(22)(c), Wis. Stats.

## **XIV. Assessment**

The University will conduct periodic studies that seek to gather data and information concerning sexual harassment and sexual violence covered by this policy. Efforts will be made to conduct such studies with sufficient frequency to determine trends in incidence and prevalence on campus and evaluate the effectiveness of prevention and intervention programs. At a minimum, such studies will be conducted every three years. The University will also work to design methods for effectively evaluating the

outcomes of campus training and educational programming. It is imperative that the University proactively integrate empirically informed assessment and evaluations into sexual harassment and sexual violence prevention and awareness programs to measure whether they are achieving the intended outcomes.

**XV. Related Policies and Guidance**

[Discrimination, Harassment and Retaliation Policy](#)

[Safe Learning and Work Environments—Reporting Requirements and Resources](#)

[Consensual Relationships Policy](#)

[University of Wisconsin-Madison Precollege & Youth Program Policy](#)

**XVI. Link to Current Policy**

## Appendix A – Definitions

**Advisor.** An individual who assists a complainant or respondent in any investigation, grievance, or disciplinary proceeding or related meetings. This individual may or may not be an attorney.

**Campus Professional Counselor.** Any employee or student who is a licensed medical or mental health professional, working under the supervision of such a professional, or providing administrative support services in a confidential setting, when acting in that role in the provision of clinical services to a patient or client who is a University student or employee. A Campus Professional Counselor will not report specific information concerning a disclosure of sexual harassment or sexual violence received by the Campus Professional Counselor in their professional capacity unless with the consent of the disclosing individual or unless required by the Campus Professional Counselor’s license or by law. See Appendix B of this policy for a list of Confidential Resources.

**Campus Security Authority.** Campus Security Authority (CSA) is a *Clery Act* specific term that encompasses four groups of individuals and organizations associated with an institution:

- A. All personnel who work for a campus police department or campus security department of an institution.
- B. Any individual(s) who have responsibility for campus security but who do not constitute a campus police or security department. This includes, but is not limited to, people who provide security services such as monitoring access to campus facilities, act as event security for events such as sports or large, registered parties, or escort students around campus after dark.
- C. Any individual or organization specified in an institution’s statement of campus security policy as an individual or organization to which students and employees should report crimes. At UW-Madison, the following offices are designated to receive crime reports on behalf of the institution: University of Wisconsin Police Department, the Dean of Students Office, the Title IX Coordinator in the Office of Compliance, the Office of Workforce Relations.
- D. An official of the institution with significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings. [See 34 C.F.R. 668.46(a)]

**Clear and Convincing Evidence.** Information that would persuade a reasonable person to have a firm belief that a proposition is more likely true than not true. It is a higher standard of proof than “preponderance of the evidence.” See, e.g., Sections UWS 17.02(2), UWS 11.015(1), UWS 4.015(1), and UWS 7.015(1), Wis. Admin. Code.]

**Complainant.** Any individual who is alleged to be the subject of sexual harassment or sexual violence as defined in this policy.

**Confidential Resources.** As used in this policy, Confidential Resources collectively refers to Campus Professional Counselors, Non-Campus Professional Counselors, Ombuds, and Victim Advocates. See Appendix B of this policy for a list of Confidential Resources.

**Consent.** Words or overt actions by a person who is competent to give informed consent, indicating a freely given agreement to engage in sexual activity or other activity referenced in the definitions of sexual assault and sexual exploitation. A person is unable to give consent if the person is incapacitated because of drugs, alcohol, physical or intellectual disability, or unconsciousness.

**Education Program or Activity.** For purposes of Title IX misconduct only, locations, events, or circumstances at which the university exercised substantial control over both the respondent and the context in which the sexual harassment, sexual assault, dating violence, domestic violence, or stalking occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the university.

**Employee.** Any individual who holds a faculty, academic staff, university staff, limited, student employment, employee-in-training, temporary, or project appointment. (See, e.g., UPS Operational Policy, GEN 0, General Terms and Definitions)

**Executive Order 54.** An Executive Order issued by Governor Walker in 2011 requiring that University employees, except otherwise Mandated Reporters pursuant to Wis. Stats. s. 48.981, report incidents of child abuse and neglect, which they observe or learn of in the course of their employment. Such reports must be personally and immediately made to law enforcement or the county department of social services or human services.

**Formal Complaint.** For the purposes of Title IX misconduct only, a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment, sexual assault, dating violence, domestic violence, or stalking against a respondent and requesting that the university investigate the allegations. At the time of filing the formal complaint, the complainant must be participating in or attempting to participate in a university educational program or activity. A formal complaint may be filed in person, by mail, or electronic mail, or any other method designated by the university. A formal complaint must include a physical or digital signature of the complainant or the Title IX Coordinator.

**Incapacitation.** As it applies to this policy, the state of being unable to physically and/or mentally make informed rational judgments and effectively communicate. It may include unconsciousness, sleep, or blackouts, and may result from the use of alcohol or other drugs. Where alcohol or other drugs are involved, evaluation of incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person's decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation if viewed from the perspective of a sober, reasonable person.

**Non-Campus Professional Counselor.** Individuals or agencies in the community whose professional license or certification permits that individual or agency to preserve the confidentiality of the patient or client. See Appendix B of this policy for a list of Confidential Resources.

**Official with Authority.** Any official of the university who has the authority to institute corrective measures on behalf of the university. The University recognizes the individuals in the following job categories as "Officials with Authority" under this policy:

- A. Chancellor, Provost, Vice Chancellors, and Deans;
- B. Division Directors;
- C. Divisional Human Resources Directors (the lead Human Resource employee for any Division);
- D. Title IX Coordinator, Title IX Deputies, and any Title IX program staff

**Office for Civil Rights.** The U.S. Department of Education office that is responsible for enforcing Title IX of the Education Amendments of 1972, and other education-based discrimination acts. Commonly referred to as OCR.

**Ombuds.** Any employee who works for the UW-Madison Ombuds Office while that employee is providing confidential services to a client who is a University employee. An Ombuds will not report personally identifiable information concerning a disclosure of sexual harassment or sexual violence received by that individual in their professional capacity unless with the consent of the disclosing individual or unless required by law. Information disclosed to an Ombuds is not entitled to the same legal protections as information conveyed to a licensed Campus or Non-Campus Professional Counselor and might be more easily discoverable in a legal proceeding.

**Preponderance of the Evidence.** Information that would persuade a reasonable person that a proposition is more probably true than not true. It is a lower standard of proof than “clear and convincing evidence” and is the minimum standard for a finding of responsibility pursuant to this policy. [See, e.g., Sections UWS 17.02(13), UWS 11.015(7), UWS 4.015(7), and UWS 7.015(5), Wis. Admin. Code.]

**Respondent.** An individual who has been reported to be the perpetrator of sexual harassment or sexual violence as defined in this policy.

**Responsible Employee.** Any employee who has been assigned certain reporting responsibilities under this policy. The University has designated individuals in the following job categories as “responsible employees:”<sup>5</sup>

- A. Chancellor, Provost, Vice Chancellors, Vice Provosts, Deans and all other Limited Appointees, including Directors (including Associate and Assistant titles);<sup>2</sup>
- B. Department Chairs (including Associate Chairs);
- C. Human Resources Representatives;
- D. Academic Department Administrators (Employees who lead a variety of administrative duties (fiscal, purchasing, human resources, etc.) in an academic department or research center.)
- E. All Athletic Department Directors (including executive, associate and assistant directors), Head and Assistant Coaches within intercollegiate athletic teams;
- F. All Police Department Staff;
- G. All Managers, Supervisors, Student Supervisors, House Fellows, and Resident Managers within University Housing
- H. Student Services Staff (Employees who are responsible for providing support services to undergraduate and graduate students and to student organizations unless designated as a confidential resource. This includes non-confidential Student Affairs employees, as well as employees when they are serving as academic advisors);
- I. Any employee or volunteer who is responsible for the supervision or custodial care of minors in university sponsored or supported activities.
- J. Title IX Coordinator and Deputy Title IX Coordinators;
- K. University Complaint Investigators;
- L. Hearing Officers, Hearing Panel Members and Disciplinary Decision Makers;
- M. Officers responsible for hearing appeals in cases involving allegations of sexual harassment and sexual violence.

**Sexual Violence.** The phrase, as used in this policy, refers to incidents involving sexual assault, dating violence, domestic violence, stalking, or sexual exploitation.

**Student.** Any person who is registered for study in a University of Wisconsin System institution for the academic period in which the alleged act of sexual harassment or sexual violence occurred, or between academic periods for continuing students. [See Chapter UWS 17.02(14), Wis. Admin. Code.]

**Title IX.** Title IX of the Education Amendments of 1972 (20 U.S.C. sec. 1681 et seq. (as amended) and its implementing regulation, 34 C.F.R. Part 106. A federal law that states, “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” 20 U.S.C. § 1681(a).

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<sup>2</sup> Except for the Vice Chancellor for Legal Affairs and the Associate Vice Chancellor for Legal Affairs, if the reported information is precluded from disclosure by the Attorney-Client Privilege or applicable ethical rules.



**Title IX Coordinator (and Deputies).** An employee designated to coordinate compliance with Title IX, who plays an important role in an institution’s efforts to ensure equitable opportunity for all students and employees, and who works with school officials to remind the school community that students and employees must have equal access to all programs. (Adapted and revised from an April 24, 2015, “Dear Colleague Letter” issued by OCR).

**Title IX Misconduct.** A report of sexual harassment or sexual violence under this policy will be considered Title IX Misconduct when a formal complaint (as defined in this section) is either filed by a complainant or signed by the Title IX Coordinator and the alleged conduct meets the definitions of sexual harassment under Section V(A)(1) or (2)(a) or sexual assault, stalking, dating violence, and /or domestic violence as defined in Section V(B-E), occurred within a university “education program or activity” (as defined in this section) and occurred against the complainant while in the United States; and the complainant is participating in or attempting to participate in a university education program or activity at the time they file the formal complaint. Allegations involving Title IX Misconduct will follow procedures as detailed Chs. UWS 4.11-24 (faculty), UWS 11.13-26 (academic staff), UWS 17.16-21 (students), and Appendix C (university employees other than faculty or academic staff).

**Trauma-Informed Care.** Trauma-informed care reflects an understanding of trauma and emphasizes creating services and programs that are sensitive and directly responsive to the trauma that many victims and survivors experience following a violent crime. Trauma-informed care programs identify and limit potential triggers to reduce their re-traumatization and protect their mental and emotional health. Trauma-informed care is an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma. Trauma-informed care also emphasizes physical, psychological and emotional safety for both consumers and providers, and helps survivors rebuild a sense of control and empowerment. [*See also: SAMHSA’s Concept of Trauma and Guidance for a Trauma-Informed Approach; and Building Cultures of Care: A Guide for Sexual Assault Services Programs*]

**University sponsored or supported activity.** Any gathering, program, or activity:

- A. That takes place on University lands; or
- B. That takes place as part of a University-sponsored or supported activity not located on University lands; or
- C. That the University, or a part of the University, is paying for, including with student segregated fees.

**Victim Advocate.** Any employee or volunteer who works in UHS Survivor Services and any employee or volunteer for a community victim advocacy program (e.g., Dane County Rape Crisis Center or Domestic Abuse Intervention Services) while that employee or volunteer is providing confidential victim advocacy services to a client who is a University student or employee. A Victim Advocate will not report personally identifiable information concerning a disclosure of sexual harassment or sexual violence received by that individual in their professional capacity unless with the consent of the disclosing individual or unless required by law. Information disclosed to a Victim Advocate is not entitled to the same legal protections as information conveyed to a licensed Campus or Non-Campus Professional Counselor and might be more easily discoverable in a legal proceeding. Disclosing information to a Victim Advocate will not lead to a Title IX investigation, unless the Complainant so requests. See Appendix B of this policy for a list of Confidential Resources.

**Violence Against Women Act (VAWA).** Federal law enacted in 1994, which promotes the investigation and prosecution of violent crimes against women, among other objectives. Recently, it amended the Clery Act [42 U.S.C. §§ 13701-14040], through the Campus Sexual Violence Elimination Act (SaVE) provision, Section 304.

## Appendix B – Confidential Resources<sup>3</sup>

### On campus for students

- UHS Medical/Mental Health Services  
608-265-5600  
333 East Campus Mall [uhs.wisc.edu](http://uhs.wisc.edu)  
24-Hour Line 608-265-5600  
Mental Health Crisis Line (option 9)  
Medical Advice Nurse Line (option 1)
- UHS Survivor Services  
[survivorservices@uhs.wisc.edu](mailto:survivorservices@uhs.wisc.edu)  
333 East Campus Mall, 8th Floor  
608-265-5600 (option 3)
- Rape Crisis Center  
333 East Campus Mall, 7<sup>th</sup> Floor, #7901  
[info@danecountyrcc.org](mailto:info@danecountyrcc.org)  
24-hour line: 608-251-RAPE (7273)  
(608) 265-6389 (Campus Office)

### On campus for employees

- Employee Assistance Office  
610 Langdon Street, Lowell Center, Room 226  
[eao@mailplus.wisc.edu](mailto:eao@mailplus.wisc.edu)  
(608) 263-2987  
[eao.wisc.edu](http://eao.wisc.edu)
- LifeMatters  
[hr.wisc.edu/employee-assistance-office/lifematters/](http://hr.wisc.edu/employee-assistance-office/lifematters/)
- Ombuds Office  
610 Langdon Street, Lowell Center, Room 223-225  
[uwombuds@mailplus.wisc.edu](mailto:uwombuds@mailplus.wisc.edu)  
(608) 265-9992  
[ombuds.wisc.edu](http://ombuds.wisc.edu)

### Community resources available to anyone – Madison and Dane County

- Forensic Nurse Examiner Program  
Meriter Hospital, 202 South Park Street Emergency room entrance  
608-417-5916  
<https://www.unitypoint.org/madison/sexual-assault-nurse-examiner-program.aspx>

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<sup>3</sup> Anyone who has been subjected to sexual harassment or sexual violence can access available confidential resources for assistance and support including medical care, mental health counseling, victim advocacy, and access to supportive and protective measures. These resources are available regardless of whether the person chooses to report the violation to the University, law enforcement, or any other agency.

- Domestic Abuse Intervention Services (DAIS) 2102 Fordem Avenue  
24-hour line: (608) 251-4445 or toll-free (800)747-4045 | [DAIS](#)
- Rape Crisis Center (RCC)  
2801 Coho Street #301  
333 E. Campus Mall #7901| M-F, hours vary. Appointments can be made using 24 hour line.  
24-hour line: 608-251-RAPE (7273)  
[info@danecountybcc.org](mailto:info@danecountybcc.org) [Rape Crisis Center](#)
- Deaf Unity  
Text helpline: 608-466-2881 M-F 9am-10pm [help@deafunitywi.org](mailto:help@deafunitywi.org)  
[Deaf Unity](#)
- UNIDOS Against Domestic Violence 1-800-510-9195  
[UNIDOS](#)
- Freedom, Inc.  
601 Bay View  
608-661-4089 M-F 9am-5pm  
[refugeeproject@hotmail.com](mailto:refugeeproject@hotmail.com) [Freedom, Inc.](#)

#### **Community resources available to anyone – State of Wisconsin**

- Wisconsin Coalition Against Sexual Assault  
2801 West Beltline Highway, Suite 202  
608-257-1516  
Assistance by Region: [www.wcasa.org/survivors/service-providers/](http://www.wcasa.org/survivors/service-providers/)
- End Abuse Wisconsin  
1400 E. Washington Ave., Suite 227  
608-255-0539  
Assistance by Region: [www.endabusewi.org/get-help/](http://www.endabusewi.org/get-help/)

## Appendix C – Title IX Misconduct Disciplinary Procedure and Informal Resolution

**Application.** This investigation and disciplinary process applies to the investigation and resolution of Title IX formal complaints filed against any university employee other than faculty and academic staff employees,<sup>4</sup> including employees who otherwise do not have the right to a formal disciplinary process. The university may discipline an employee up to and including dismissal for cause for Title IX misconduct. The disciplinary process for employee sexual harassment and sexual violence that is outside the scope of Title IX misconduct are found in Section VIII of this policy. Related definitions are in Appendix A.

The informal resolution process applies to all Title IX misconduct procedures for all students and employees, including those referenced in Wisconsin Administrative Code Chapters 4, 11, and 17 as well as the process detailed below.

**Definitions.** As used in Appendix C, the definitions in Appendix A apply.

### I. Title IX Misconduct Investigation and Disciplinary Process

The disciplinary procedure for Title IX misconduct will be used only when all of the following requirements are met:

- A. There is a formal complaint alleging sexual harassment as defined in policy Section V(A)(1)-(2)(a) or sexual assault, stalking, dating violence, and /or domestic violence as defined in Section V(B-E) of this policy.
- B. The alleged misconduct occurred in the United States.
- C. The alleged misconduct occurred within a university education program or activity.
- D. The complainant must be participating in or attempting to participate in the education program or activity of the university at the time of filing the formal complaint.
- E. The complainant or Title IX coordinator have submitted a formal complaint.

The respondent is presumed to be not responsible for the alleged Title IX misconduct until a final decision regarding responsibility is made at the conclusion of the disciplinary process. The university may dismiss or discipline a respondent for Title IX misconduct only after due notice and hearing. The burden of proof is on the university administration.

**Disciplinary Sanctions.** The disciplinary sanctions that may be imposed for misconduct under this policy range from a written reprimand through dismissal.

### **Dismissal of Formal Complaint and Related Appeal.**

- A. The university must dismiss a formal complaint consisting of allegations that:
  1. Would not constitute Title IX misconduct if proved;
  2. Did not occur in a university education program or activity; or
  3. Did not involve actions against someone physically located in the United States.
- B. The university may dismiss a formal complaint when:
  1. The complainant formally requests in writing to withdraw the formal complaint;
  2. The respondent is no longer employed by the university; or

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<sup>4</sup> The disciplinary process in Chapter UWS 4 applies to faculty employees and the process in Chapter UWS 11 applies to academic staff employees.

3. Specific circumstances prevent the university from gathering evidence sufficient to reach a determination on the allegations contained in the formal complaint.

C. The university generally shall decide whether to dismiss a formal complaint within thirty (30) days of receipt of the formal complaint, but the university may extend that timeline as necessary. If a formal complaint is dismissed, then the university must provide written notice of the dismissal and reasons therefore to the complainant and respondent if notified of the formal complaint. Within twenty days of receipt of the notice of dismissal, the complainant or respondent may appeal the dismissal by filing a written appeal with the chancellor's designee (hereinafter "chancellor's designee"). Dismissal of a Title IX formal complaint does not preclude the university from otherwise pursuing conduct charges against the respondent under this policy or other university policies. The appeal process is outlined in the "Appeal to Chancellor" Section below.

### **Investigation.**

- A. Unless the university dismisses a formal complaint, the university shall appoint an investigator to conduct an investigation of the allegations in the formal complaint.
- B. The investigator shall provide the complainant and the respondent with a notice of investigation. The notice must include:
1. The grievance process, including informal resolution options;
  2. The allegations of Title IX misconduct with sufficient detail for the respondent to prepare a response to the allegations, including but not limited to, the identity of the complainant as well as the date and location of the incident(s) if available;
  3. A statement affirming the respondent is presumed not responsible for the alleged violation;
  4. The complainant and the respondent have the right to an advisor of their choice;
  5. The complainant and respondent have the right to inspect and review the evidence; and
  6. Information about any code of conduct rules which prohibit the complainant and respondent from knowingly making false statements or submitting false information during the disciplinary process.
- C. The complainant and respondent must receive an amended notice of investigation any time additional charges are added during the course of an investigation. Formal complaints involving more than one complainant or respondent may be consolidated if they arise out of the same facts or circumstances.
- D. The university's investigator shall:
1. Provide both the complainant and respondent an equal opportunity to provide witnesses (including fact and expert witnesses) who may be interviewed by the investigator, and other inculpatory and exculpatory evidence;
  2. Not restrict the ability of either the complainant or respondent to discuss the allegations under investigation or to gather and present relevant evidence;
  3. Provide the complainant and respondent the same opportunity to be accompanied by an advisor of their choice during meetings relating to the investigation but may limit the participation by the advisor so long as those limits are applied equally;
  4. Provide both the complainant and respondent equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including evidence upon which the university does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a complainant, respondent, or other source, so that the complainant and respondent can meaningfully respond to the evidence prior to conclusion of the investigation.

- E. As part of its investigation and disciplinary process, the university cannot access, consider, disclose, or otherwise use a complainant's or respondent's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the complainant or respondent, unless the university obtains the complainant's or respondent's voluntary, written consent to do so in relation to the investigation and disciplinary process.
- F. The university's investigator generally shall complete the investigation and issue a final investigative report within ninety (90) days of the investigator's appointment. However, the investigator may extend the investigation's time frame where circumstances warrant.

### **Review of evidence.**

- A. Prior to completion of the final investigative report, the investigator must send to the complainant and respondent and their respective advisors, if any, the evidence gathered during the investigation for inspection and review by the complainant and respondent. The evidence may be provided in an electronic format or a hard copy. The evidence provided includes evidence upon which the university does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from the complainant, respondent, or other source, to permit the complainant and respondent to meaningfully respond to the evidence prior to conclusion of the investigation.
- B. The complainant and respondent must have at least ten (10) days to submit a written response to the evidence. The investigator will consider any written responses prior to completion of the final investigative report.

**Final Investigative Report.** The investigator shall create an investigative report that fairly summarizes relevant evidence and send the report to the complainant and the respondent, and their advisors, if any, for their review and response at least ten (10) days prior to a hearing. The written report shall be delivered simultaneously to the complainant and respondent.

The university shall, upon receipt of the final investigative report, proceed to schedule a live hearing before a hearing examiner or hearing committee. A hearing shall be conducted unless both the complainant and respondent waive, in writing, the right to such a hearing or otherwise pursue an informal resolution as described in the "Title IX Misconduct Informal Resolution" section below.

### **Hearing Examiner or Hearing Committee.**

- A. The chancellor of each university shall designate a Title IX conduct hearing examiner or hearing committee to hear employee dismissal and discipline cases.
- B. The hearing examiner or hearing committee shall conduct the hearing, make a verbatim record of the hearing, and transmit such record along with factual findings and decision to the chancellor. The hearing shall be held not later than forty-five (45) days after completion of the final investigative report except that this time limit may be extended by the hearing examiner or hearing committee.

### **Hearing Process.**

- A. A fair hearing for a complainant and respondent under this policy shall include the following rights:
  - 1. Service of written notice of a live hearing on the allegations in the formal complaint at least ten (10) days prior to the hearing;
  - 2. A right to the names of witnesses and of access to documentary and other evidence upon the basis of which dismissal or other discipline is sought;

3. A right for the complainant and respondent to be heard on their own behalf;
4. A right to cross-examine the other party and all witnesses. Cross examination must be conducted directly, orally, and in real time by the complainant's or respondent's advisor, and never by the party personally. The complainant's and respondent's advisors may ask all witnesses relevant questions and follow-up questions, including questions challenging credibility. Credibility determinations, however, may not be made based on a person's status as a complainant, respondent, or witness.
  - a) Only relevant cross examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
  - b) Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
  - c) If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
5. If the complainant or respondent does not have an advisor, the university shall provide the complainant or respondent, without charge, an advisor of the university's choice to conduct cross-examination on behalf of the complainant or respondent. The advisor may be, but is not required to be an attorney. The university may establish restrictions regarding the extent to which the advisor may participate in the hearing, as long as the restrictions apply equally to the complainant and the respondent.
6. A verbatim record of all hearings, which might be a sound recording, made available at no cost for inspection and review;
7. Written findings of fact supporting the decision and decision based on the hearing record. The written findings of fact and decision must include:
  - a) Identification of the allegations potentially constituting Title IX misconduct;
  - b) A description of the procedural steps taken from the receipt of the formal complaint through the decision, including any notifications to the complainant and respondent, interviews with the complainant, respondent, and witnesses, site visits, methods used to gather evidence, and hearings held;
  - c) Conclusions regarding the application of the university's conduct policies to the facts;
  - d) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanction recommended to be imposed, and whether remedies designed to restore or preserve equal access to the university's educational program or activity will be provided to the complainant; and

- e) The university's procedures and permissible bases for complainant and the respondent to appeal;
8. Admissibility of evidence governed by s. 227.45 (1) to (4), Stats. The hearing examiner or hearing committee shall not be bound by common law or statutory rules of evidence and may admit evidence having reasonable probative value but shall exclude immaterial, irrelevant, or unduly repetitious testimony, and shall not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
9. The hearing may be conducted with all participants physically present in the same location, or at the hearing examiner or committee's discretion, any or all participants may appear at the hearing virtually, with technology enabling the participants simultaneously to see and hear each other. Upon the complainant's or respondent's request, the university shall provide for hearing to occur with the complainant and respondent located in separate rooms with technology enabling all participants to simultaneously see and hear witnesses answering questions.
10. The standard of proof shall be a preponderance of the evidence. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the university
11. No employee or other individual who participated in the investigation of the formal complaint, or who is a material witness, shall be qualified to serve as the hearing examiner or on the hearing committee in that case;
12. The hearing shall be closed unless the complainant or respondent requests an open hearing, in which case it shall be open (see subch. V of ch. 19, Stats., Open Meeting Law);
13. Delay or adjournment of the hearing for good cause may be granted by the hearing examiner or hearing committee. Good cause may include considerations such as the need to investigate evidence as to which a valid claim of surprise is made; to ensure the presence of the complainant or the respondent, their advisors, or a witness; to provide language assistance or accommodation of disabilities; and concurrent law enforcement activity.

**Hearing Examiner's or Hearing Committee's Findings and Recommendations.** The hearing examiner or hearing committee shall simultaneously send to the chancellor's designee, the complainant, and to the respondent, within thirty (30) days after conclusion of the hearing, or as soon as practicable, a verbatim record of the testimony and a copy of the hearing examiner's or hearing committee's written findings of fact and recommendations.

**Chancellor's Designee's Decision.**

- A. Within ten (10) days after receipt of the record and findings and recommendations from the hearing examiner or hearing committee, the complainant and respondent may submit written exceptions. The chancellor's designee shall review those materials and their decision shall be based on the record created before the hearing examiner or hearing committee without consideration of any new evidence submitted by the complainant or the respondent. The chancellor's designee shall prepare a written decision within twenty (20) days after the deadline of submission for the written exceptions by the complainant or the respondent. If the chancellor's designee's proposed decision differs substantially from those recommendations, the chancellor's designee shall promptly consult the hearing examiner or hearing committee and provide the hearing examiner or hearing committee with a reasonable opportunity for a written response prior to making a decision.



- B. The chancellor's designee may adopt the hearing examiner's or hearing committee's findings and recommendations as the chancellor's designee's decision. The chancellor's designee shall explain in the decision any substantial differences from those findings and recommendations.
- C. The chancellor's designee's decision shall be simultaneously sent to the complainant, respondent, and to the hearing examiner or hearing committee within forty-five (45) days of the chancellor's designee's receipt of the hearing examiner's or hearing committee's materials.

### **Appeal to Chancellor.**

The complainant or respondent may appeal the dismissal of a formal Title IX complaint or the chancellor designee's decision by filing a written appeal with the chancellor within twenty (20) days of receiving the decision. The appeal to the chancellor may be made only on the following bases:

- A. Procedural irregularity that affected the outcome of the matter;
- B. New evidence that was not reasonably available at the time of the hearing before the hearing examiner or hearing committee that could affect the outcome of the matter;
- C. The Title IX coordinator, investigator(s), chancellor's designee, or the hearing examiner or hearing committee had a conflict of interest or bias for or against the complainant or respondent, or against complainants and respondents generally, that affected the outcome.

The complainant and the respondent shall be notified of any appeal to the chancellor and be permitted to file a written statement on the appeal. The chancellor shall review the appeal based on the record before the hearing examiner or hearing committee. The complainant and respondent shall be simultaneously provided the final written decision of the chancellor, which shall include the rationale for the decision.

### **Discretionary review by the Board of Regents.**

The chancellor's decision shall be final, except that the board of regents may, at its discretion, grant a review upon the record, upon written request submitted by the complainant or the respondent within fourteen (14) days of the final university decision. If the board of regents grants a review upon the record, it will:

- A. Notify the complainant and respondent in writing and give both the complainant and respondent a reasonable, equal opportunity to submit a written statement supporting or challenging the outcome.
- B. Issue a written decision describing the result of the review and the rationale for the result and provide the written decision simultaneously to both the complainant and respondent.

**Administrative Leave.** Pending the final decision on the allegations in the formal complaint, the respondent may be placed on administrative leave.

## **II. Title IX Misconduct Informal Resolution Process**

At any time prior to reaching a determination regarding responsibility for Title IX Misconduct, the university may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the university –

- A. Provides to the parties a written notice disclosing:
  - 1. the allegations,
  - 2. the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, at any time prior to agreeing to a resolution,
  - 3. any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint,
  - 4. any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

- B.** Obtains the parties' voluntary, written consent to the informal resolution process; and
- C.** Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

The university may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Title IX misconduct. Similarly, the university may not require the parties to participate in an informal resolution process of Title IX misconduct and may not offer an informal resolution process unless a formal complaint is filed. The requirements of this section do not apply to allegations of sexual harassment and sexual violence that do not constitute Title IX misconduct.