

## **PROCEDURES FOR UNIVERSITY OF MEMPHIS SEXUAL HARASSMENT & SEXUAL/GENDER-BASAEED MISCONDUCT GRIEVANCE PROCESS**

These procedures govern how the University will conduct the grievance process for cases arising under the UofM Interim Sexual Harassment & Sexual/Gender-Based Misconduct Policy (“Policy”). Please refer to that document for key definitions and provisions.

These procedures apply to all reports or complaints submitted to the Office for Institutional Equity (“OIE”) that are determined to meet the jurisdictional requirements of the Policy. These procedures apply to all parties to a sexual harassment or sexual/gender-based misconduct complaint, whether students or employees.

### **I. GENERAL INFORMATION AND PARTY RIGHTS AND RESPONSIBILITIES**

A. The University will use these procedures to investigate all formal complaints submitted to OIE that meet the jurisdictional requirements of Title IX and its implementing regulations. If a formal complaint submitted to OIE does not meet the jurisdictional requirements of Title IX and its implementing regulations, OIE will dismiss the formal complaint, provide notice to both parties of the dismissal, and proceed with an investigation under other relevant University policy, if applicable.

B. The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

C. The University will make interim and supportive measures available to all individuals who are reported to be the victim of sexual harassment whether or not they opt to file a formal complaint. The University will also make interim and supportive measures available to any party involved in the Sexual Harassment grievance process.

D. Parties shall have the right to equitable provision of these grievance procedures and the University will follow these procedures before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

E. The University will ensure that the burden of proof and the gathering of evidence sufficient to reach a determination regarding responsibility rests on the University and not a complainant or respondent.

F. The University will objectively evaluate all relevant evidence – including both inculpatory and exculpatory evidence – and will not make credibility determinations on the basis of a person’s status as a complainant, respondent, or witness.

G. The University will provide the parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

H. The University will ensure that staff involved in the Sexual Harassment & Sexual/Gender-Based Misconduct Grievance Process are appropriately trained as required by state and federal

law. The materials used to train University staff on the Sexual Harassment Policy and Sexual Harassment Grievance Process can be found online on the OIE website ([www.memphis.edu/oie](http://www.memphis.edu/oie)).

I. During proceedings, neither the complainant nor the respondent will be required to answer questions or disclose evidence or information that is protected under a legally recognized privilege, unless the person holding the privilege has waived it.

J. The parties have a right to a student conduct process that is free from conflicts of interest or bias.

K. The University of Memphis email account assigned to the parties shall be the official mode of communication during the grievance process. Parties should be aware that they will receive emails from the University's case management system, Maxient, and are deemed to have knowledge of all communications sent to them via the University email or the Maxient system.

## II. REPORTING & FILING COMPLAINTS

All University of Memphis community members are strongly encouraged to report any instance of sexual harassment or sexual/gender-based misconduct to OIE immediately. Reports and complaints can be submitted to the following offices:

### **Title IX Coordinator**

Office of Institutional Equity  
156 Administration Building  
(901) 678-2713  
<http://www.memphis.edu/oie/>

### **University Police Services**

Main Campus: 100 Zach Curlin Parking  
Garage  
901-678-HELP (emergency); 901-678-3848  
(non-emergency)  
[Police@memphis.edu](mailto:Police@memphis.edu)

Lambuth Campus: 731-425-1942  
(emergency)  
[Lambuthpolice@memphis.edu](mailto:Lambuthpolice@memphis.edu)

### **Electronic Complaint form**

<https://www.memphis.edu/oie/complaint.php>

### **Email Written Complaints**

[ois@memphis.edu](mailto:ois@memphis.edu)

## **A. Intake**

Upon receipt of information indicating misconduct on the basis of sex has occurred, OIE will initiate a review to determine whether the conduct meets the definition of sexual harassment or sexual/gender-based misconduct. If the conduct meets the definition of sexual harassment or sexual/gender-based misconduct, as provided in the Policy, the following steps will be taken:

1. OIE will reach out to the complainant to conduct an Intake Interview to verify the information in the report or complaint and determine if the complainant wishes to pursue a formal process under the University's Policy.

2. If a report is received from someone other than the complainant, and the complainant wishes to proceed with the formal grievance process, the complainant will be asked to submit a complaint, in writing, that requests that the University take action.

3. Information submitted to OIE alleging sexual harassment or sexual/gender-based misconduct that does not identify a complainant or a respondent will be investigated to the extent possible to determine the parties involved. If a respondent cannot be identified, OIE will provide supportive measures to the complainant and will coordinate with other University offices to take steps to prevent the reoccurrence of the conduct. If a complainant cannot be identified, OIE will determine whether the alleged conduct merits the filing of a formal complaint by the Title IX Coordinator or if additional steps are necessary to address the alleged conduct.

a. In cases where a party to a report or complaint cannot be identified, OIE will notify the known party of whether the report or complaint will proceed to investigation within ten (10) business days.

4. Once OIE receives a written complaint the parties will be notified, in writing, of the following information:

a. Notice of the allegations contained in the complaint to include the name of the parties, if known;

b. The date, time and location of the conduct, if known;

c. How to access the Policy and these Procedures;

d. That the respondent is presumed not responsible;

e. That a determination about responsibility will be made only after the conclusion of the grievance process;

f. That the parties are entitled to have an advisor of their choice throughout the grievance process;

g. That the parties have a right to inspect and review the evidence gathered during the grievance process;

h. That the parties are prohibited from knowingly making false statements or knowingly submitting false information during the grievance process.

5. Following the receipt of the notice of allegations, the parties will have at least five (5) business days to prepare for a formal interview and to submit a written response.

However, the respondent may be asked to participate in an Intake Interview where the formal grievance process will be explained and questions about the process can be answered.

## **B. Mandatory Dismissal of Complaints**

OIE will dismiss any complaint that does not meet the definition of sexual harassment under Title IX. OIE will dismiss any complaint that meets the definition of sexual harassment under Title IX that did not occur in the University's activities or programs, or did not occur within the

United States. Such complaints will then proceed as sexual/gender-based misconduct under University policy.

1. Within five (5) business days of the dismissal of a complaint, OIE will notify both parties, if known, in writing of the reasons for dismissal. Either party may appeal the dismissal of a complaint.
2. In order to appeal, a party must submit in writing within five (5) business days of receiving notice of OIE's dismissal of the complaint the specific reasons why the complaint should proceed as Title IX sexual harassment instead of sexual/gender-based misconduct.
3. Upon receipt of an appeal on the dismissal of a Title IX sexual harassment complaint the Director of OIE will review the complaint, appeal, and any additional relevant information to determine if the complaint meets the definition of Title IX sexual harassment. The appealing party will be notified of the OIE Director's decision within ten (10) business days. The OIE Director's decision on appeal will be final.

### **C. Interim Suspension and Administrative Leave**

A party may be placed on interim suspension or administrative leave if, after an individualized safety and risk assessment, it is determined that an immediate threat to the physical health or safety of any student, employee or other individual arising from the allegations of sexual harassment justifies removal.

1. When the party is a student, OIE will consult with the Department of Student Life's Behavioral Intervention Team (BIT) and when the party is an employee, with the Department of Human Resources in conducting the individualized safety and risk assessment.
2. Any interim suspension undertaken by OIE shall proceed in accordance with the University of Memphis Code of Student Rights and Responsibilities section V. B.
3. When the party is an employee, OIE shall proceed in accordance with Human Resources policy and procedures regarding the imposition of administrative leave.

### **D. Disability Accommodations**

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Process that do not fundamentally alter the Process.

The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

### **E. Advisors**

The complainant and respondent shall be provided with the same opportunities to have an advisor, of their choosing, present during any proceeding at which their presence is required or expected such as meetings with staff, the Investigator, informal resolution proceedings or

hearings. The advisor's role in any meeting is limited to quietly conferring with their advisee through written or verbal communication.

1. It is the parties' responsibility to notify OIE of their advisor's name and contact information as soon as they have been identified to ensure that the advisor is included in all future meetings or proceedings. Failure to notify OIE of an advisor's name and contact information may result in delays of the grievance process.
2. Upon notification of the advisor's name and contact information, OIE will provide the advisor with the Rules of Decorum associated with the formal grievance procedure. All advisors are responsible for familiarizing themselves with and abiding by the Rules of Decorum. Failure to adhere to the Rules of Decorum may result in an advisor being removed from participating in the grievance process.
3. The parties must have an advisor present to conduct cross examination on their behalf during the hearing in the grievance process. Parties should notify OIE no later than five (5) business days before the hearing if they do not have access to an advisor for the purpose of conducting cross examination at the hearing. OIE will provide the party with a list of faculty and staff trained in the University's grievance procedures from which the party can choose an advisor for the hearing.

#### **F. Conflicts of Interest**

A University employee shall not participate in the formal grievance process as an investigator, hearing officer or appeal officer in any case in which: (1) the employee is a Complainant or a witness; (2) the employee serves in an advisory or supervisory capacity to the Complainant and/or Respondent or student organization; or (3) the employee determines, for any other reason (e.g., personal prejudice or bias), that he/she cannot be fair or impartial.

Parties are responsible for immediately notifying the Title IX Coordinator, in writing, if they believe a conflict of interest or bias exists with the investigator, the hearing board officer(s), or appeal officer. This notice should include sufficient details that explain the nature of the conflict or bias believed to exist.

The Title IX Coordinator will objectively examine the facts to determine if a bias or conflict exists. Job titles, disciplines of study, organizational membership or other affiliations will not constitute an automatic conflict or bias.

If a party believes a bias or conflict exists with the Title IX Coordinator, they should immediately notify the Office of Legal Counsel (OLC), in writing, explaining with sufficient detail the nature of the conflict or bias believed to exist. The OLC will be responsible for evaluating the allegation of conflict or bias and notifying the parties and the Title IX Coordinator of any adjustments that need to be made. The OLC can be reached at [legalcounsel@memphis.edu](mailto:legalcounsel@memphis.edu) or 901.678.2155.

#### **III. INFORMAL RESOLUTION**

At any time prior to a determination regarding responsibility, the parties may opt to participate in an informal resolution. The Office of Institutional Equity may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, as long as the parties provide their voluntary, written consent to the informal resolution process.

Informal resolution is not available in cases where physical violence is alleged or where the complainant is a student and the respondent is an employee.

For purposes of Title IX sexual harassment, the University may not offer an informal resolution process unless a formal complaint is filed.

In order to facilitate the informal resolution process the University will provide the parties with:

- (a) A written notice disclosing the allegations;
- (b) The requirements of the informal resolution process including the circumstances under which the parties are prohibited from re-filing a formal complaint with respect to the same allegations; and
- (c) Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

At any time prior to reaching an agreement in the informal resolution process, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

If an agreement is reached during the Informal Resolution process the complaint will be treated as withdrawn and OIE will take no further action. However, a party's failure to comply with the informal resolution agreement can constitute grounds for resuming the previously filed complaint or for the filing of a new complaint.

#### **IV. INVESTIGATION**

After the Intake process has been completed, the Title IX Coordinator is responsible for assigning complaints to an investigator. The investigator will interview the parties, identify and interview any relevant witnesses, obtain and review any relevant documentary, audiovisual or physical evidence. While the burden rests on the University to obtain relevant evidence related to the complaint, it is critical that the parties identify witnesses and provide any information they have access to in order to assist in the investigative process.

##### **A. Non-Cooperation**

No party or witness will be required to participate in an investigation or formal grievance process. If a complainant stops cooperating with an investigation, the University may be limited in its ability to respond to or prevent the reoccurrence of the alleged conduct. However, OIE will determine if the circumstances of the case warrant proceeding without the complainant's participation. The following factors will be taken into consideration in determining whether OIE will proceed in the absence of the complainant:

1. The increased risk that the alleged respondent could commit additional acts of sexual harassment, sexual/gender-based misconduct or other misconduct;
2. Whether there are other sexual harassment or sexual/gender-based misconduct complaints about the same alleged respondent;
3. Whether the alleged respondent has a history of arrests or records from a prior school indicating a history of misconduct;

4. Whether the alleged respondent threatened further sexual harassment, sexual/gender-based misconduct or other misconduct against the complainant or others;
5. Whether the sexual harassment, sexual/gender-based misconduct was committed by multiple perpetrators;
6. Whether the sexual harassment, sexual/gender-based misconduct was perpetrated with a weapon;
7. Whether the complainant is a minor;
8. Whether the University possesses other means to obtain relevant evidence of the alleged sexual harassment or sexual/gender-based misconduct; or
9. Whether the complainant's report reveals a pattern of perpetration at a given location or by a particular group.

If the circumstances warrant proceeding with the investigation and formal grievance process without the complainant's cooperation, OIE will notify the respondent and amend the original complaint to reflect that the investigation will proceed under the Title IX Coordinator's authority.

If a respondent chooses not to cooperate or stops cooperating with an investigation, OIE will continue with the formal grievance process as outlined in the Policy and this Procedure and a final determination of responsibility may be reached without the respondent's input.

## **B. Investigative Report**

At the conclusion of the investigation, but prior to finalizing the investigative report, the OIE investigator will simultaneously provide the parties a hard copy or electronic access to a draft investigative report and all relevant evidence collected during the investigative process.

The parties will have ten (10) business days to review the investigative report and related evidence and propose changes to the draft report, submit additional information or request additional information be obtained by the investigator. The investigator will review the additional information or requested changes and determine if they should be included in the finalized report. If the information is included, changes are made or additional action is taken, the investigative report will be updated and a finalized copy will be issued to the parties via hard copy or electronic access. OIE investigators will not include any findings or recommendations in the final investigative report.

Investigative reports and evidence shared with the parties under this section shall be confidential. The parties and their advisors are prohibited from sharing or reproducing any investigative report or evidence shared by OIE. The parties and their advisors are also prohibited from disclosing the private and confidential information of another party or witness that they become aware of through participation in this grievance process unless they have that person's permission.

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the complaint will not be disclosed, or may be appropriately redacted before the parties' inspection to avoid disclosure of personally identifiable information of a student. Any evidence obtained in the investigation that is kept from disclosure or appropriately redacted will be documented in a "privilege log" that may be reviewed by the parties and their advisors.

The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant.

## **V. HEARINGS**

At the conclusion of the investigation a hearing will be scheduled for the adjudication of the allegations contained in the complaint. Hearings will be live, closed to the public and scheduled no less than ten (10) days after the final investigative report is issued.

Parties may not waive their right to a live hearing. If a party chooses not to participate, the hearing will proceed and a decision will be reached in their absence.

The University uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this Policy and Procedure. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Policy occurred.

### **A. Live Hearings**

The live hearing may be conducted with all parties physically present in the same geographic location, or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through remote video conferencing such as Zoom or Skype. This technology will enable participants simultaneously to see and hear each other.

At its discretion, the University may delay or adjourn a hearing based on technological errors not within a party's control. All proceedings will be recorded through audio recording or through the video conferencing platform. Recordings of the hearing will be made available to the parties for inspection and review upon request.

Hearings will be conducted before a panel of up to three (3) hearing officers comprised of faculty, staff and students. Both parties must agree to the inclusion of a student on the panel. If one party objects, the panel will consist of faculty and staff only.

1. No later than five (5) days prior to the hearing date, OIE will provide the parties with the names of the hearing panelist(s). Either party may object to a panelist's participation on the basis of status as a student, bias or conflict of interest only.
2. To object to a panelist's participation on the basis of bias or conflict of interest, a party must submit to the Title IX Coordinator, in writing, the specific bias or conflict of interest involved. The Title IX Coordinator will evaluate the objection and determine if a replacement panelist is warranted. If the Title IX Coordinator determines that no bias or conflict of interest exists, the parties will be notified of the decision simultaneously.
3. If the Title IX Coordinator determines that bias or a conflict of interest exists, the panelist will be replaced and the parties will be notified simultaneously. The parties should recognize that replacing a panelist may result in a delay or rescheduling of the hearing.

The Title IX Coordinator will designate one panelist to serve as the Hearing Panel Chairperson. The Chairperson will be responsible for ensuring the hearing is conducted according to the Sexual Harassment and Sex/Gender-Based Misconduct Policy and these Procedures. Other Chairperson responsibilities include:

1. Beginning and ending the live hearing;



2. Determining the relevance of testimony or evidence;
3. Ensuring the rules of decorum are followed by all participants;
4. Determining if a continuance of the hearing should be granted;
5. Determining when breaks will be taken during the hearing.

The Hearing Panel will be allowed to question all parties and witnesses first and will have the discretion to intervene during any participant's testimony to ask clarifying or additional questions. The order of the hearing shall be as follows:

1. Hearing Panel opening remarks
2. Party opening statements (if any)
3. Investigator testimony
4. Complainant testimony
5. Respondent testimony
6. Witness testimony
6. Party closing statements (if any)
7. Hearing Panel closing remarks

## **B. Cross Examination**

The parties will be allowed, through their advisors, to cross examine each other and any relevant witnesses during the hearing. However, a party may choose to waive cross examination of a party or witness, either verbally or in writing, to the Hearing Panel.

If a party does not have an advisor or if the advisor fails to show up for the hearing, the University will pause the proceeding for the purpose of assigning an advisor for the purposes of conducting cross examination.

The Hearing Panel cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions.

1. The parties, through their advisors, are not permitted to cross examine another party on their sexual predisposition or their prior sexual history unless it is for the purpose of showing that someone other than the respondent is responsible for the conduct or the prior incidents of sexual conduct are with the respondent and are asked to prove consent.

The parties and their advisors shall be subject to the University's Rules of Decorum.

## **C. Continuances or Extensions**

The University may determine that multiple sessions or a continuance (i.e., a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, the

University will notify all participants and attempt to accommodate all participants' schedules and complete the hearing as soon as possible.

Additionally, the parties may request the continuance or rescheduling of a hearing for good cause. Requests for continuances or rescheduling of hearings should be submitted to the Title IX Coordinator for review and the granting of a continuance is solely within the discretion of the Title IX Coordinator.

The University will attempt to accommodate the schedules of parties, advisors, and witnesses to ensure their participation in the live hearing. However, the University is obligated to meet the requirements of this Policy, Procedure, and the Title IX implementing regulations. As such, hearings may proceed without the participation of a party, witness or advisor.

#### **D. Newly-discovered Evidence**

As a general rule, no new evidence or witnesses may be offered during the live hearing. If a party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing.

The Hearing Panel will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly-discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.

If the Hearing Panel answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness. It is within the Hearing Panel's discretion how much weight or credibility to give to new evidence submitted for the first time at the live hearing.

#### **E. Weighing and Evaluating Evidence**

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as determined in the reasoned judgment of the Hearing Panel. Hearing Panelists will not draw inferences regarding a parties' or witness' credibility based on the parties' or witness' status as a complainant, respondent, or witness, nor shall it base its judgments in stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments will be determined by the demeanor of the parties or witness, the plausibility of their testimony, the consistency of their testimony, and the reliability of their testimony in light of corroborating or conflicting testimony or evidence. Credibility judgments will not rest on whether a parties' or witness' testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

Hearing Panels will give the highest weight, relative to other testimony, to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e., tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Except where specifically barred by the Title IX Final Rule, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

## **VI. SANCTIONS**

Following a Hearing Panel's determination that a respondent violated the Policy, the panel will determine what sanctions are appropriate. Consistent with the UofM Code of Student Rights and Responsibilities, the following sanctions are available for the Hearing Panelists to issue:

- 1) Warning. A warning constitutes official written notice that a student has violated University rules governing conduct and that repetition of inappropriate conduct would be cause for more serious disciplinary action. A warning will remain in the student's active disciplinary file for a period of one year from the issuance of the sanction (unless applicable State/Federal law dictates otherwise) and would be used as a basis for future sanctioning should further violation(s) of Code of Student Rights and Responsibilities occur.
- 2) Censure. A censure may be issued to any student whose conduct violates University rules. Censure provides notice that any further violation(s) will result in more serious disciplinary action. A censure will remain in the student's active disciplinary file until graduation and would be used as a basis for future sanctioning should further violation(s) of Code of Student Rights and Responsibilities occur.
- 3) Probation. Any student placed on probation will be notified in writing of the terms and length of the probation. Probation may include restrictions upon extracurricular activities, or any other appropriate special condition(s). Continued enrollment of a student on probation may be conditioned upon adherence to these policies. Any conduct that constitutes further violation of these policies while on probation status or the failure to comply with the terms of the probation may result in the imposition of further disciplinary action including suspension.
- 4) Suspension. Suspension involves the separation of a student from the University for a specified period of time. Suspension may be accompanied by special conditions for readmission. All students suspended from the University of Memphis will be issued a No Trespass Directive barring them from University owned or controlled property and all University sanctioned events or functions. A student suspended from the University of Memphis under the Sexual Harassment and Sexual/Gender-Based Misconduct Policy must submit a written request to the Title IX Coordinator (or designee) 3 business days in advance to request permission to be present on University property. This request must specifically identify the nature of the official University business which the suspended student wishes to conduct as well as the location(s) that the student wishes to visit. A student suspended from the University must petition for permission to re-enroll.
- 5) Expulsion. Expulsion entails a permanent separation from the institution. The imposition of this sanction is a permanent bar to the student's admission to the institution. Any student receiving a sanction of expulsion shall be permanently trespassed from the campus (and all related University facilities/events).
- 6) Revocation of Admission, Degree, or Credential.

- 7) Service to the University or Community. A student may be required to donate a specified number of service hours to the University performing reasonable tasks for an appropriate institution office, official(s), or the local community. The service required shall be commensurate to the offense.
- 8) Restriction. A restriction upon a student's privileges for a period of time may be imposed. This restriction may include, for example, denial of the ability to represent the institution at any event, ability to participate in University of Memphis sponsored travel, use of facilities, parking privileges, participation in extracurricular activities or restriction of organizational privileges;
- 9) Specified Educational/Counseling Program. A student may be required to participate in specified assessment, educational or counseling program(s) relevant to the offense, or to prepare a project or report concerning a relevant topic;
- 10) Apology. A student may be required to apologize to an affected party, either verbally or in writing, for the behavior related to a disciplinary offense;
- 11) Fines. Penalties in the form of fines may be imposed against a student whenever the Hearing Panel deems appropriate. The sanction of fines may be imposed in addition to other forms of disciplinary sanctions. Failure to pay fines may result in further disciplinary action;
- 12) Housing Probation. Continued residence in campus or student housing may be conditioned upon adherence to these regulations as well as institutional housing regulations. Any resident placed on housing probation will be notified in writing of the terms and length of the probation. Probation may include restrictions upon the activities of the resident, including any other appropriate special condition(s);
- 13) Housing Suspension and Forfeiture. A resident suspended from housing may not reside, visit, or make any use whatsoever of a housing facility or participate in any housing activity during the period for which the sanction is in effect. A suspended resident shall be required to forfeit housing fees (including any unused portion thereof and the Housing Deposit). A suspended resident must vacate the housing unit. Housing suspension shall remain a part of the student resident's disciplinary record;
- 14) Restitution. Restitution may be required in situations which involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student is obligated to compensate a party or parties for a loss suffered as a result of disciplinary violation(s). Any such payment in restitution shall be limited to actual cost of repair, replacement or financial loss;
- 15) Other educational conditions and/or sanction(s) deemed appropriate by the Hearing Panel.

Sanctions available for employee respondents include, but are not limited to:

- 1) Written Warning
- 2) Probation
- 3) Suspension

- 4) Demotion
- 5) Transfer
- 6) Termination

Sanctions may be issued individually or in combination at the discretion of the Hearing Panel.

While a respondent's lack of recognizing that conduct constitutes a violation of the Policy is not an excuse for the conduct, a genuine lack of understanding—as determined by the Hearing Panel—may be considered when issuing sanctions.

If either party appeals the decision of the Hearing Panel, the sanctions issued will not be effective until the appeal decision has been issued.

In addition to disciplinary sanctions, the provision of remedies to restore or preserve equal access to the University's programs and activities are available following the conclusion of the Formal Grievance Process. The Title IX Coordinator will be responsible for determining the appropriate remedies in any case.

The University will not disclose to the respondent any remedies that do not directly affect the respondent.

## **VII. Written Determinations Following Hearings**

Absent extenuating circumstances, the Title IX Coordinator will issue the Hearing Panel's determination within ten (10) days following the hearing. The written Determination Regarding Responsibility will be issued simultaneously to all parties through their institution email account, or other reasonable means as necessary. The Determination will include:

1. Identification of the allegations potentially constituting covered sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section of the Policy that the respondent has or has not violated.
5. For each allegation:
  - a. A statement of, and rationale for, a determination regarding responsibility;
  - b. A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the respondent; and
  - c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the University's educational programs or activities will be provided by to the complainant; and
6. The University's procedures and the permitted reasons for the complainant and respondent to appeal (described below in "Appeal").

The determination regarding responsibility becomes final either on the date that the Title IX Coordinator provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the opportunity to appeal expires.

## **VIII. APPEALS**

Either party may appeal (1) the dismissal of a formal complaint or any included allegations and/or (2) a determination regarding responsibility. To appeal, a party must submit their written appeal within ten (10) business days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.

If a party appeals, the Title IX Coordinator will notify, in writing, the other party within three (3) days of receipt of the appeal. The submission of an appeal stays any sanctions pending the appeal outcome. Supportive measures and remote learning opportunities remain available during this time.

Appeals may be no longer than 3 pages without attachments, 5 pages including attachments. Appeals should be submitted in electronic form using ARIAL, 11-point font, or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by an Appeal Officer appointed by the Title IX Coordinator who will be free of conflict of interest and bias. The outcome of appeal will be provided simultaneously in writing to both parties, within a reasonable period of time and include rationale for the decision. The Appeal Officer's decision is final.

## **XI. Anti-Retaliation**

University of Memphis employees and students are strictly prohibited from retaliating, intimidating, threatening, coercing, or otherwise discriminating against any individual for exercising their rights or responsibilities under the Sexual Harassment and Sexual/Gender-Based Misconduct Policy. Retaliation will result in disciplinary measures, up to and including separation from the University. Anyone who believes they have been retaliated against because they have exercised their rights under this policy should immediately make a report to the Office for Institutional Equity.