

UNIVERSITY OPERATING PROCEDURE

****FOR PRINTED USE ONLY****

Title: 3 R O L F

Resolution Procedures for Title IX Offenses Involving Student Respondents under 2020 Final Rule Interim

IMPORTANT NOTICE

These procedures apply solely to allegations of Title IX Offenses involving Student Respondents as defined in the UVM Discrimination, Harassment Sexual Misconduct Policy. All other matters of discrimination, harassment and sexual misconduct involving student Respondents are reviewed and addressed under [Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints Involving Student Respondents Interim](#).

These procedures also do not apply to allegations of discrimination, harassment or sexual misconduct involving an employee respondent. Such matters are reviewed and addressed under [Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints Involving Employee Respondents Interim](#).

Overview

These Procedures apply to the intake and resolution of disclosures and formal complaints a student respondent alleging a Title IX Offense under the 2020 Final Rule as defined by the Discrimination, Harassment, and Sexual Misconduct Policy, by the Office of Equal Opportunity.

The University takes seriously all complaints of discrimination and discriminatory harassment, including sexual misconduct and is committed to taking all necessary steps to prevent recurrence and remedy harassment and sexual misconduct. The University's policies and procedures designed to:

- x Stop the behavior, prevent its recurrence, and remedy its discriminatory effects;
- x Consider the rights of all parties, the safety of the community, and applicable laws and University policies;
- x Conduct a timely, fair, impartial, and equitable process with respect for all involved parties;

¹ The provisions of collective bargaining agreements may modify or supersede these provisions. Questions regarding the effect of collective bargaining agreements on these provisions should be directed to appropriate union representatives.

- x Protect the privacy of all parties to the extent practical, while balancing the need to comply with applicable law, maintain campus safety, and provide a safe and nondiscriminatory environment for all members of the campus community;
- x Address the effects of discrimination and discriminatory harassment, and related retaliation, on the campus community.

Applicability of the Procedure

This UOP applies to all University of Vermont faculty, staff, students, contractors, program participants, visitors, and guests

Definitions

_____ : The individual assigned to conduct the live hearing, render a determination of responsibility for the I assionsibi(.002 (R9o, BT /TT0 12 TTT0)Tj ET Q q2aTf 1ity.f.994 (re)3.004 (

Procedures

Step 1 OFFICE OF EQUAL OPPORTUNITY INTAKE

alleged discrimination or discriminatory harassment constituting a Title IX Offense under the 2020 Final Rule by a UVM student, whether through a direct report by the complainant or another witness, through disclosure by an individual with required reporting obligations ("UVM Reporters"), or by any other means, the Office of Equal Opportunity Support Coordinator, or designee, will provide outreach to the Complainant. The Support Coordinator will also provide written information about applicable University policies, resolution options and procedures, support measures, and other helpful resources.

The Office of Equal Opportunity will accept disclosures from any affiliate or affiliate against a student who is alleged to have engaged in behavior constituting a Title IX Offense under the 2020 Final Rule as defined in the Discrimination, Harassment, and Sexual Misconduct Policy. Disclosure of allegations to the Office of Equal Opportunity may be made verbally or in writing.

Step 2 PRERESOLUTION REVIEW

If the Complainant expresses a desire to explore a University resolution process, or if the nature of the disclosure prompts the Title IX Coordinator to take independent action, the Office of Equal Opportunity will take the following steps, as appropriate:

A. INTERVIEW WITH COMPLAINANT

An Office of Equal Opportunity staff member will be assigned to the matter and will invite the Complainant to provide additional information about the disclosed incident(s) interview. The Complainant may be accompanied by a Process Advisor when meeting with the Office of Equal Opportunity. The Office of Equal Opportunity may make an audio recording of this meeting for note taking purposes. A Formal Complaint is required to proceed with a Title IX Opportunity resolution process under these Procedures.

B.

If the Office of Equal Opportunity determines that jurisdiction is not supported by the information available or the matter is not otherwise appropriate for resolution under these procedures, the Office of Equal Opportunity shall follow the requirements of "Dismissal of Title IX Formal Complaints; Appeal Rights" as outlined below. In all cases, the Office of Equal Opportunity will communicate the determination and accompanying rationale to the Complainant and will provide appropriate referrals to campus and off-campus resources, including continued access to a Support Coordinator. The Office of Equal Opportunity will also inform complainants that they should immediately report any recurrences or escalation of conduct. If new information is subsequently provided to the Office of Equal Opportunity, the Office of Equal Opportunity may reevaluate whether or not the Office has jurisdiction.

C. NOTICE OF ALLEGED POLICY VIOLATION AND OFFICE OF EQUAL OPPORTUNITY PROCESS

If jurisdiction is supported, the Office of Equal Opportunity will issue written notice to the Complainant and Respondent that an Office of Equal Opportunity process has been initiated to resolve alleged violation(s) of University policy. Additionally, the Respondent will receive outreach from a Support Coordinator, or designee, that includes information about helpful resources and be invited to meet to discuss the process.

The written notice will include the identities of the parties, the conduct allegedly constituting the policy violation, and the date and location of the alleged conduct, if known. The written notice will also include a copy of these Procedures, and a statement indicating whether the Complainant has expressed interest in Facilitated Resolution (if applicable).

Step 3 OFFICE OF EQUAL OPPORTUNITY RESOLUTION PROCESS

Option 1. FACILITATED RESOLUTION

A. PURPOSE

The Facilitated Resolution process is designed to be flexible to respond to the needs of the parties and the unique circumstances presented. The purpose of Facilitated Resolution is to allow a Complainant to express the harm they have experienced, and the Respondent to reflect on the impact felt by the Complainant in a supportive environment.

- x The power dynamics present between the parties, including applicable University affiliation
- x The nature of the conduct reported and whether it presents an ongoing safety risk to the UVM community;
- x The level and type of harm reported, subjectively and objectively;
- x The severity of conduct reported, subjectively and objectively;
- x The number of people affected by the reported conduct;
- x Whether the parties are willing to participate in good faith; and
- x The conduct history of the Respondent.

The decision as to whether the use of the Facilitated Resolution process is appropriate is at the sole discretion of the Title IX Coordinator.

C. INITIATION OF PROCESS

A Facilitator will be assigned. To initiate the Facilitated Resolution Process, the Facilitator will provide both parties with a Notice of Rights and Options to review and sign before proceeding. Once initiated, either party can request an end to the Facilitated Resolution process at any time prior to signing a mediated agreement. Information gathered during the Facilitated Resolution Process cannot be used in another UVM process, including if the Facilitated Resolution terminates and an Investigative Resolution is initiated, and Facilitators will not serve as witnesses in any subsequent conduct or legal proceedings, except where required by law or regulation.

Facilitated Resolution Agreements must be documented by the Facilitator, signed by both parties, and approved by the Title IX Coordinator. If no agreement is reached, or either party indicates in writing to the Facilitator that they no longer wish to pursue a Facilitated Resolution, the matter will be referred to the Title IX Coordinator, who will consider the Record of Investigation (if available), the wishes of the parties, and the interests of the campus community in determining next steps, which may include a return to or initiation of an investigative resolution process.

E. COMPLIANCE WITH RESOLUTION AGREEMENT

Once a Resolution Agreement has been signed by both parties and approved by the Title IX Coordinator, the Office of Equal Opportunity will ensure the agreement terms are fulfilled by monitoring the agreement, reviewing information submitted by the parties, and in some cases, contacting third parties for verification.

When a Resolution Agreement requires a student Respondent to take active steps to fulfill a term (e.g., participation in a program or participation in an impact statement conference) by a certain date, the Office of Equal Opportunity may request that the Dean of Students place a registration hold on the Respondent's account. The Office of Equal Opportunity will request that the hold be lifted when the term is fulfilled. The Respondent may request an extension of the time by which a specific term must be fulfilled for good cause. Such an extension shall be in the sole discretion of the Title IX Coordinator.

Consequences for non-compliance with the terms of a Resolution Agreement shall be agreed to by the parties and memorialized in the Agreement prior to execution. If the Office of Equal Opportunity believes that a Respondent has not complied with the terms of a Resolution Agreement, the Office of Equal Opportunity will initiate appropriate steps to effectuate a non-compliance response consistent with the terms of the Resolution Agreement. Where any term is predicated on some action by Complainant, such as the submission of an impact statement, and Complainant does not complete that action, Respondent shall not be subject to a finding of non-compliance. The Office of Equal Opportunity is not obligated to warn parties who are not in compliance prior to initiation of a non-compliance response.

Option 2. INVESTIGATIVE RESOLUTION

A. INTERVIEWS AND INFORMATION GATHERING

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In addition to participating in a personal interview, both parties may provide, if they wish, relevant information and documentation they would like the Office of Equal Opportunity to review, and the names of potential witnesses with factual knowledge directly related to the allegations.

B. CREATION OF RECORD OF INVESTIGATION

Following all interviews and the collection of information and documentation, the Office of Equal Opportunity will create a Record of Investigation. The parties may elect to provide any correction of their own statements as well as any additional directly related evidence for review by the Office of Equal Opportunity, including additional proposed witnesses with directly related and relevant knowledge of the conduct to interview. All responses to the Record of Investigation must be submitted within ten (10) calendar days of access to the Record of Investigation being provided to the parties.

The Office of Equal Opportunity may conduct additional investigation, including interviews, based on

will be presumed "not responsible" until proven otherwise by a preponderance of the evidence. A staff member from the Center for Student Conduct will attend the hearing in a non-speaking role. If the Adjudicator determines that the student is responsible for an alleged violation(s), the CSC staff member will assign appropriate sanctions.

b. *Maintaining Order.* The Adjudicator is responsible for maintaining order during the Hearing and may take all steps reasonably necessary to ensure an orderly hearing up to and including removal of disruptive individuals.

c. *Information Considered.* The Adjudicator will consider all relevant information and will weigh the reliability and credibility of that information when rendering a determination regarding responsibility.

1. *Final Record of Investigation and Reply to Final Record.* The Adjudicator will be well-versed in the details contained in the Final Record of Investigation and the student's response to the Final Record of Investigation.

2. *Responses to Relevant Questions.* The Adjudicator will permit the parties' Title IX Hearing Advisors to ask relevant questions of the parties and witnesses on matters that are contained within the Final Record of Investigation.

3. *Written Opening and Closing Statements In Lieu of Participation.* Parties may choose to submit a written opening and/or closing statement to be read by the Adjudicator if the party chooses not participate in the hearing. For any written statement to be considered, it must be submitted no later than 48 hours prior to the Hearing. The statement(s) should be clearly labeled as either an opening or closing statement. In the absence of such a label, they will be read as opening statements.

d. *Presentation.* The Adjudicator will be well versed in the facts of the case based upon the Final Report of Investigation. The Adjudicator will provide an opportunity for both parties to ask questions of parties and witnesses as they may form the Record through their Hearing Advisor. The parties are not permitted to ask questions of the other party or witnesses directly.

1. *Introductions.* At the beginning of the Hearing, the Adjudicator and CS&F members shall introduce themselves and ask each party and their Advisors to do the same. The Adjudicator shall read the statement of alleged policy violations as outlined in the Office of Equal Opportunity Notice Letter and shall also confirm that both parties have received and had an opportunity to read and respond to the Final Report of Investigation. Both parties will have the opportunity to ask any initial questions concerning the process at this time.

2. *Opening Remarks.* Both parties will be given the opportunity to provide personal statements, if they wish, to introduce themselves and what they hope to demonstrate to the Adjudicator. If a written opening statement has been submitted in lieu of participation, the Adjudicator will read the statement out loud. The order of remarks by the parties will be determined by the Adjudicator.

3. *Questioning of Parties.* The Adjudicator may pose questions to the parties prior to any other questioning of that party. The parties' Hearing Advisors may then pose follow-up questions. Hearing Advisors posing questions must pause after asking their question to allow the Adjudicator to rule on whether the question is relevant and permissible. If the Adjudicator determines that a question is relevant and not

determines a question is not relevant is impermissible the Adjudicator will state the reason for that determination and the witness need not answer the question. The order of appearance by witnesses will be determined by the Adjudicator, and the Adjudicator may question witnesses at any point in the proceedings.

5. *Closing Remarks.* Both parties will be given the opportunity to provide closing remarks, including any statement as to the existence of aggravating or mitigating circumstances. If a written closing statement has been submitted in lieu of participation, the Adjudicator will read the statement out loud. The order of remarks by the parties will be determined by the Adjudicator.

e. *Expectation of Truthful Statements.* The Complainant, the Respondent, and all witnesses are expected and presumed to provide truthful information throughout the investigation and hearing process. Knowingly making false statements and/or knowingly submitting false information is a violation of University policy.

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affiliates, in accordance with federal law. The appeal decision may uphold the decision, modify the decision, overturn the decision, or refer the case back to the investigator, as warranted.

2. *Students in Programs with Professional Standards; Sponsored Research; UVM Athletics.* If the Respondent is a student in a program with established professional standards or a member of a UVM Athletics team, at the conclusion of the applicable appeal period outlined above, the Title IX Coordinator shall send a copy of the case file including investigation report, any decision, and any other relevant information to the Respondent and the complainant, and to the appropriate student services.

Parties, witnesses, and other participants in the Office of Equal Opportunity resolution process may request reasonable accommodations for a disability by informing the Office of Equal Opportunity of their need for accommodation based on a disability. The Office of Equal Opportunity will then collaborate with Student Accessibility Services (students) or the ADA/504 Coordinator (employees and non-affiliates) to determine eligibility for, and the parameters of, such accommodations.

The Office of Equal Opportunity can facilitate remote participation based upon administrative need, as well as upon request.

6. *Role of Process Advisors.* In all proceedings covered by these Procedures, each party may choose to be accompanied by a Process Advisor to provide personal support. Regardless of University affiliation or professional license, Process Advisors may be present only to provide support to, or otherwise privately consult with, their advisee, but may not speak on behalf of their advisee or otherwise directly participate. If a Process Advisor cannot abide by the rules for participation, they will be asked to leave.

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8. *Decision to Proceed without Complainant Cooperation; Requests for Anonymity.* **If the**

arise out of the same facts or circumstances as those involving one Respondent, or what amount to

10. *Ascertaining the Identity of Unknown Complainants*
The University accepts anonymous reports of sexual misconduct, including sexual harassment, including sexual misconduct. However, when the identities of individuals involved in the incident are anonymous. Distinctly, when an individual reports an incident involving an unknown complainant, the Office of Equal Opportunity will consider their autonomy and confidentiality in the resolution process to determine, in the event the complainant is able to be identified, if the University will consider their autonomy and confidentiality in the resolution process.

protect the privacy of all involved in a resolution process.

Sexual Misconduct Policy.

Contacts

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| Title IX Coordinator |
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Forms/Flowcharts/Diagrams

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| Training Topic: | UVM Resolution of Harassment and Discrimination Incidents | | |
| Training Audience: | UVM Staff and Contractors responsible for execution of procedures under this Policy | Delivered By: | www.uvm.edu/equalopportunity/title-9-sexualmisconduct |
| Method of Delivery: | On-line Interactive Video or In Person | Frequency: | Annually or as assigned |