

THE UNIVERSITY OF MAINE SYSTEM  
Procedures for Title IX Sexual Harassment

**Glossary:**

- i. *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the complaint process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- ii. *Complainant* means an individual or group of individuals who is alleged to be the victim of conduct that could constitute harassment based on a sex or retaliation for engaging in a protected activity.
- iii. *Complaint (formal)* means a written document, paper or electronic, filed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on sex, or retaliation for engaging in a protected activity, against a respondent and requesting that the University investigate the allegation of harassment based on sex or retaliation for engaging in a protected activity. At the time of filing a formal complaint of Title IX sexual harassment, a Complainant must be participating in or attempting to participate in the education program or activity of the University with which the formal complaint is filed. The complaint must contain the Title IX Coordinator's or the Complainant's physical or digital signature, or otherwise indicate that the Complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not considered a Complainant or otherwise a party.
- iv. *Directly Related Evidence* is evidence that in the reasoned judgment of the investigator, is determined to be connected to the complaint even if not relied upon by the investigator in the investigation report.
- v. *Education program or activity* means all of the operations of the University, as well as, locations, events or circumstances where UMS exercises substantial control over both the Respondent and the context in which the Title IX sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- vi. *Final Determination* a written determination by a Decision-maker or Panel by the preponderance of the evidence standard whether the alleged conduct occurred and whether it did or did not violate policy, which includes all of the following: identification of the allegations potentially constituting Title IX Sexual Harassment as defined in Article XVI(1)(xii) below; a description of the procedural steps taken by the University 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; findings of fact supporting the determination; conclusions regarding the application of the this Policy to the facts; a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to UMS's education program or activity will be provided by the University to the Complainant; and the procedures and permissible bases for the Complainant and Respondent to appeal.

- vii. *Formal Complaint Process* means a method of formal resolution designated by the University to address conduct that falls within this Title IX Sexual Harassment policy and process, and which complies with the requirements of the Title IX regulations.
- viii. *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing conduct on the basis of sex.
- ix. *Official with Authority (OWA)* means an employee of UMS explicitly vested with the responsibility to implement corrective measures for harassment based on sex, and/or retaliation on behalf of UMS.
- x. *Relevant Evidence* is evidence that tends to prove or disprove an issue in the complaint.
- xi. *Remedies* are post-finding actions provided to the Complainant where a determination of responsibility for sexual harassment has been made against the Respondent after the Formal Complaint Process in this Policy as mechanisms to address safety, prevent recurrence, and restore access to UMS's educational program.
- xii. *Title IX Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence as defined in Article XVI(2) of BOT 402.
- xiii. *Title IX Team* refers to the Title IX Coordinator, Deputy Title IX Coordinators, Investigators, Hearing Decision-maker or Panel, or University provided Advisor.

## **1. Filing a Report**

Any person may file a report with the UMS Title IX Coordinator, campus Deputy Title IX Coordinator ("Deputy"), or the Equal Opportunity Officer, at any time. Complaints may be reported by using any of the following mechanisms below:

Liz Lavoie  
UMS Title IX Coordinator  
241 Estabrooke Hall, University of Maine  
Orono, Me 04469  
Ph: 207.581.1226 or 207.581.5866  
Fax: 207.581.5856  
[umaine.edu/eo](http://umaine.edu/eo)  
[equalopportunity@maine.edu](mailto:equalopportunity@maine.edu)  
or  
[titleix@maine.edu](mailto:titleix@maine.edu)

File an electronic complaint:

[https://cm.maxient.com/reportingform.php?UnivofMaineSystem&layout\\_id=1](https://cm.maxient.com/reportingform.php?UnivofMaineSystem&layout_id=1)

## **2. Initial Assessment of Report/Complaint**

Upon receiving notice of a possible violation of Board Policy 402: Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking, Retaliation, and Title IX Sexual Harassment, UMS will promptly initiate an assessment of the report to determine next steps, taking into consideration the Complainant's expressed wishes about how they want to proceed.

## **3. Outreach to Complainant**

In conjunction with the campus Deputy, the UMS Title IX Coordinator will determine which member of the Title IX Team will reach out to the person who reported the incident. The designated Title IX team member will promptly reach out to the individual who reported the information and/or the individual named as a Complainant. The UMS Title IX team member will provide the following:

- a) Information to the Complainant on the availability of supportive measures, whether the Complainant wants to file a formal complaint or not, and consideration of the Complainant's wishes regarding supportive measures; such measures are designed to restore or preserve equal access to the Complainant's education and activities; these supports are non-punitive, do not unreasonably burden the other party; and protect the safety of all individuals and the campus community.
- b) Information on the formal Title IX complaint process and how to file a formal complaint.
- c) Information regarding the right to have an Advisor of Choice through the process; and offer for UMS to provide an Advisor at no cost.
- d) Information on the informal process (noting that a formal complaint must be filed before initiating this step).
- e) A copy (or website link) of their rights under the process.
- f) A copy (or website link) to the Title IX Sexual Harassment policy and procedures.
- g) The UMS Title IX team member will file any applicable anonymous Clery documentation and assessments

## **4. Formal Complaints**

Upon confirming that a Complainant would like to file a formal complaint, the Title IX Coordinator, Deputy Title IX Coordinator, or the Equal Opportunity Officer is required to get a physical or electronic signature indicating the Complainant would like to file a formal complaint. If the Complainant is not actively on campus, the University will accept an email from the Complainant stating that they would like to file a formal complaint.

In instances in which, the Complainant does not wish to file a formal complaint, the UMS Title IX Coordinator reserves the right to file a formal complaint. However, the UMS Title IX Coordinator would not become a Complainant or otherwise become a party in the formal complaint. The UMS Title IX Coordinator will inform the Complainant of this decision in writing,

and the Complainant need not participate in the process further but will receive all notices issued under this process.

Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of the University, including as an employee. For complainants who do not meet this criteria, the University may utilize the existing policy in BOT 402.

Nothing in this process or BOT 402 prevents a Complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

In response to a formal complaint the Title IX Coordinator, Deputy Title IX Coordinator, or the Equal Opportunity Officer will:

- a) Treat all parties equitably by offering supportive measures to both parties throughout the process;
- b) Continue to provide supportive measures to parties even after the formal complaint process has concluded;
- c) Provide remedies designed to restore or preserve equal access to the party's educational program or activity if a Respondent is found responsible at the end of the informal or formal grievance process;
- d) Offer a UMS trained Advisor free of cost to the each party;
- e) Presume that the Respondent is not responsible for the alleged conduct until a determination of responsibility has been concluded through the informal or formal grievance process.
- f) Require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence.
- g) Ensure that credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.
- h) Require that any individual involved in the formal or informal complaint process, other than an Advisor designated by the University, not have a conflict of interest or demonstrated bias for or against complainants or respondents generally or an individual Complainant or Respondent.

## **5. Initial Notice of Investigation and Allegations**

The Title IX Coordinator, Deputy Title IX Coordinator, or the Equal Opportunity Officer will provide written notice to the parties regarding the formal complaint. The written notice will be provided via the parties' University email address or other provided contact means with sufficient time to prepare a response before any initial interview of a party. The written notice of investigation and alleged allegation(s) of potential sexual harassment shall include:

- a) Sufficient details known at the time including, but not limited to:
  - a. Identity of the parties involved in the incident;

- b. Alleged conduct allegedly constituting sexual harassment;
- c. The date and location of the alleged incident, if known;
- d. A statement that the Respondent is presumed not responsible for the alleged conduct;
- e. A statement that the determination of responsibility is made at the conclusion of the complaint process;
- f. Informing the parties that the UMS Student Conduct Code and the UMS Board of Trustee Policy Manual prohibits knowingly making false statements or knowingly submitting false information during the complaint process;
- g. Informing the parties that they have a right to an Advisor of their choice, who may be, but is not required to be, an attorney;
- h. The right to a free, trained UMS Advisor;
- i. The parties and their Advisors have the right to review evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source.
- j. A day, time, and location to meet with the Title IX Coordinator, Deputy Title IX Coordinator, or the Equal Opportunity Officer who sent the letter; ensuring reasonably available supportive measures are offered to the Respondent.

## **6. Investigation**

The investigation will be conducted by a member of the Title IX Team who has been trained on: the definition of Title IX Sexual Harassment; the scope of the UMS' education program and activities; how to conduct an investigation and the complaint process, including hearings, appeals, and informal resolution processes; including how to serve impartially and how to avoid prejudgment of the facts; conflicts of interest; bias; relevance of questions and evidence – including rape shield protections; how to write a fair investigative report; and any technology used during the investigation and live hearing.

During investigation of a formal complaint the burden of proof and gathering evidence is always on UMS, never the parties. A party or witness will be asked to provide any necessary documents, pictures, screenshots, etc. that may assist the University in gathering evidence. The parties will have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Parties will receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings at which that party's participation is invited or expected, with sufficient time for the party to prepare to participate. UMS will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence during the investigation.

All investigative and hearing interviews will be recorded and transcribed. UMS does not permit any other unauthorized recording (including audio and/or video) of the interview or meeting.

Parties will not be asked to provide medical or psychological records; or evidence collected during a forensic sexual assault or interpersonal violence medical assessment unless disclosed voluntarily with express, written consent. However, should a party choose to provide any records that are maintained by a physician, psychiatrist, psychologist, or other licensed professional or paraprofessional acting in the professional's or paraprofessional's capacity or assisting in that capacity, a party will need to provide voluntary, written consent. Please note that any documentation that a party provides will be seen by all parties and their Advisors.

If, in the course of an investigation, the Investigator determines to investigate additional allegations about the Complainant or Respondent that were not included in the original notice, the Investigator must provide notice of any additional allegation(s) to the parties.

#### **I. Time Frames**

The investigation process, barring any unusual circumstances, will be resolved within ninety to one-hundred-twenty (90-120) business days. In certain circumstances, this time frame may not be reasonable if there are extenuating or unusual circumstances. UMS will do its best to resolve all investigations in a reasonable timeframe. UMS appreciates the impact that investigations can have on all parties involved. If there is good cause for delay in the investigation, the parties will be notified in writing of the temporary delay and the reason for the action. Good cause could include concurrent law enforcement activity, accommodations of disabilities, or other matters that could have a direct impact on the investigation.

Prior to the completion of the investigative report, the University will send to the parties and their Advisors evidence that is directly related to the allegations in the formal complaint that was collected during the investigation. The parties and their advisors will have 10 days to review this evidence and submit a written response to the investigator. The Investigator(s) will share the response(s) with the other parties and their Advisors, and will then consider the responses and take any necessary further investigatory action. Any follow up action needed will then be completed by the Investigator(s).

After any follow up action needed (or if there is none), the Investigator(s) will write an investigative report that fairly summarizes the relevant evidence within 14 business days of receipt by the Investigator of the parties' responses to the evidence.

The Investigator(s) will then forward their report to the UMS Title IX Coordinator or their designee for review. Any suggested changes to the report will be provided to the Investigator(s) within 5 business days. Any suggested changes will be incorporated into the investigative report by the Investigator within 5 business days.

The parties and their Advisors will have another review period for 10 days in which to review the investigative report and submit a written response prior the hearing. The Investigation phase is then concluded. No determination of credibility, findings or responsibility will be included in the Investigator(s) report.

The Investigator(s) will then provide the completed report to the UMS Title IX Coordinator, Deputy Coordinator, or Equal Opportunity Officer overseeing the case; who will then forward the completed investigative report to the Decision-maker(s) assigned to the case. Notification of the names of the Decision-maker(s) will be sent to both parties and their Advisors by the UMS Title IX Coordinator, Deputy Coordinator, or Equal Opportunity Officer overseeing the case, at least five (5) business days prior to the hearing.

The investigation report and any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process.

The parties and their advisors agree not to photograph or otherwise copy the evidence.

## **7. Hearings**

The hearing will be composed of a single Decision-maker or a panel of three Decision-makers at the discretion of the UMS Title IX Coordinator or the Equal Opportunity Officer. If the hearing is composed of three Decision-makers, one of them will be designated as a voting Chair. In either case, the Decision-maker or Chair will reach out to both parties and their Advisors for separate pre-hearing meetings to discuss rules of decorum, process, and any witnesses that need to be present for the hearing.

A live hearing is required and will be recorded by UMS. All recordings are property of UMS. No other recording of any kind will be permitted. At the live hearing, the parties must be able simultaneously to see and hear the party or the witness answering questions.

All live hearings will be conducted using Zoom or another telecommunication method. A party may request an in person live hearing. Such a request for a live in person hearing will be subject to the agreement of the other party and must be submitted to the UMS Title IX Coordinator, Deputy Title IX Coordinator, or Equal Opportunity Officer within 24 hours of receiving notice of the hearing date and time. The request will be evaluated by the Title IX Team involved; after a determination of the request has been made, a written response will be provided to both parties and their Advisors, within 2 business days of the receipt of the request.

Should either party need assistance with participating in or finding a private place to participate in the hearing they should reach out to the UMS Title IX Coordinator, Deputy Title IX



Coordinator, or Equal Opportunity Officer within 24 hours of receiving the notice of the hearing date and time.

At the hearing all parties and their Advisors, will have the same materials as the decision-maker(s). At the hearing the decision-maker(s) or the Chair may ask relevant questions of both parties and the witnesses.

All other members of the committee (if using the three-member panel process) will be able to ask relevant questions of both parties and witnesses; however the Chair will need to determine the relevance of the question and explain any decision to exclude the question as not relevant before the party or witness may answer.

The advisor of each party will also be able to ask relevant questions of the other party and any witness during the hearing. However, prior to the party or witness answering the question, the Chair must:

- a) Determine if the question is relevant.
- b) If the question is not relevant, the Decision-maker (or Chair) will state why the question is not relevant and the party or witness will not answer the question. (At any time the Decision-maker [or Chair] may call a recess to confer with UMS General Counsel.)
- c) The Decision-maker or Chair may ask the Advisor to explain the relevance of the question posed in order to render a ruling on relevance. However, the Advisor will otherwise not be permitted to discuss or argue with the Decision-maker's (or Chair's) determination.

During the hearing the decision-maker(s) and the advisor(s) will not question the Complainant about the Complainant's prior sexual conduct with anyone other than the Respondent unless the question is relevant to establish that someone else committed the conduct alleged to be a violation of this policy. Information regarding any prior sexual conduct or dating relationship between the Complainant and the Respondent by itself shall not imply consent or preclude a finding of a violation, but may be relevant and explored during questioning to understand the nature and context of the parties' relationship and how consent to sexual activity was communicated between the parties.

If a party or witness does not submit to cross-examination at the 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' absence from the hearing or refusal to answer any cross-examination or other question(s). The University may still proceed with the live hearing in the absence of a party, and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a "statement" by that party. For example, A verbal or written statement constituting part or all of the sexual harassment itself is not a "prior statement" that must be excluded if the maker of the statement does not submit to cross-examination about that statement. In other

words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint.

If either party chooses to not attend the hearing, they must have their advisor attend to cross-examine the other party. Should a party's advisor not attend the hearing, UMS reserves the right to provide a free advisor of its choice to the party, so the advisor may cross-examine the other party and/or any witnesses. The decision-maker(s) may not draw any negative inferences from the absence of one or both parties' attendance of the hearing.

Should a party or the party's advisor choose not to cross-examine a party or witness, the party shall affirmatively waive cross-examination through a written or oral statement to the Chair or Panel. A party's waiver of cross-examination does not eliminate the ability of the Chair or Decision-maker(s) to use prior statements made by the party.

#### **8. Determination Regarding Responsibility**

The decision-maker(s), who will not be the same person as the Investigator or the Title IX Coordinator, must issue a written determination regarding responsibility within 15 business days of the hearing.

To reach this determination, the decision-maker(s) must apply the Preponderance of the Evidence standard. Deliberations are not recorded and will be kept confidential. The written determination must be sent to the parties simultaneously and include:

- a) Identification of the allegations potentially constituting Title IX Sexual Harassment as defined in the University of Maine System, Board Policy 402, Section XVI, Title IX Sexual Harassment (pg.'s. 20-24);
- b) 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;
- c) Findings of fact supporting the determination;
- d) Conclusions regarding the application of the University of Maine System, Board Policy 402, Section XVI, Title IX Sexual Harassment (pg.'s. 20-24) to the facts
- e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the UMS imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the UMS' education program or activity will be provided by the UMS to the Complainant; and
- f) Procedures and permissible bases for the Complainant and Respondent to appeal.

If the Respondent is found responsible for a violation; the decision-maker(s) will consider any previous disciplinary action involving the Respondent when determining sanctions.

The recording of the hearing will be available for review (though copies will not be provided) by the parties within 10 business days, unless there are any extenuating circumstances.

## **9. Appeals**

UMS offers both the Complainant and the Respondent the ability to file an appeal from a determination regarding responsibility, and from UMS's decision, if any, to dismiss a formal complaint, or any allegation therein, 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 the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- c) The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or demonstrated bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

Once formal notification is sent out, each party has five business days to file their appeal. The appeal should be sent to the UMS Title IX Coordinator, the Deputy Title IX Coordinator, or the Equal Opportunity Officer overseeing the case.

When an appeal is received the Title IX Coordinator, Deputy Title IX Coordinator, or the Equal Opportunity Officer will:

- a) Notify the other party in writing and implement the appeal procedures equally for both parties;
- b) Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
- c) Ensure that the decision-maker(s) for the appeal complies with the standards set forth in section 4(h) and section 14 of this document;
- d) Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- e) Issue a written decision describing the result of the appeal and the rationale for the result within 10 business days of receipt of the parties written appeal statements; and
- f) Provide the written decision simultaneously to both parties.

## **10. Dismissal of Investigation**

UMS must investigate allegations in all formal complaints. If the alleged conduct, in a formal complaint would not constitute Title IX Sexual Harassment as defined in the University of Maine System, Board Policy 402, Section XVI, Title IX Sexual Harassment (p. 20), UMS will promptly dismiss the formal complaint; such dismissal does not preclude UMS from taking action under other applicable provisions of Board Policy 402, the Equal Opportunity Complaint Procedures or the Student Conduct Code. Nor does it preclude the University from providing supportive measures or offering to assist the Complainant in filing a complaint with law enforcement, another institution/employer.

#### **I. Reasons for Dismissal**

- a) The alleged conduct in a formal complaint, if proven, would not constitute Title IX Sexual Harassment as defined in the University of Maine System, Board Policy 402, Section XVI, Title IX Sexual Harassment (p. 20).
- b) The Complainant requests to withdraw the formal complaint or any allegations therein and UMS agrees to dismiss the complaint and or allegations.
- c) UMS and both parties agree to an informal resolution.
- d) The alleged sexual harassment did not occur within the context of UMS's educational program or activity.
- e) The alleged conduct did not occur within the United States.
- f) At the time of filing the formal Title IX Sexual Harassment complaint, the Complainant was not participating in or attempting to participate in UMS's education program or activity. If the Complainant is not participating or attempting to participate in UMS's educational program or activity the complaint will be referred to the Office of Equal Opportunity or Student Conduct, depending on the status of the Respondent.

Upon notification of the formal complaint dismissal both the Complainant and the Respondent have a period of five business days to appeal the dismissal. The written appeal should be sent to the UMS Title IX Coordinator, Deputy Title IX Coordinator, or the Equal Opportunity Officer who dismissed the complaint. Please see section 9 for further information on appeals.

Dismissal does not preclude UMS from taking action under other applicable provisions of Board Policy 402, the Equal Opportunity Complaint Procedures or the Student Conduct Code.

#### **11. Consolidation of Complaints**

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, this process will be applied in the investigation and adjudication of all of the allegations.

At the discretion of the UMS Title IX Coordinator or the Equal Opportunity Officer, when there are complaints arising from the same facts or circumstances or that include more than one complainant or one respondent, the formal complaints may be consolidated into one investigation or separated into multiple investigations.

In situations where there is a cross complaint (or counter claim), UMS may consolidate the investigation if the information and facts collected arise from the same incident(s).

## **12. Emergency Removal**

UMS reserves the right to take emergency removal action upon a Respondent. In cases where an emergency removal may be required, the UMS Title IX Coordinator or the Equal Opportunity Officer will work with campus officials who have specialized training in threat assessment. Through a safety and risk analysis, it will be determined if the Respondent is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX sexual harassment.

Notice of an emergency removal will be provided to the Respondent and the Respondent will be provided an opportunity to challenge the decision immediately within two business days following the removal. The written challenge should be forwarded to the UMS Title IX Coordinator for review. The UMS Title IX Coordinator, Equal Opportunity Officer and in conjunction with another member of the Title IX Team will review the challenge and respond within two business days.

### **I. Students**

Emergency removal, could include removing a student from campus, housing, prohibiting any participation in the University's programs, events, and/or activities. Any emergency removal will be done in consultation with the UMS Title IX Coordinator and the Dean of Students (or their designee). Other interim measures could include but are not limited to putting a hold on the student's account so they may not receive a transcript or confirm a degree until the complaint process is completed.

### **II. Employees**

Emergency removal, could include paid administrative leave, being removed from campus, prohibiting any participation in the University's programs, events, and/or activities. Any emergency removal will be done in consultation with the UMS Title IX Coordinator, the Equal Opportunity Officer, and Human Resources. Other interim measures could include but are not limited to putting the tenure process on hold until the complaint process is completed.

## **13. Advisors**

Both the Complainant and the Respondent have the right to have an advisor present during any investigative or disciplinary meeting or proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding; however, the University may establish restrictions regarding the extent to which the advisor

may participate in the meetings or proceedings, as long as the restrictions apply equally to both parties.

Advisors will be required to sign Rules of Decorum and a Non-Disclosure Agreement in order to participate in the process. Any Advisor who violates the University's Rules of Decorum may be removed upon violation of those rules. Advisors are expected to hold the highest level of confidentiality during and after the complaint process.

The party's Advisor will work with their Advisee to conduct questioning ("cross-examination") of the other party and witnesses during the hearing. The Advisor may write notes back and forth to their Advisee during meetings, interviews, hearings, etc. Other than conducting questioning, the Advisor should not speak at any point during the process except to the advisee, unless they are seeking guidance regarding the procedural process. This rule does not apply to an Advisor who is acting on behalf of the Advisee due to approved ADA accommodations.

Advisors may not be called as witnesses for the purpose of questioning them about their conversations with their Advisees.

#### **14. Informal Resolution**

UMS offers the opportunity for an informal resolution process where the parties voluntarily consent to engage in such an informal process following the filing of a formal complaint. UMS 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 formal complaints of sexual harassment consistent with this section.

UMS may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility UMS may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided UMS obtains voluntary, written consent from both parties and provides written notice to both parties:

- a) Disclosing the allegations;
- b) The requirements of the informal resolution process including any provisions in which a formal complaint cannot be filed on the same allegations
- c) The right of either party and the University to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint;
- d) Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

- e) Notice that statements made during the informal resolution process may not be brought up in a formal hearing.

An informal resolution process may never be used to resolve allegations that an employee sexually harassed a student as defined under Title IX.

### **15. Training of Title IX Team**

The Title IX Team consists of the UMS Title IX Coordinator, Deputy Title IX Coordinator, Investigators, Decision-makers, Advisors, and Hearing Hosts. The entire team is trained annually and are required to attend at least 8 continuing education courses offered throughout the year. The Title IX team is trained on the following:

- a) Definition of Title IX sexual harassment;
- b) Definition of education program or activity;
- c) Informal resolution processes;
- d) How to conduct an investigation & complaint process including hearing, appeals, and informal resolution processes;
- e) How to be impartial, including avoiding stereo-types, prejudgments, conflicts of interest, and bias;
- f) On issues of relevance during questioning, evidence, investigating, and the hearing process;
- g) Rape shield protections;
- h) Investigative report writing & summarizing evidence;
- i) Technology used throughout the investigative and hearing process.

All of the training materials used will be provided on the [INSERT LINK] website for review.

### **16. Resigning or Withdrawing Pending an Open Investigation**

In the event that the Complainant withdraws from the institution or resigns, the University may dismiss the case. However UMS will then evaluate the case to determine if it needs to be referred to the Student Conduct Process or the Equal Opportunity Complaint Procedures for Investigation.

In the event that a Respondent withdraws from the institution the investigation may continue or the University may place a hold on the student's account not allowing them to access their transcripts or enroll in classes until the matter is fully resolved.

In cases where the Respondent is an employee and resigns from their position, UMS will not allow the individual to be rehired, for any reason, pending resolution of the investigation. Any future inquires about employment matters may reveal that the employee resigned during an open and still pending disciplinary investigation. UMS will not disclose that it was a pending Title IX investigation, unless there is written consent provided by the Respondent and Complainant.

## **17. Retaliation**

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part does not constitute retaliation, provided however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

All parties and witnesses are protected and should not be retaliated against for filing a complaint or for participating or not participating in an investigation or hearing. All forms of retaliation are prohibited and will be taken seriously. Any reports of retaliation should be made directly to the UMS Title IX Coordinator, Deputy Title IX Coordinator, or the Equal Opportunity Officer.

## **18. Recordkeeping**

All records will be maintained for a period of seven years. All records include:

- a) Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment;
- b) The basis for UMS's conclusion that UMS's response was not deliberately indifferent;
- c) Document that UMS has taken measures designed to restore or preserve equal access to the UMS education program or activity;
- d) If UMS does not provide a Complainant with supportive measures, then UMS must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.
- e) The documentation of certain bases or measures does not limit UMS in the future from providing additional explanations or detailing additional measures taken.
- f) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript;
- g) Any appeal and the result therefrom;
- h) Any informal resolution and the result therefrom; and
- i) All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. UMS must make these training materials publicly available on its website.