



## Policy #62002.1

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### SEXUAL MISCONDUCT INVESTIGATION PROCEDURES

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*The purposes of these procedures are to provide Grambling State University with a clear set of guidelines to follow when investigating a report of sexual misconduct.*

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#### STEPS

**1. Formal Complaint** – If the complainant wishes to file a formal complaint or if the situation otherwise warrants a formal investigation and the complainant has not already completed a **Report Form**, the Title IX Complaint Form should be completed and signed by either the complainant or the Title IX Coordinator on behalf of the complainant. The Title IX Coordinator can also complete a form on behalf of the complainant depending on the circumstances (anonymous complainant, telephone complaint, etc.). This complaint form can be supplemented with supporting documentation but in order to maintain privacy for all parties, a copy of the Formal Complaint is the only document that will be released to either party. All other documentation will be made available to either party or their advisors upon request at a mutually agreeable time and location (typically business hours of the university).

**Informal Remedies** – Remedies may include safety planning, academic accommodations, housing relocation, safety planning, and/or issuing a no contact order. Requesting informal remedies are handled through the University’s Office of Title IX/EEO and/or the Student Counseling Center. Informal remedies do not preclude filing a formal complaint or formal discipline.

**2. Preliminary Investigation** – The preliminary investigation is a review of the incident description, files history, facts, and patterns and should include an interview with the complainant and a review of the written complaint and any supporting documentation that is provided. The Title IX Coordinator will generally conduct the preliminary investigation. After the preliminary investigation if the Title IX Coordinator determines that the complaint should be properly handled through another complaint mechanism, the complaint should be routed as appropriate. If there is sufficient evidence to indicate that the allegation of sexual misconduct should be investigated in accordance with the sexual misconduct policy, he/she should move forward as follows:

- Notify the President, Vice President of Student Affairs, Office of Finance/Administration, and Associate Vice President for Human Resources that a Sexual Misconduct Investigation is being initiated.

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The Title IX Coordinator will appoint a trained Investigator (s). The President will designate a Chair for the Appeals Committee. The President's office will provide this information to the Title IX Coordinator who will then move forward with the next step in the process.

- Notify both the complainant and the accused simultaneously through the **Complaint Notice** regarding the fact that a sexual misconduct investigation will take place. This notification will provide instructions regarding the investigation process as well the Title IX Coordinator's anticipated timeline for completion of the investigation. (If the anticipated timeline for completion needs to be extended at any time, the Title IX Coordinator should notify both parties of this fact in writing simultaneously and should provide a new anticipated timeline for completion.) The names of the appeals committee members should be provided together with an opportunity for either party to object together with reasons for their objection. Instructions to both parties not to conduct their own investigation and to provide any relevant information such as a list of potential witnesses to the Title IX Coordinator are provided in the Complaint Notice. Instructions should also be included in the notification regarding privacy of information as well as a determination regarding any preliminary steps that should be taken pending the outcome of the investigation.

The timeline for this process is generally two (2) days which means that all efforts should be made to have the notification letter to the parties within this timeframe. This Complaint Notice will also provide the parties with an opportunity to provide an alternative address to receive all correspondence regarding the complaint and will instruct the parties that unless an alternative address is provided in writing, the University will use the office address that is on file. A copy of the Complaint Form will be attached to the Complaint Notice and instructions will be provided as to how either party can request an opportunity to review the file will be provided.

**3. Investigation** – Investigator(s) will interview all individuals involved in the complaint and compile documentation, such as written and recorded statements. Both the Complainant and the Accused may have advisors to support and assist them during the investigation, determination and appeal stages of the process. The investigation should be initiated within five days of the decision to proceed with an investigation. In the event that the investigation is not initiated within this timeframe, the investigator and or the Title IX Coordinator should document the reasons for any delay.

The investigations should be completed and all documentation provided to the Title IX Coordinator by the Investigator(s) within 21 days. Reasons for deviations from this timeline should be documented in the report.

**4. Complaint Determination** – The Title IX Coordinator will receive the Investigation Reports and will make a determination as to whether specific violations of the Sexual Misconduct Policy were or were not substantiated using the preponderance of the evidence standard. A determination can also be made that the allegations, while made in good faith,

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were not true. The Title IX Coordinator may, but is not required to, contact either party to ask clarifying questions prior to making a determination.

Both parties will be notified in writing regarding the Title IX Coordinator's determination through the issuance of a **Determination Letter** as well as a **Memorandum Opinion**. The **Determination Letter** will contain only the following information: name of the accused; a determination as to whether specific violations of the Sexual Misconduct Policy were or were not substantiated using the preponderance of the evidence standard; if any disciplinary consequences are issued as a result of the investigation that fact should be provided. If a determination is made that the allegations were substantiated, the **Determination Letter** should include proactive measures that will be initiated by the University that are designed to: bring an end to any discriminatory conduct, reasonably prevent its reoccurrence, and remedy any effects on the victim. These can include, but are not limited to sanctions against the accused. Details of any consequences or directives to the accused that relate directly to the complainant should also be provided. The parties should also be informed that either party to the complaint has the opportunity to review the information that was considered by the Investigator at a mutually agreeable time and location on the university campus determined by the Title IX Coordinator and to appeal the Title IX Coordinator determination to the Hearing Committee. The **Memorandum Opinion** should explain the Title IX Coordinator's reasoning for the decision and can be made available for review to either party upon request and to the Hearing Committee if an Appeal of the Title IX Coordinator's determination is made by either party. Complaints that involve allegations of conduct addressed in the Clery Act may require additional disclosure requirements. In addition to a copy of the **Determination Letter**, the **Letter to the Complainant** should also be sent.

- ☐ The Title IX Coordinator should notify the Appeals Committee prior to issuing the **Determination Letter** of the fact that a **Determination Letter** is being issued so that the Committee Members can begin coordinating their calendars in the event of an Appeal.

The Title IX Coordinator should provide copies of the **Determination Letter** to both parties via regular mail to the address provided or the address on file with the University if not alternative address is provided.

- ☐ If either party requests an opportunity to review the additional investigation materials, including the **Memorandum Opinion**, the Title IX Coordinator should make arrangements for that party to review the materials at a mutually agreeable time in the conference room beside the Title IX Office. Notice of this right will be provided to each party throughout the process and there is no deadline to request this opportunity. This opportunity should not be delayed because either party could request this opportunity before making a decision as to whether to appeal which must be made within seven (7) business days of receipt of the Determination Letter.

- If either party submits a written appeal of the Title IX Coordinator's determination, the predetermined Appeals Committee will be convened and an **Appeal Letter** is sent to both parties.

**5. Appeal** – Within 7 business days of receiving notification of either party's request to appeal the determination of the Title IX Coordinator, or as soon thereafter as possible, the Title IX Coordinator will provide the parties with information regarding the Appeals Committee process including the right of either party to address the Appeals Committee.

The Appeals Committee will meet to review all documents privately and will listen to either or both parties, separately if requested. The Committee can also contact the Investigator(s), the Title IX Coordinator or either party for clarification of information. In the event that either party requests the opportunity to address the Appeals Committee, a court room model will not be followed and formal rules of evidence will not be observed. An advisor, including legal counsel, may be present on behalf of either party. Such counsel may consult privately with and advise the parties during the proceedings but may not directly participate on behalf of either party. An advisor/legal counsel may not direct questions or comments to the Committee but may consult with the individual being assisted. The Committee Chair will not allow an advisor or legal counsel's presence to inhibit the conduct of the appeal hearing.

The Appeals Committee will provide the opportunity for the Complainant and Accused to appear before the Committee to provide a verbal or written statement as to why the decision of the Title IX Coordinator should or should not be upheld. Verbal statements by the Complainant or the Accused are limited to 15 minutes and no other individuals will be allowed to make statements on their behalf or in their stead. Upon timely request by the Complainant or Accused, the University may be able to accommodate statements via electronic means in appropriate circumstances.

A recording will be made of these statements and the Title IX Coordinator will make arrangements for duplication of the recording upon request. The complainant, accused, and any advisors will be excused after both individuals have had the opportunity to provide a statement. If either the Complainant or Accused chooses not to submit a statement or appear before the committee, the Appeals Committee will make the recommendation based on the information they have received. If the Committee determines that unresolved issues exist that would be clarified by the presentation of additional information, the Chair may suspend the hearing and reconvene it in a timely manner after receipt of such additional information.

The Appeals Committee will formulate a decision based upon a *preponderance of evidence* as to whether the Title IX Coordinator's determination was fair and proportionate to any violation. The Committee will also consider, as part of its deliberations, whether the determination will result in (a) bringing an end to the violation in question; (b) reasonably prevent a recurrence of a similar violation; and (c) remedy the effects of the violation on the Complainant and the University community.

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The Committee Chair will draft a recommendation to uphold or overturn the decision of the Title IX Coordinator in whole or in part. The recommendation should be placed into writing and submitted to the President of the University.

The President of the University will review the Appeal Committee's report and will either agree with the recommendation or will make a different decision regarding the status of the employee or student. Accompanying documents, and any recorded statements from the Complainant and Accused that may have been made at the hearing may also be reviewed.

The time period between the Appeals Committee meeting and the President's review is approximately two (2) weeks.

Official notification to the parties will follow in a formal letter with a copy to the Title IX Coordinator.

**6. Sanctions** – If a student is found in violation of university policy and it is determined that he/she is ineligible to re-enroll in the University or may not re-enroll until after a certain date, the university's Registrar will make that notation and place a hold on the student's academic transcript.

If an employee is found in violation of policy, the Director of Human Resources will place a notation in the employee's personnel record.