

This Interim Procedure is applicable to acts of Prohibited Conduct that are alleged to have occurred on or after August 14, 2020. It is subject to change.

INTERIM GRIEVANCE PROCEDURES FOR FORMAL COMPLAINTS OF SEXUAL HARASSMENT AND MISCONDUCT

I. Who May Utilize this Procedure

This procedure may be used by any member of the University community who is participating in or attempting to participate in the University's education program or a University-related activity. It is applicable to Formal Complaints concerning Title IX Sexual Harassment (which includes Hostile Environment Harassment, Quid Pro Quo Harassment, Sexual Assault, Domestic Violence, and Dating Violence). This procedure may also be used by any member of the University community who wishes to file a Complaint of Employee Sexual Misconduct, and Sexual Misconduct (Student Code Violation) as set forth in the Sexual Misconduct, Discrimination, and Harassment Policy.

The University may modify these procedures at any time as deemed appropriate for compliance with applicable federal, state, and local law and guidance.

If a Formal Complaint or Complaint triggers this Procedure but also includes allegations that could constitute a separate violation of the Student Code of Rights and Responsibilities or other applicable policy, this Procedure may be modified as reasonably necessary to fully investigate the matter and to avoid duplicative investigations. Prior to initiating any such additional investigation into misconduct under the Student Code of Rights and Responsibilities or employee misconduct, the Title IX Coordinator shall obtain written authorization from the Director of Student Conduct or the Chief Human Resources Officer.

This procedure also applies to students, faculty, and staff at Rogers State University (RSU) or Cameron University (CU) who are participating in or attempting to participate in the an RSU/CU education program or a RSU/CU -related activity. The University is providing certain services relating to sexual misconduct, discrimination, and harassment to RSU/CU. If you are a student, faculty member, or employee at Rogers State University or Cameron University, please consult Appendix C for RSU/CU specific contact information and policy references.

II. Filing of Formal Complaint of Title IX Sexual Harassment

This Grievance Procedure is initiated with a Formal Complaint of Title IX Sexual Harassment or Complaint of Employee Sexual Misconduct or Sexual Misconduct (Student Code Violation).

A Formal Complaint must be filed with the Title IX Coordinator (or any Associate Equity Officer or Associate Title IX Coordinator, all of whom constitute the Title IX Coordinator for purposes of this Policy). The Formal Complaint may be filed in person, by mail, or by electronic mail at any time of day, including during non-business hours, using the contact information listed for the Title IX Coordinator. Generally, a Formal Complaint should be filed as quickly as possible to facilitate the ability to gather facts and evidence; however, every Formal Complaint will be reviewed regardless of when an incident occurred. The Office of Institutional Equity encourages the use of its in-office form for filing a Formal Complaint; however, no particular form is required as long as it (1) is signed, (2) alleges sexual harassment, against a Respondent, and (3) requests an investigation.

Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or party during a grievance process and will comply with the requirements for Title IX personnel to be free from conflicts and bias.

The Title IX Coordinator may consolidate Formal Complaints as to allegations of Title IX Sexual Harassment against more than one Respondent, or by more than one Complainant against one or

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more Respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in this section to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.

III. Filing a Complaint of Employee Sexual Misconduct or Sexual Misconduct (Student Code Violation)

The process for a filing a Complaint of Employee Sexual Misconduct or Sexual Misconduct (Student Code Violation) is the same as the process for filing a Formal Complaint of Title IX Sexual Harassment above, except that prior to initiating an investigation into the alleged conduct, the Title IX Coordinator must first request authorization to investigate from the Chief Human Resources Officer or Director of Student Conduct, who will determine whether the University has jurisdictional authority to impose disciplinary sanctions on the Respondent pursuant to the applicable Staff and Faculty Handbook provisions or Student Code of Rights and Responsibilities, as applicable. Once a Complaint is filed, the Complaint procedures will follow the same procedures for Formal Complaints of Title IX Sexual Harassment except where specifically noted herein or in the Grievance Procedures for Formal Complaints of Title IX Sexual Harassment or Sexual Misconduct.

IV. Dismissal or Withdrawal of a Complaint

A. Mandatory Dismissal of Formal Complaint of Title IX Sexual Harassment

Either upon the initial review of a Formal Complaint or during the course of an investigation, the Title IX Coordinator or Investigator shall dismiss a Formal Complaint of Title IX Sexual Harassment if:

1. The conduct, as alleged, does not meet the definition of Title IX Sexual Harassment even if proved;
2. The alleged conduct did not occur in the University’s education program or activity; or
3. The alleged conduct did not occur against a person in the United States.

If a Formal Complaint is dismissed for any of the above reasons, the Complainant and Respondent will be provided a written notice of the dismissal and the reason(s) for dismissal.

Dismissal of the Formal Complaint of Title IX Sexual Harassment does not preclude action under other policies or codes of conduct of the University. If the conduct, as alleged, would constitute Employee Sexual Misconduct or Sexual Misconduct (Student Code Violation), the grievance process may continue in accordance with these procedures. After a dismissal, the Title IX Coordinator shall issue a Written Notice to Parties reflecting the dismissal, the correct charge, if any, and any changes to disciplinary procedures without requiring further action by either party.

B. Discretionary Dismissal

The Title IX Coordinator or Investigator may dismiss a Formal Complaint of Title IX Sexual Harassment, or a Complaint of Employee Sexual Misconduct/Sexual Misconduct (Student Code Violation) if:

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1. The Complainant requests in writing to withdraw or dismiss a Formal Complaint or any allegations therein;
2. The Respondent is no longer enrolled in or employed by the University; or
3. Any specific circumstances exist which would prevent the University from gathering evidence sufficient to reach a determination regarding responsibility.

After a dismissal under this section, the Title IX Coordinator shall issue a Written Notice to Parties reflecting the correct charge, if any, and any changes to disciplinary procedures without requiring further action by either party.

C. Appeal of Dismissal

Either party may appeal a dismissal of a Formal Complaint of Title IX Sexual Harassment or a Complaint of Employee Sexual Misconduct/Sexual Misconduct (Student Code Violation), or any allegations therein. Such appeals may only be made on the following bases:

1. a procedural irregularity affected the outcome of the matter;
2. new evidence that was not reasonably available at the time the determination of dismissal, that could reasonably affect the decision, and;
3. the Title IX Coordinator or Investigator had a conflict of interest or bias for or against complainants or respondents (generally or individually) that affected the outcome.

Appeal of a dismissal in which the Respondent is a student will be evaluated by the Vice President for Student Affairs. Appeal of a dismissal in which the Respondent is an employee will be evaluated by the Chief Human Resources Officer. A copy of the appeal will be provided to all other parties, who will be afforded up to five (5) University business days to submit a written statement in response. Within five (5) University business days of receiving the written statement, the Vice President for Student Affairs or Chief Human Resources Officer will issue a written decision including the rationale for the decision and provide it simultaneously to the parties.

If an appeal of a dismissal is granted, the Formal Complaint will be reinstated.

If an appeal of a dismissal is denied, all appropriate administrative officials and parties shall be notified in writing that the matter is closed, except in cases where a dismissal of a Formal Complaint of Title IX Sexual Harassment allegations will be investigated as a charge of Employee Sexual Misconduct or Sexual Misconduct (Student Code Violation).

V. Grievance Process

Once a Complainant has been informed of the applicable policies and procedures and available Supportive Measures, and a Formal Complaint has been filed, the grievance process will follow the following general format:

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A. Initial Information and Required Notices

1. Initial Intake

An initial interview with the Complainant to gather information about the Formal Complaint, if needed.

2. Written Notice to Parties

Upon receipt of a Formal Complaint, the University will provide Written Notice to the Complainant and Respondent(s) identified in the Formal Complaint. A Written Notice to Parties will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the University's policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that University policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- A link to the University's VAWA Brochure,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and

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- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the written notice may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges. Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official University records, or emailed to the parties' University-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

B. Investigation

1. Gathering Evidence

The Title IX Coordinator will assign the matter to an impartial Investigator. If, during the course of gathering evidence, the Investigator uncovers additional allegations of Prohibited Conduct, the Investigator will promptly supplement the Written Notice to Parties to include them.

The Investigator will provide an equal opportunity for the parties to present witnesses, including fact witnesses and expert witnesses, and other evidence. The Investigator may conduct interviews, collect statements, collect documents or electronic evidence, and medical evidence from the parties or if deemed necessary by the Investigator. However, in the case of medical records (records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting or assisting in that capacity) made or maintained in connection with the provision of treatment to a party, the Investigator must obtain that party's voluntary written consent prior to accessing, using, considering, or disclosing the records.

Information that is protected by a legal privilege such as attorney-client or doctor-patient cannot be used during an investigation unless the individual holding that privilege has waived it. Neither the Investigator nor either party is allowed to seek or permit questions about, or allow the introduction of evidence that is protected by a legally recognized privilege. Individuals may opt to waive their own privileges if they want but they do not have to.

The Investigator will not consider evidence that is not relevant. Irrelevant evidence may include: (1) incidents not directly related to the possible violation, unless they evidence a pattern; (2) improper character evidence concerning the parties; or (3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

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2. Review of Evidence and Response

Prior to completion of the investigative report, the Investigator will provide the parties and their advisor(s), if any, with an electronic or hard copy of all evidence that is directly related to the allegations for their review and inspection. Evidence that is not directly related to the allegations, evidence that is known to have been obtained illegally (e.g., unlawfully obtained recordings), evidence known to be protected by a legally recognized privilege (e.g., attorney client privilege, doctor patient privilege), and/or medical records obtained without the party's consent will be redacted or withheld. The parties and their advisors, if any, may not make the evidence available to any third party except as reasonably necessary in connection with the grievance. The parties will have ten (10) University business days to review the evidence obtained as part of the investigation that is directly related to the Complainant's allegations and prepare a written response that may propose corrections, provide context, and identify missing evidence. The Investigator shall consider the written responses, if any, and conduct any further investigation or correction that may be warranted prior to completion of the investigation report.

3. Investigative Report

At least ten (10) University business days prior to a hearing, the Investigator will fairly summarize the relevant evidence and send an electronic or hard copy of the investigative report to the parties and advisor(s) for their review and written response. Relevant evidence for the purposes of this grievance procedure is evidence that is pertinent to proving whether facts material to the allegations under investigation are true. Relevant evidence does not include illegally obtained evidence, evidence known to be protected by a legally recognized privilege, and/or medical records obtained without the party's consent.

C. Live Hearing

1. The parties will present relevant evidence at a Live Hearing before a panel of independent Decision-makers. Decision-makers are contracted by the University and do not report to the Title IX Coordinator or Investigators; however, the Office of Institutional Equity may provide administrative support for the Live Hearing by facilitating scheduling, reserving space, and similar tasks. The Live Hearing Procedures are attached hereto as Appendix A.

D. Determination regarding responsibility.

At the conclusion of the Live Hearing, the Decision-maker(s) will reach a conclusion regarding responsibility. If the Respondent is found responsible, previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate disciplinary sanction. This information is only considered at the sanction stage of the process. The parties may each submit a written impact statement for the consideration of the Decision-maker(s) in sanctioning, which will not be reviewed until a conclusion regarding responsibility has been reached. The Decisionmaker(s) will enter a Determination regarding responsibility ("Determination"), which shall include:

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1. Identification of the allegations potentially constituting 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 the application of the Sexual Misconduct, Discrimination, and Harassment Policy to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions recommended to be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided to the Complainant; and
6. The University's procedures and bases for the parties to appeal the Determination.

The Determination will be provided to the parties simultaneously, and the Determination will become final either on the date that a written determination of the result of the appeal is provided to the parties, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator is responsible for effective implementation of any remedies.

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E. Appeals, Sanctions, and Remedies

1. Grounds for Appeal

Either party may appeal a Determination. Appeals may only be made on the following grounds:

- a procedural irregularity affected the outcome of the matter;
- new evidence that was not reasonably available at the time the Determination was made, that could affect the outcome of the matter; or
- the Title IX Coordinator, Investigator, or Decision-makers had a conflict of interest or bias for or against complainants or respondents (generally or individually) that affected the outcome of the matter.

2. Procedure for Appeals

Either party may appeal a Determination with the Title IX Coordinator within five (5) University business days of receiving the written Determination. Both parties shall receive notice of the Appeal. The non-appealing party will be afforded up to five additional (5) University business days to submit a written Response to the Notice of Appeal. The Title IX Coordinator shall provide the Appeal and Response to the appropriate Appellate Decisionmaker. The Appellate Decisionmaker shall enter a Decision of Appeal within ten (10) University business days after the parties' statements, if any, are received. As set forth below, the appellate Decision-maker is not the same person as the Decision-maker entering the Determination, the Title IX Coordinator, or the Investigator.

- **Students**

In all cases in which the Respondent is a student, the Vice President for Student Affairs will determine the appeal. If the Vice President for Student Affairs grants the appeal, the matter will be overturned or remanded for further investigation. If denied, and if sanctions are recommended, the Vice President for Student Affairs will make a written determination to accept the proposed sanctions or impose a more or less severe sanction against a student who has been found responsible.

- **Staff members**

In all cases in which Respondent is a staff member, the Chief Human Resources Officer, in conjunction with the executive officer over the area, will determine the appeal. If the Chief Human Resources Officer, in conjunction with the executive officer over the area, grants the appeal, the matter will be overturned or remanded for further investigation. If denied, and if sanctions are recommended, the Chief Human Resources Officer, in conjunction with the executive officer over the area, will make a written determination to accept the proposed sanctions or impose a more or less severe sanction against a staff member who has been found responsible.

- **Faculty members**

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In cases in which the Respondent is a faculty member, a committee of the Faculty Senate for the Respondent's home campus will determine the appeal. If appeal is granted, the matter will be overturned or remanded for further investigation. If denied, and if sanctions are recommended, the committee may prepare a written opinion confirming the appropriateness of the recommended sanction, which will be forwarded to the Provost of the appropriate campus and the University President.

Alternatively, before forwarding an opinion regarding the sanctions, the Faculty Senate may refer the matter to Faculty Appeals Board for the sole purpose of evaluating the proposed sanction. The Faculty Appeals Board may conduct additional inquiry in accordance with its sanctioning procedures; provided, however, the underlying findings of the Decision-makers may not be disturbed and the Faculty Appeals Board shall not elicit further evidence or testimony regarding the same. The University President will provide a written statement accepting the recommended sanction or imposing a more or less severe sanction. The decision of the University President shall be final, unless the sanction requires Board of Regents' action. If so required, the Board of Regents will review the findings and written recommendations of the Decision-makers, the appellate body, and the University President and enter a decision.

VI. Informal Resolution.

At any time after the filing of a Formal Complaint but not less than ten (10) University business days prior to a Live Hearing, either party may request that the University facilitate an informal resolution. Informal resolution is an available option when both parties voluntarily agree to participate in writing and if the Title IX Coordinator agrees that informal resolution is appropriate given the nature of the allegations and the relationship of the parties. Informal resolution will not be facilitated in cases involving a student Complainant and employee Respondent. To allow the parties to participate without concern for how their statements may affect the outcome of an investigation, the Title IX Coordinator and Office of Institutional Equity staff will not participate in informal resolution.

If the parties reach agreement during the informal resolution process, the facilitator will reduce the agreement to writing and present it to the Title IX Coordinator, who may approve or disapprove the agreement. An approved informal resolution agreement will be recognized as a binding agreement between the parties enforceable by the University. Once the parties have entered into an approved informal resolution agreement, the grievance will be deemed resolved and may not be re-opened.

At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint. If any party declines to participate in the informal resolution process chooses to withdraw from participation, or if informal resolution is not successful, the grievance process continues.

VII. Conflicts of Interest

Any individual materially involved in the administration of the grievance process (including the Title IX Coordinator, Investigator(s), and Decision-maker(s)) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent. These individuals have been trained to meet the requirements under the Title IX regulations. Training information can be found on the Title IX website at: www.ou.edu/eoo

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The Title IX Coordinator will vet the assigned Investigator(s) and Decision-maker(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the grievance process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with President of the University.

VIII. Timing

If the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until a matter is fully resolved (including any appeal).

Hearings for possible violations that occur near or after the end of an academic term that are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the Recipient and remain within the 60-90 business day goal for resolution.

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Appendix A: Live Hearing Procedures for Title IX Sexual Harassment

Upon the conclusion of an investigation and issuance of an investigative report, the parties will be notified in writing of the date, time, location, participants, and purpose of a Live Hearing that will be recorded by audio or audio-visual means. Three trained Decision-makers will oversee and conduct the Live Hearing (the “Decision-makers” or “Hearing Panel”), one of whom will be designated as the Chair of the Hearing Panel and will serve as the parties’ point of contact with the Hearing Panel. The Decision-makers will receive a copy of the Investigative Report with all of the parties’ written responses.

Within ten (10) University business days of receipt of the notification, both parties will provide the Decision-makers with the name and contact information of their Advisor for the hearing, supporting evidence, and a list of witnesses. If either the Complainant or Respondent will not have an Advisor present at the Live Hearing, one will be provided by the University without fee or charge to that party to assist the party at the Live Hearing. The parties will have an opportunity to review and object to the other party’s supporting evidence and choice of witnesses. The Decision-makers will make the final determination as to whether evidence is admissible and will have the discretion to redact or exclude evidence they deem irrelevant.

Live Hearing Location. The privacy of both parties is taken into consideration when determining the location of the hearing. A request by either party may be made that the Live Hearing occur with the parties located in separate rooms with technology that enables the Decision-makers and parties to simultaneously see and hear the party or the witness during the hearing process.

Attendance. Attendance at the Live Hearing is not mandatory; however, if a party or witness does not appear or declines to submit to cross-examination, the Decision-makers are barred from relying on any statement of that party or witness in reaching a determination regarding responsibility. The Decision-makers may not draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the Live Hearing or refusal to submit to questioning. It is the responsibility of the parties to arrange for the attendance of any witnesses; the University cannot compel or mandate attendance at the Live Hearing.

Procedural Rules. At least five (5) University business days prior to the hearing, the Chair shall set forth the rules of procedure for the hearing, the evidence under consideration, and the witnesses to be called, and reasonable timeframes for the parties to present evidence, which may vary depending upon the nature of the allegations and volume of evidence to be considered. In the Chair’s discretion, a pre-hearing conference may be called to aid in preparation for the Live Hearing. Every Live Hearing will provide the parties an opportunity to make an opening statement, present witnesses, cross examine witnesses, conduct redirect and rebuttal (if necessary), and closing argument. The Complainant must present his or her case first.

- a. **Standard of Evidence.** The standard of evidence to be used to make a determination is Preponderance of the Evidence and the Respondent is entitled to a presumption of innocence. Under this standard, the burden of proof is met when the party with the burden persuades the panel that there is a greater than 50% chance that the claim is true.
- b. **Determinations Regarding Relevance.** Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Only relevant cross-examination and other questions may be asked of a party or witness. The Decision-makers may also ask questions of the parties and witnesses for

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clarification. Cross-examination must be conducted directly, orally, and in real time by an Advisor, and never by a party personally. If necessary, a party will be allowed additional time for follow-up questions of their witness, followed by additional time for cross-examination by the other party's Advisor. The Decision-makers will determine whether questions asked during cross-examination by an Advisor are relevant. The Decision-makers may question witnesses or the parties to aid in assessing relevancy and may ask questions before determining if the information provided is admissible.

- c. **Irrelevant Questions.** Questions about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and/or evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

The Decision-makers will not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior.

- d. **Privileges.** Information that is protected by a legal privilege such attorney-client or doctor-patient cannot be introduced unless the individual holding that privilege has waived it. Neither the Decision-maker(s) nor either party is allowed to seek or permit questions about, or allow the introduction of evidence that is protected by a recognized privilege. Individuals may opt to waive their own privileges if they want but they do not have to.
- e. **Follow up Questioning.** Before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.

Live Hearing Determination. Following the hearing, the Chair will issue a written determination, generally within five (5) University business days. In the event circumstances require more time to issue a written determination, the Chair will notify the parties. The written determination will include the following elements:

- i. the allegations made against the Respondent;
- ii. a description of the procedural steps undertaken, including notifications to parties, interviews and site visits, methods used to gather evidence, and hearings;
- iii. findings of fact that support the determination;
- iv. an explanation regarding the result of each allegation, including a determination as to whether the Respondent did or did not violate this Policy as to each allegation;
- v. any recommended disciplinary actions/sanctions against the Respondent, and any remedies to be provided to the Complainant; and
- vi. procedures and bases for appeal.

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Appendix B: Hearing Process for Employee Sexual Misconduct and Sexual Misconduct (Student Code Violation)

Hearings in matters involving Employee Sexual Misconduct and Sexual Misconduct (Student Code Violation) will follow the same procedures for Live Hearings for Title IX Sexual Misconduct, except as follows:

A. Adjudication election

The Respondent and Complainant may elect one of the following options:

1. Waive the option of a Live Hearing. If this option is elected, both parties agree to accept the Decision-makers' Determination for each of the applicable allegations, the sanctions, and remedies outlined, based solely on the investigative report and written responses; or
2. Live Hearing. The determination regarding responsibility of the Respondent will be made by the Decision-makers. The Live Hearing will take place upon request of either party.

Once the parties have made their election, it is final and may not be changed. An election to waive the option of a Live Hearing shall not constitute a waiver of a party's right to appeal a Determination.

B. Live Hearing

If a Live Hearing is selected for adjudication, the hearing procedures in Appendix A of this Policy will apply, with the following exceptions:

1. Advisor of choice

Each party may have an advisor of their choice at the hearing. Upon request from either party, the University will provide an advisor to that party.

2. Questioning of the participants in the hearing

The Decision-makers may, at their discretion, ask questions during the hearing of any party or witness and may be the first to ask questions of any party or witness. Each party may ask relevant questions of any witness at the hearing, except that cross-examination questions of the other party must be submitted in writing to the Chair. The Chair will then ask relevant cross-examination questions of the other party and allow for relevant follow-up questions (if applicable). Advisors are not permitted to ask any questions at the hearing.

3. Prior sexual history

A Complainant's sexual predisposition or prior sexual behavior are not relevant except where questions and evidence about a Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct charged by the Complainant or if the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with the Respondent and are offered to prove the Complainant's consent of the alleged conduct.

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Appendix C: INTERIM Sexual Misconduct, Discrimination, and Harassment Policy

This Appendix is to the Interim Sexual Misconduct, Discrimination, and Harassment Policy (“Policy”) adopted by Rogers State University (“Institution” or “RSU”) on August 14, 2020. The University of Oklahoma and Rogers State University entered into a Memorandum of Understanding, effective August 14, 2020 which sets forth the how the two institutions will coordinate to investigate violations of the Policy.

RSU has adopted this Sexual Misconduct, Discrimination, and Harassment Policy and “University” as used herein refer to this institution unless stated otherwise below.

References to the University of Oklahoma’s Office of Institutional Equity are to RSU’s Office of Student Affairs. Other policy references are as follows:

1. References to the University of Oklahoma Student Rights and Responsibilities Code are to “Rogers State University Division of Student Affairs Student Code of Responsibilities and Conduct”
2. References to the Staff and Faculty Handbook refer to “Rogers State University Human Resources for Policies and Procedures Manual”
3. The title of “University’s Chief Human Resources Officer” is updated to “Director of Human Resources” in the following:
 - Article IV (E)
 - Article V(C)
 - Article VII (C)(2)
4. The title “Director of Student Conduct” is updated to “Director of Student Conduct & Development” in the following:
 - Article IV(F)
 - Article VII(C)(2)
5. The titles “Associate Title IX Coordinator” is updated to “Title IX Coordinator” in the following:
 - Article I
6. The title of “Interim Institutional Equity Office” or “Associate Equity Office” is updated to “University Equal Opportunity Officer” in the following:
 - Article VI (A)
7. The reference to “University of Oklahoma” is update to “Rogers State University” in the following:

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Article VI (A)

8. The following language in Article 1 is updated to provide University specific contact information:

To raise any concern involving bias or conflict of interest, or reports of misconduct or discrimination by the Title IX Coordinator, contact Vice President for Student Affairs Robert Goltra, Ed.D. at 1701 W. Will Rogers Blvd., Dr. Carolyn Taylor Center, RM 201D, Claremore, OK 74017, (918) 343-7569, rgoltra@rsu.edu.

9. The language in Article II is updated to provide University specific contact information:

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Jeana Rae Conn, JD

Director of Student Conduct & Development/Title IX Coordinator

Jconn@rsu.edu

Dr. Carolyn Taylor Center 1701 W. Will Rogers Blvd., Claremore, OK 74017

918-343-7707, Office Direct

10. The following language in Article IV is updated to provide University specific information:

- a. Section B:

Employees with questions regarding accommodations during pregnancy are encouraged to contact the Office of Human Resources (<https://www.rsu.edu/about/offices-services/human-resources>), students and visitors with questions regarding accommodations during pregnancy are encouraged to contact the Disability Resource Center (<https://www.rsu.edu/campus-life/student-resources/disability-services/>).

- b. Section I:

The Consensual Sexual Relationships Policy may be found here: <http://www.rsu.edu/wp-content/uploads/2015/05/HumanResourcesPoliciesProceduresManual-2016-12-09.pdf>

11. The following language in Article VI is updated to provide University specific contact information:

- c. Section A:

Supervisors, managers and faculty members with administrative duties or student supervisory duties are responsible for taking all appropriate action to prevent sex discrimination and harassment, and to stop and correct it when it occurs, and are expected to report it to the Interim Institutional Equity Officer and Title IX Coordinator or any of the University's Associate Title IX Coordinators at (918) 343-7707.

- d. Section C:

Counseling Resources

This Interim Procedure is applicable to acts of Prohibited Conduct that are alleged to have occurred on or after August 14, 2020. It is subject to change.

- RSU Police Department Patrol Phone: (918) -857-2807- provides referrals and support
- RSU Student Counseling Services: (918) 343-7845 - provides counseling services

12. References to are updated to reflect University specific contacts in Appendix B

Employees must take an approved training course every 2 years during their career, with the initial training in their first 30 days of service at the University (<https://www.rsu.edu/campus-life/student-resources/gender-based-misconduct/what-is-it/>). Employees may be required to be recertified on demand. Failure to have a certification of this required training may result in appropriate disciplinary action. Additional in-person trainings are also offered periodically and on request. Where University employees are also students, they will be required to also take the mandatory online training provided to students. For those without access to a computer or in need of additional assistance, please contact the University's Human Resources Department to take the training in an alternate format. Please see the types of training offered below. For more information on training resources or to view copies of training resources, visit RSU's Office of Student Affairs website.

I. For students, the University offers:

- Mandatory online training for students through: <https://www.rsu.edu/campus-life/student-resources/gender-based-misconduct/what-is-it/>. Where students are also University employees, they will be required to take both the employee training and the student online training.
- Training on sexual harassment/discrimination/violence is included in the University's mandatory alcohol training program (in-person and online).
- In-person training for student groups and students through courses, orientations, and other meetings.
- On-going campus campaigns and information at a variety of events concerning the policy and appropriate behaviors regarding sexual assault, dating violence, domestic violence, stalking, and other sexual misconduct.
- Informational website and brochures devoted to educating students at <https://www.rsu.edu/campus-life/student-resources/gender-based-misconduct/what-is-it/>.
- OU Advocates available 24/7 to discuss all available resources on and off campus: (405)615-0013. For Tulsa-based programs (8 a.m. – 5 p.m.) (918) 660-3163; after hours: (918) 743-5763.

II. For employees, the University offers:

- Mandatory online training for employees through: <https://www.rsu.edu/campus-life/student-resources/gender-based-misconduct/what-is-it/>.

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- In-person training on sexual harassment/discrimination/violence and mandatory reporting through new employee orientations, foundations in management, and other periodic training opportunities and upon request.
- Ongoing campus campaigns and information at a variety of events, concerning the policy and appropriate behaviors, regarding sexual assault, dating violence, domestic violence, stalking, and other sexual misconduct.
- Informational website and brochures devoted to educating employees at: <https://www.rsu.edu/campus-life/student-resources/gender-based-misconduct/what-is-it/>.
- OU Advocates available 24/7 to discuss all available resources on and off campus confidentially: 405-615-0013. For Tulsa-based programs (8 a.m. – 5 p.m.): (918) 660-3163 or after hours (918) 743-5763.

III. Other resources available to the University community:

- OU Advocates (24/7): (405) 615-0013 - provides advocates and referrals to other resources on-campus and off-campus. For Tulsa-based programs (8 a.m. – 5 p.m.) (918) 660-3163; after hours: (918) 743-5763
- Campus Police: Claremore 918-343-7624 -Campus Police Building
Bartlesville 918-338-8020 or 918-440-9479 (cell) -First floor across from Admissions
Pryor 918-825-6034 or 918-373-0357 (cell) -Room 104
- Student Health Center: 918-343-7614
- Employee Assistance Program: (800) 327-5043 - confidential resources for HSC and Norman employees; (918) 587-9471 for OU-Tulsa employees
- Hillcrest Hospital: 918-341-2556 - 1202 N. Muskogee Pl., Claremore, OK 74017
- Jane Phillips Medical Center: 918-333-7200 - 3500 SE. Frank Phillips Blvd., Bartlesville, OK 74006
- Integris Mayes County Medical Center: 918-825-1600 - 111 N. Bailey St., Pryor, OK 74361
- DVIS Call Rape Helpline: 918-749-5763
- Safenet Services (Rogers County): 918-341-1424 -1219 W. Dupont, Claremore, OK 74017
- Safenet Services (Mayes County): 918-825-0190 - 19 N. Coo-Y-Yah, Pryor, OK 74361
- Family Crisis and Counseling Center: 918-336-1188 - 622 SE Frank Phillips, Bartlesville, OK 74003