



## **Formal Title IX Grievance Process**

This document coincides with the [Title IX Grievance Process Flowchart](#). Below is a condensed version of the Title IX grievance process. For the process in its totality see [SFA Policy 2.13](#), Title IX. The roman numerals below reference the current section this information resides in the policy.

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Reminders: Certain steps must be completed prior to the launch of any formal grievance process. A Formal Investigation will not start, with a few urgent exceptions, until

- the alleged incident is assessed by the appropriate administrators and recognized as rising to the level of a policy 2.13 violation,
- the Formal Complaint form has been completed, signed, and returned to a Title IX official, and
- a written statement of the incident has been provided to a Title IX official

Once these requirements have been met, an Investigator will be assigned, the Formal Investigation will commence, and the following steps will be taken.

### **Investigation (XIII)**

- Parties notified of the investigation in writing via email
  - o At this time, the Responding Party will be made aware that a report and Formal Complaint were made and be reminded that Retaliation is prohibited in policy
  - o Within the notice to both parties, a Mutual No-Contact Order will also be issued
  - o Parties will have five (5) business days to respond in writing
- Parties will provide the Investigator, in writing, with a written statement of the incident (if not already provided), any evidence, and a list of witnesses.
- Investigation commenced
  - o This includes following up with witnesses listed, compiling evidence, developing more questions as more information is learned, etc.
  - o Please note that:
    - i. The length of this part of the process varies the most and depends on how quickly all parties involved are willing and able to meet with the investigator for interviews and follow-up meetings.

- ii. The investigator will have to ask you questions about the details of the reported incident(s) during your interviews in order to have a full understanding of the situation and help the Hearing Panelists determine whether consent was or was not given.
- Parties will be provided with the preliminary investigation report for review and will notify the Investigator if any relevant information or evidence has not been included or is misrepresented.
- Investigator will incorporate those changes (if relevant) and develop the final investigation report.
- Parties will be provided with the final investigation report concurrently in writing

### **Adjudicative Process Selection (XIV)**

After the investigator has sent the final investigation report to the parties, the Title IX Coordinator will determine if Title IX still holds jurisdiction over the incident (i.e. are both parties still on campus and accessing resources, etc.) If not, the case will be dismissed with an opportunity for appeal. If so, the Title IX Coordinator will contact each Party to ask them which of the two different adjudication process they would prefer to proceed with to determine a finding: a *Live Hearing* or an *Administrative Adjudication*. Details of each of these processes is outlined below, but please note that:

- The hearing process is the default process for adjudicating all Formal Complaints and will be utilized unless both parties voluntarily consent to administrative adjudication as a form of informal resolution.
  - (If only one party consents to Administrative Adjudication, the Live Hearing process will continue).
- The Title IX Coordinator's discretion about which cases are or are not appropriate to be resolved informally and will be the final determining factor as to which process will be used.

### **Adjudication (XV) Live Hearing (I.)**

#### **Pre-Hearing Conference**

Once the review period for the Final Investigation Report is over, preparations for the Live Hearing will commence, and the following steps will be taken:

- You will be contacted to schedule the Pre-Hearing Conference and will be asked to respond to the Investigative Report in a digital Pre-Hearing Response Form.
  - This is your opportunity to provide your corrections to the investigative report or any other considerations that you would like to be addressed by the Hearing Chair in this meeting.
  - You will also be asked to officially select your advisor. Your advisor must be present for this meeting. If you do not have one (as indicated in the form), one will be provided by the university at no cost to you.

- i. In this process, your Advisor will be the one that asks questions of the parties on your behalf during the hearing. Keep this in mind when making your selection.
- Pre-Hearing Conference will be scheduled and conducted
  - o This meeting is to address the rules and logistics for the Hearing.
    - i. This includes planning arrival times, lunch arrangements, discussing excused absences to give professors or supervisors, Zoom (details below), etc.
    - ii. The Hearing date and time will be confirmed at the Pre-Hearing Conference.
  - o Please know that federal regulations of Title IX specify that the Hearing cannot be scheduled within 10 days following the Pre-Hearing conference; it must be scheduled a minimum of 10 days after the Pre-Hearing Conference.

### **Live Hearing**

- A live hearing is the final opportunity to present and assess all accounts of the situation through due process.
- The Hearing Panel will consist of a panel of three (3) University officials trained in Title IX processes and.
  - o These individuals will review the final investigation report and have the opportunity to ask questions.
- There will also be a time for cross examination. Cross examination will be conducted by the Hearing Chair and the parties' advisors.
  - o All questions for cross examination must be approved by the hearing panel prior to being asked.
  - o The order of questioning often starts with parties questioned first, then witnesses, depending on circumstances (first by the Hearing Chair, then the other party's advisor)

All participants are required to attend the hearing in person, at the Title IX Office. However, parties, advisors, and witnesses will be in separate rooms and be attending the hearing via Zoom. A university police officer will also be patrolling the hallway. This provides an additional sense of security for parties, as well as providing opportunity for parties and advisors to have private discussions (they will be in the room with their advisor).

- The Hearing will be recorded via Zoom, as required under the current federal Title IX regulations.
- Remote students or witnesses that do not work and live locally may be permitted to Zoom from a remote location.
- Breaks to decompress, use the restroom, eat lunch, etc., will be taken as needed at the Hearing Chair's discretion.
- Each party will be given the opportunity to present their own closing statement once all cross examination is concluded (stated by themselves, not through the advisor), if they would like. This is optional, not a requirement.

After the hearing, the Hearing Panel will deliberate and make a determination as to whether they found the Respondent responsible for the allegations. The parties will be notified of the finding and recommended sanctions (if applicable) within 15 days following the hearing. If none of the grounds for appeal are met, the decision stands.

### **Adjudication (XV) Administrative Adjudication (J)**

- After the parties receive the investigation report, the Title IX Coordinator will transmit to each Party a notice advising the Party of two different adjudication processes: Live Hearing or Administrative Adjudication.
  - In order to participate in administrative adjudication process, both parties must voluntarily consent in writing; and
  - must be approved by the Title IX Coordinator.
- If both parties consent to the administrative adjudication process:
  - An administrative officer will be assigned and contact the parties to submit any written response to the investigation report; and
  - set a date and time for each party to meet with the administrative party separately.
- After the administrative officer reviews the Parties' written responses:
  - The administrative officer will meet with the parties separately for the Party to make an oral argument, make commentary, or ask questions concerning the Party's written response, the investigative report, and/or the evidence collected during the investigation.
- The administrative officer will objectively re-evaluate all relevant evidence and reach a determination regarding whether the facts that are supported by a preponderance of the evidence standard constitute one or more violations of the policy as alleged in the Formal Complaint.

The administrative officer's written determination will serve as a resolution for purposes of informal resolution.

### **Appeal (XV)**

- Each party will have seven (7) calendar days from the date they receive notice of dismissal or determination to submit an appeal to the Title IX office on the following grounds:
  - Substantive procedural error
  - Discovery of new evidence that was unavailable at the time of the investigation
  - Conflict of interest or bias
- The appeal will be assigned to an appeal officer
- The appeal officer will make a decision on the validity of the appeal based on the final investigation report with the addition of any new evidence and may:
  - (a) affirm or uphold the determination;

- o (b) request further investigation into the reported policy violation; or
- o (c) take such other action as may be warranted under the circumstances.

Parties will be notified of the appeal officer's decision.

### **Sanctions (XIII)**

#### Student Respondent Cases

- o If a finding of Responsible is met, the Hearing Panel Chair will determine appropriate sanctions. Student disciplinary actions may include, but are not limited to, probation, suspension, expulsion, and/or a mark on one's transcript stating they were removed from the university due to a violation of Policy 2.13 and Title IX.

#### Employee Respondent Cases

- o If a finding of Responsible is met, the Hearing Panel Chair will determine appropriate sanctions and disciplinary action will be handled under the university's policies for discipline and dismissal of faculty and employees. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and termination.