



Document Title: Title IX Grievance Process
Supports Policy Number: PS 4 Title IX Policy
Applies to: All Students, Staff, Faculty, and Third-parties

PURPOSE

This procedure document outlines the grievance process referenced in the Bellevue University Title IX Policy, PS 4, in compliance with the University's requirement under Title IX at 34 CFR § 106.8(c) to adopt grievance procedures that provide for the prompt and equitable resolution of formal complaints.

DEFINITIONS

The definitions found in PS 4 apply to this document.

PROCEDURES

1 Reports

- 1.1 Reporting prohibited conduct under PS 4 to the University.** Anyone wishing to make a report of alleged or possible prohibited conduct under this policy may do so by submitting a report through the University's online report form at:
https://bellevue-advocate.symplicity.com/public_report/index.php/pid494675?

Or contact Title IX Coordinator at:

Title IX Coordinator
Bellevue University
1000 Galvin Road South
Bellevue, Nebraska 68005
402-557-5299
TitleIX@bellevue.edu

- 1.2 Who May Submit a Report.** Reports may be submitted by anyone subjected to Prohibited Conduct (Complainants), employees, or any other person with knowledge of Prohibited Conduct under this policy.
- 1.3 Anonymous Reporting.** The University accepts anonymous reports of conduct alleged to violate this policy and will follow up on such reports. The reporter is encouraged to provide as much detailed information as possible to allow the University to investigate and respond as appropriate. The University may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the University staff to conduct a meaningful and fair investigation. University employees who are subject to the mandatory reporting requirement in PS 4 may not make reports anonymously.

1.4 Preliminary Assessment; Dismissal.

- 1.4.1** After receiving a report, the Title IX Coordinator will conduct a preliminary assessment to determine:
 - 1.4.1.1.1** Whether the responding is able to be identified after taking reasonable steps to do so;
 - 1.4.1.1.2** Whether the respondent is participating in a University program or activity and/or employed by the University; and
 - 1.4.1.1.3** Whether the conduct, as reported, falls or could fall within the scope and jurisdiction of PS 4; and
 - 1.4.1.1.4** Whether the conduct alleged in the complaint, even if proven, would constitute Prohibited Conduct as defined in PS 4, after making reasonable efforts to clarify the allegations with the complainant.
- 1.4.2** If the Title IX Coordinator determines: that the University is unable to identify the respondent after taking reasonable steps to do so; that the respondent is not participating in a University program or activity and is not employed by the University; that the conduct reported does not fall within the scope and jurisdiction of PS 4; and/or that the conduct alleged in the complaint would not constitute Prohibited Conduct under PS 4, even if the report were investigated and determined to be true, the Title IX Coordinator will close the matter and may notify the reporting party if doing so is consistent with the Title IX Policy. The Title IX Coordinator may refer the report to other University offices, as appropriate.
- 1.4.3** As part of the preliminary assessment, the Title IX Coordinator may take reasonable steps to determine the identity of the Complainant and relationship to the University, if it is not apparent from the report.

2 Rights and Responsibilities of Parties and Witnesses. During the investigation and resolution of a complaint, the parties and Witnesses have the following rights and responsibilities as further detailed in this grievance process:

2.1 Rights of Parties

- 2.1.1** The right to a grievance process and the right to reasonably prompt timeframes for the major stages of the grievance process, subject to reasonable extensions for good cause, as laid out in this document.
- 2.1.2** The right to be treated equitably with respect to supportive measures and to the grievance process overall.
- 2.1.3** The right to a grievance process as described in this document that is absent of conflicts of interests free from bias for or against complainants or respondents generally or an individual complainant or respondent by University officials involved in the process (e.g., Title IX Coordinator, Investigator, Decision Maker, Appeal Officer, etc.).
- 2.1.4** The right to receive written notice of a formal complaint, determination of responsibility, determination of appeal, and other written notices.
- 2.1.5** The right to be presumed not responsible for the alleged conduct unless a formal determination of responsibility is made at the conclusion of the grievance process.
- 2.1.6** The right to an Advisor of the party's choice and the right for the Advisor to accompany the party to any meeting, investigative interview, or other proceeding

carried out under the grievance process, subject to the Advisor participation limitations in this document.

- 2.1.7** The right to be free from the imposition of sanctions for alleged conduct except following a determination of responsibility under the grievance process or as agreed upon in an informal resolution agreement.
- 2.1.8** The right to equal opportunity to access the relevant and not otherwise impermissible evidence.
- 2.1.9** The right to present relevant and permissible witnesses and evidence, including fact and expert witnesses and other inculpatory and exculpatory evidence, and have it objectively evaluated by a trained, impartial Decision Maker.
- 2.1.10** The right to be free from retaliation for reporting, assisting, or participation or refusal to participate in a report, complaint, or grievance process.

2.2 Rights of Parties and Witnesses

- 2.2.1** The right to be free from retaliation for reporting, assisting, or participation or refusal to participate in in a report, complaint, or grievance process.
- 2.2.2** The right to amnesty from student drug and alcohol policy violations in accordance with PS 4.
- 2.2.3** The right to the University's reasonable steps to protect the privacy of the parties and witnesses during the pendency of a grievance procedures, provided that the steps do not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or Advisors; or otherwise prepare for or participate in the grievance process.
 - 2.2.3.1** In order to protect the privacy and confidentiality rights of all individuals involved, the University prohibits parties, witness, and others participating in any stage of a grievance process from making personal recordings of any meeting, investigative interview, or other proceeding carried out under the grievance process.
 - 2.2.3.2** To carry out the above provision, the University may prohibit any individual from bringing devices capable of recording into any meeting, investigative interview, or other proceeding carried out under the grievance process. This may include, but is not limited to: recording devices, telephones, tablets, computers, and other electronic devices.

2.3 Responsibilities of Parties and Witnesses

- 2.3.1** The responsibility to read and follow PS 4 and this grievance process.
- 2.3.2** The responsibility to be truthful.
- 2.3.3** The responsibility not to retaliate any individual who has reported, assisted, or participated or refused to participate in a matter under this policy;
- 2.3.4** Alleged violations of an individual's responsibilities within the grievance process, other than violations of the prohibitions on Sexual Harassment and Retaliation, will be subject to review under the Student Code of Conduct for students, the Faculty Handbook for faculty, the Employee Handbook for employees, or other applicable University policies and standards

3 University Response to a Report

- 3.1** Upon receipt of a report of prohibited conduct under this policy, the Title IX Coordinator shall:
- 3.1.1** Contact the Complainant to:
 - 3.1.1.1** Discuss the availability of supportive measures;
 - 3.1.1.2** Consider the Complainant's wishes with respect to supportive measures;
 - 3.1.1.3** Inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint; and
 - 3.1.1.4** Explain to the Complainant the process for filing a formal complaint.
 - 3.1.2** Provide a written explanation to the Complainant of the process for filing a formal complaint.
 - 3.1.3** Offer supportive measures to the Complainant, as appropriate.
- 3.2** The University may not impose disciplinary sanctions under PS 4 or this grievance process against any individual, including an alleged Respondent, unless a formal complaint has been filed, a formal grievance process has been carried out, and a formal determination of responsibility for a policy violation has been made.

4 Supportive Measures

- 4.1** The University may provide varying supportive measures to a Respondent and/or Complainant, as appropriate and reasonably available. Supportive measures must be designed to protect the safety of the parties or the University's educational environment, or to provide support during the grievance process or informal resolution process. Supportive measures must not unreasonably burden either party and may not be imposed for punitive or disciplinary reasons. Supportive measures are determined on a case-by-case basis by the Title IX Coordinator and are provided without fee or charge to the Complainant or Respondent. The Title IX Coordinator will consider the subject Party's wishes and may consult with the parties, the Investigator, and/or other appropriate BU employees, including those responsible for supporting students with disabilities, with respect to supportive measures.
- 4.2** Supportive measures provided to either party are confidential and shall not be disclosed by the University to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to: implement the supportive measures (*e.g.*, faculty or University staff may be notified and directed to implement academic or housing changes; both parties may be notified of contact restrictions as required to comply); to preserve a party's access to an education program or activity; or when an exception to confidentiality applies as stated in PS 4.
- 4.3** Examples of supportive measures include, but are not limited to:
- 4.3.1** Providing support services, such as referrals to on-campus counseling or other services, private counseling, and/or other community resources;
 - 4.3.2** Allowing and assisting a party to change his or her academic, on-campus work, on-campus living situation, or participation in extracurricular or other University activities, regardless of whether there is or is not a comparable alternative;

- 6.1 Formal Complaint Required.** A formal complaint may be filed orally or in writing using one the contact methods outlined above in Section 1 and must contain sufficient information that it objectively can be understood as a request for the University to investigate and make a determination about alleged Prohibited Conduct.
- 6.2 Who May File a Complaint.** A formal complaint may only be filed by:
- 6.2.1** A Complainant;
 - 6.2.2** A parent guardian, or other authorized legal representative with the legal right to act on behalf of a complainant
 - 6.2.3** The Title IX Coordinator, following the assessment and determination outlined below; or
 - 6.2.4** With respect to complaints of sex discrimination other than sex-based harassment:
 - 6.2.4.1** Any BU student or employee; or
 - 6.2.4.2** Any person other than a student or employee who was participating or attempting to participate in a University education program or activity at the time of the alleged sex discrimination.
- 6.3 Procedure for Complaints filed by the Title IX Coordinator.** In any case, including a case where a Complainant elects not to file a formal complaint, the Title IX Coordinator may file a formal complaint on behalf of the University if the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its education program or activity. In making the determination above, the factors the Title IX Coordinator must consider include (but are not limited to):
- 6.3.1** The Complainant's request not to proceed with initiation of a complaint;
 - 6.3.2** The Complainant's reasonable safety concerns regarding initiation of a complaint;
 - 6.3.3** The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
 - 6.3.4** The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
 - 6.3.5** The age and relationship of the Parties, including whether the respondent is a University employee;
 - 6.3.6** The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
 - 6.3.7** The availability of evidence to assist a Decision Maker in determining whether sex discrimination occurred; and
 - 6.3.8** Whether the University could end the alleged sex discrimination and prevent its recurrence without initiating its Grievance Process.
- 6.4** At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the University.
- 6.5** Throughout a formal grievance process, the University will designate, as applicable, Investigator(s), a Decision Maker, Informal Resolution Facilitator, and Appeal Officer, who will

be free from a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent.

6.5.1 The Decision Maker and Appeal Officer designated by the University will generally be based on the Respondent's status as a student or employee of the University and the appropriate University officials that would typically have disciplinary authority over the Respondent's conduct.

6.5.2 When the Respondent is both a student and an employee of the University, the Title IX Coordinator will make a fact-specific inquiry and determination, considering whether the Respondent's primary relationship with the University is to receive an education and whether the alleged Prohibited Conduct occurred while the party was performing employment-related work

7 Consolidation of Formal Complaints. At any point prior to a dismissal or determination of responsibility, the University may consolidate formal complaints or cases under this grievance process against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, when the allegations of prohibited conduct 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 document and PS 4 to the singular "party," "complainant," or "respondent" include the plural, as applicable.

8 Notification

8.1 Initial Notification. Upon receipt of a formal complaint, the Title IX Coordinator will provide written notification to the parties whose identities are known, with sufficient time of the parties to prepare a response before any initial interview. Such notice shall include:

8.1.1 Notice of the policies and grievance process in PS 4 and this document, including the informal resolution process.

8.1.2 Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident(s), the conduct alleged to constitute Prohibited Conduct under PS 4, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the University.

8.1.3 Information on the rights and responsibilities of the parties under this grievance process, listed in Section 2.

8.1.4 Information about University policies that prohibit knowingly making false statements or knowingly submitting false information during the grievance process.

8.1.5 The name of the Investigator and Decision Maker assigned to the matter.

8.1.6 A statement on the prohibition of retaliation under PS 4.

8.2 Ongoing Notification.

8.2.1 Throughout the grievance process, whenever a party is invited or expected at an investigative interview, meeting or proceeding under this grievance process, the University will provide that party with written notice of the date, time, location, participants, and purpose of the proceeding, with sufficient time for the party to

prepare to participate. The Title IX Coordinator is generally responsible for providing this written notice, but the Investigator and/or Decision Maker may also send notices as appropriate to their roles throughout the grievance process.

8.2.2 The Title IX Coordinator will provide additional written notification to both parties to supplement the initial notification in case of consolidated complaints or if, during the course of an investigation, the Investigator or Title IX Coordinator decides there is reason to investigate additional allegations that were not included in the initial notice provided to the parties.

8.2.3 Written notices provided under this grievance process may be provided by delivery method and in a format determined by the individual completing the notification, including by electronic (email) delivery.

8.3 Permissible Notification Delays. To the extent that reasonable concerns exist for the safety of any person as a result of providing notice of allegations or other notice under this grievance process, the Title IX Coordinator may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

9 Dismissal. A formal complaint may be dismissed and closed at any point in accordance with this section. Only the Title IX Coordinator or the Decision Maker can dismiss a case after a formal complaint has been filed.

9.1 Grounds for Dismissal. The University may dismiss a formal complaint:

9.1.1 For any of the reasons listed in Section 1.4, above.

9.1.2 The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to voluntarily withdraw any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute Prohibited Conduct under the Title IX Policy;

9.1.3 The Respondent no longer has any status as a participant in any University education program or activity or as an employee of the University; or

9.1.4 Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

9.2 Written Notice of Dismissal Required. The Title IX Coordinator or Decision Maker shall issue a written Notice of Dismissal that includes the basis for the dismissal. Notification to the Respondent is required only if the Respondent has already been notified of the allegations, in which case, the notice shall be provided to both parties simultaneously.

9.3 Dismissal; Appeals; Effect.

9.3.1 Either party may appeal a dismissal, except a respondent who had not received notification of the allegations at the time of the dismissal. Appeals of a dismissal decision will be carried out as detailed in Section 15 below.

- 9.3.2** Dismissal of a formal complaint under PS 4 does not preclude action by the University under the Student Code of Conduct (PS 1901), the Student Housing Handbook, the Employee Handbook, or any other University policy. The Decision Maker or Title IX Coordinator may disclose information as appropriate to other University officials responsible for investigating such violations.
- 9.3.3** In case of dismissal, the Title IX Coordinator will:
 - 9.3.3.1** Offer supportive measures as appropriate to the Complainant and to the Respondent, if the Respondent had received notification of the allegations at the time of the dismissal; and
 - 9.3.3.2** Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the University's education program or activity.

10 Informal Resolution

- 10.1 Request for Informal Resolution.** In any case in which a formal complaint has been filed, either party may request Informal Resolution at any point prior to a determination of responsibility subject to the following:
 - 10.1.1** The request must be signed, dated, and submitted by the requesting party in writing to the Title IX Coordinator and include the name of the Complainant and Respondent and case number, if any, and a brief explanation of any specific informal resolution measures being requested by the party, if known.
 - 10.1.2** Cases in which a University employee is alleged to have sexually harassed a student or when such a process would conflict with federal, state, or local law are not eligible for informal resolution.
 - 10.1.3** Bellevue University reserves the right to decline to allow informal resolution despite one or more of the parties' wishes as outlined further in the next section.
- 10.2 University Response to a Request for Informal Resolution.**
 - 10.2.1 University Discretion.** Upon receipt of a request for informal resolution, the Title IX Coordinator will make a preliminary determination as to the propriety of informal resolution in the particular case based upon the allegations in the formal complaint, the health and safety of all parties and the campus community, whether the alleged conduct would present a future risk of harm to others, whether or not the Respondent has admitted or wishes to admit responsibility, the adequacy of existing supportive measures in relation to an informal resolution process, and any other factors determined to be relevant. The Title IX Coordinator may consult with any assigned Investigator or Decision Maker and with University legal counsel in making this determination. If the Title IX Coordinator determines that informal resolution is not appropriate for the case, the Title IX Coordinator will send written notice of denial to the requesting party.
 - 10.2.2 Notice of Request for Informal Resolution.** If the Title IX Coordinator determines that informal resolution is appropriate, the Title IX Coordinator will send written notice of request for informal resolution which shall include:

- 10.2.2.1** A summary of the allegations;
 - 10.2.2.2** Information about the requirements of the informal resolution process and details about what the proposed informal resolution process will entail and possible outcomes;
 - 10.2.2.3** A statement that both parties must agree to participate in informal resolution by signing a voluntary, written consent to the informal resolution process;
 - 10.2.2.4** A statement about the consequences or effects of opting into the informal resolution process, including that it will suspend the grievance process at its current stage and that it precludes the parties from initiating or resuming a formal complaint arising from the same allegations unless a party formally withdraws their consent to the informal resolution process prior to agreeing to an informal resolution;
 - 10.2.2.5** A statement about the potential terms that may be requested, offered, or agreed upon in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties;
 - 10.2.2.6** A statement about the records and information that will be maintained and shared by the University within the informal resolution process and how such information may be disclosed for use in the grievance process, if initiated or resumed;
 - 10.2.2.7** A statement about the consequences or effects of signing a written informal resolution agreement following an informal resolution process, including that it will constitute final resolution of the formal complaint and that it will preclude the parties from initiating or resuming a formal complaint or grievance process arising from the same allegations in the future;
 - 10.2.2.8** A statement about the potential consequences of failing to adhere to the terms of a signed Informal Resolution Agreement; and
 - 10.2.2.9** As statement about the right and process to withdraw consent to informal resolution and instead initiate or resume the grievance process.
- 10.2.3 Consent to Informal Resolution.** Both parties must sign a voluntary, written consent to proceed with and participate in an informal resolution process. If one or more parties do not provide voluntary, written consent, the Title IX Coordinator will send written notice to both parties that the request for informal resolution is denied and that the grievance process will continue. Bellevue University will not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.
- 10.2.4 Other Actions by the Title IX Coordinator.** In the event that a case proceeds to informal resolution, the Title IX Coordinator is still responsible for and authorized to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within University's education programs or activities.

10.3 Informal Resolution Process. Upon receipt of voluntary, written consent to informal resolution from all parties, the Title IX Coordinator shall designate an Informal Resolution Facilitator to oversee the informal resolution process. The purpose of the informal resolution process is to collaboratively develop a plan, agreeable to both parties and the University, that that will resolve the formal complaint without completing the grievance process or a determination of responsibility. The goal of the informal resolution process is to develop a written and binding Informal Resolution Agreement, signed by both parties and the Title IX Coordinator. Examples of potential terms that may be included in an informal resolution agreement include, but are not limited to: restrictions on contact; restrictions on the Respondent’s participation in one or more of the University’s programs or activities, attendance and specific events, or other restrictions that could have been imposed as remedies or disciplinary sanctions at the conclusion of a grievance process if a violation was determined to have occurred.

10.3.1 Role of Informal Resolution Facilitator. The role of the Informal Resolution Facilitator is to informally mediate an Informal Resolution Agreement that resolves the formal complaint to the satisfaction of all parties and the University. For purposes of this section, “informal mediation” indicates that this term used used generically and shall not be interpreted as an indication that the University will provide a certified mediator. Rather, the University will provide informal facilitation and intervention, through the trained Informal Resolution Facilitator, in order to enable an agreeable case resolution between the parties. The Informal Resolution Facilitator must not be the same person as the assigned Investigator or Decision Maker and will be free from any conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

10.3.2 Initiating Informal Resolution. The specific process for any informal resolution will be determined by the parties and the Title IX Coordinator, in consultation together. Before commencing the informal resolution process agreed upon, the Title IX Coordinator will transmit a written notice to the parties that:

10.3.2.1 Describes the parameters and requirements of the informal resolution process to be utilized;

10.3.2.2 Identifies the Informal Resolution Facilitator responsible for facilitating the informal resolution;

10.3.2.3 Explains the effect of participating in informal resolution and/or reaching a final resolution will have on a party’s ability to resume the investigation and adjudication of the allegations at issue in the Formal Complaint; and

10.3.2.4 Explains parameters applicable to use of information, evidence, and statements provided in the informal resolution process on future proceedings on the formal complaint or other allegations of policy violations, including violations of this policy and other University policies. To support candor and accountability in the Informal Resolution Process, the University will not use party admissions or other information learned during the Informal Resolution Process in any pending or subsequent

formal process relating to the same allegations or for any purpose other than facilitating this informal resolution process.

- 10.3.2.5** Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.

10.3.3 Informal Resolution Agreement. The Informal Resolution Agreement is considered a binding contractual agreement between the parties and the University.

- 10.3.3.1** The Informal Resolution Agreement may entail a myriad of resolutions so long as they are lawful and agreed upon by all parties and the University. Many resolutions may be equivalent or similar to supportive measures as outlined in PS 4, except that unlike pre-grievance supportive measures, such informal resolution measures may be disciplinary or punitive in nature as to the Respondent or otherwise burden the Respondent (such as requiring a Respondent to be removed from or reassigned units within student housing; or requiring a Respondent to change class sections), so long as the Respondent consents to the measures in an Informal Resolution Agreement.

- 10.3.3.2** The Informal Resolution Agreement may or may not address fault or admissions of guilt as negotiated by the parties and University.

10.3.4 Effect of Informal Resolution Agreement.

- 10.3.4.1** Upon execution of an Informal Resolution Agreement, the formal complaint will be closed as fully resolved and, regardless on any admission of responsibility, will not result in a formal determination of responsibility against the Respondent for a violation of PS 4.

- 10.3.4.2** Any party that fails to adhere to the terms of an Informal Resolution Agreement may be subject to discipline. For students, such failure shall be considered a violation of the Student Code of Conduct and may be subject to discipline, up to and including expulsion. For employees, such failure shall be considered a violation of the terms of employment and may be subject to discipline, up to and including termination.

10.3.5 Terminating the Informal Resolution Process. If at any point, the Informal Resolution Facilitator believes that the informal resolution process is no longer safe, effective, or valuable, the Informal Resolution Facilitator may terminate the informal resolution process by providing written notification of the termination and the reasons for the termination.

10.4 Right to Withdraw Consent to Informal Resolution. At any time prior to signing an Informal Resolution Agreement, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

- 10.4.1** A request to withdraw consent to informal resolution must be signed, dated, and submitted by the requesting party in writing to the Title IX Coordinator or Informal Resolution Facilitator.

- 10.4.2** Upon receipt of a request to withdraw consent, the Title IX Coordinator will grant the request and direct the Informal Resolution Facilitator to immediately cease all informal resolution actions.

10.5 Termination of Informal Resolution Process; Resumption of Grievance Process. Upon withdrawal of either party's consent to informal resolution or the termination of an informal

resolution process by the Informal Resolution Facilitator, the Title IX Coordinator will provide written notice to both parties and Advisors, if known to the University, that the formal grievance process will be resume at the point at which it was previously suspended as a result of the informal resolution process. The Title IX Coordinator will also notify all officials involved in the grievance process and take any steps necessary to promptly resume the grievance process.

11 Investigation

11.1 Designated Investigator. The Title IX Coordinator designates one or more trained Investigators, who will be responsible for conducting an adequate, reliable, and impartial investigation of the Prohibited Conduct alleged in the formal complaint.

11.2 Purpose. The purpose of the investigation and responsibility of the Investigator is to gather evidence sufficient for the Decision Maker to reach a determination regarding responsibility for the alleged Prohibited Conduct.

11.3 Evidence Gathering. The Investigator may gather information in multiple ways. Evidence gathering shall include an equal opportunity for the parties to present relevant and permissible witnesses and evidence, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Other efforts by the Investigator may include but are not limited to the following:

11.3.1 Questioning and collecting statements from the Complainant, Respondent, and Witnesses via individual meetings, interviews, or written correspondence, subject to the requirements below regarding questioning of parties and witnesses and permissibility of evidence.

11.3.2 Assessing and considering the credibility of a party or a witness, provided that credibility determinations must not be based on a person's status as a complainant, respondent, or witness.

11.3.3 Receiving documents, materials, or other evidence from the Complainant, Respondent, and Witnesses;

11.3.4 Reviewing student records and other relevant documents and evidence in the University's possession and/or owned by the University;

11.3.4.1 The Investigator shall be entitled to access University records and evidence as relevant and necessary to the investigation. This includes, but is not limited to accessing or taking possession of the following: student records, including those specific to a student with a disability; University personnel records; employee and student email; security footage and secure entry data; courses in the learning management system; University devices and other property; and any other University records or evidence that may be relevant.

11.3.4.2 With respect to providing University records or property within their control to the Investigator, all University employees are authorized and directed to cooperate with an investigation under this policy and provide all requested records to the Investigator in a timely manner. When

directed by the Investigator or Title IX Coordinator not to disclose the request for purposes of maintaining confidentiality and/or limiting disclosure of the investigation or parties involved, University employees shall comply with such a request without disclosing the request to others or seeking authorization from other University officials or leaders.

- 11.3.5** Independently seeking out other evidence or conduct independent open-source research relevant to the investigation (e.g., viewing parties' or witnesses' social media accounts, conducting independent research on terminology or subject matters unfamiliar to the Investigator, or identifying additional witnesses);
- 11.3.6** Seeking consultation or statements from expert witnesses who may provide relevant information to understand a technical matter (e.g., the University Director of Information Technology Services in matters involving University IT systems).
- 11.3.7 Questioning of Parties and Witnesses.** The following shall apply for any questioning or interviewing of parties or witnesses by the Investigator or Decision Maker in any grievance process.
 - 11.3.7.1** The Investigator or Title IX Coordinator will provide to any party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.
 - 11.3.7.2** The Complainant and Respondent may, but are not required, to be accompanied to any meeting, investigative interview, or other proceeding under this grievance process by one advisor of their choice, who may be, but is not required to be, an attorney. The Advisor is allowed to be present but is not allowed to participate or to speak or act on behalf of the party. Any Advisor who does not comply with the restrictions in this section may be removed and excluded from the remainder of the meeting, interview, or proceeding.
 - 11.3.7.3** The Investigator or Decision Maker may ask relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility.
 - 11.3.7.4** The Investigator or Decision Maker must provide an opportunity for each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the Investigator or Decision Maker during one or more individual meetings, including follow-up meetings, provided the party's question is relevant and not otherwise impermissible.
 - 11.3.7.4.1** The Decision Maker will review all proposed questions and determine whether a proposed question is relevant and not otherwise impermissible prior to the question being posed, and must explain any decision to exclude a question as not relevant or otherwise impermissible.

11.3.7.4.2 If a Decision Maker determines that a party's question is relevant and not otherwise impermissible, then the question must be asked except that the Decision Maker not permit questions that are unclear or harassing of the party or witness being questioned. The Decision Maker must give a party an opportunity to clarify or revise a question that the Decision Maker has determined is unclear or harassing and, if the party sufficiently clarifies or revises a question to satisfy the terms of this paragraph, the question must be asked.

11.3.7.5 The Investigator or Decision Maker will provide each party with a written transcript of party or witness statements with enough time for the party to have a reasonable opportunity to propose follow-up questions prior to the close of the investigative stage.

11.3.7.5.1.1 The University may create recordings of party and witness interviews/statements solely for the purpose of creating and maintaining an accurate transcript for purposes of this subsection.

11.3.7.5.1.2 Such recordings may be deleted or otherwise destroyed upon verification that an accurate transcript has been produced and such recordings shall not be disclosed to anyone other than the Investigator, Title IX Coordinator, and Decision Maker.

11.3.7.6 Any refusal to respond to questions by a party or witness may be noted by the Investigator and considered by the Decision Maker, who may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible, provided that the Decision Maker does not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions

11.4 Impermissible Evidence and Witnesses. Certain evidence, witnesses, and questions posed to a party or a witness is not relevant or permissible. The Decision Maker is responsible for determining whether evidence, witnesses, or a proposed question for a party or witness is relevant and not otherwise impermissible. Questions on the relevance and permissibility of evidence and witnesses will be referred by the Investigator to the Decision Maker for a determination. Proposed questions for a party or witness will be reviewed by the Decision Maker as outlined above in this section. The Decision Maker and Investigator must exclude and may not access, consider, disclose, or otherwise use the following types of evidence, witnesses, and questions seeking that evidence, except as necessary to determine whether an exception applies:

11.4.1 Evidence that is not relevant as defined in the Title IX Policy.

11.4.2 Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the

privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.

11.4.3 A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in the grievance process.

11.4.4 Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

11.5 Party Access to Evidence. The parties have equal opportunity to information about the relevant and permissible evidence and to respond to such evidence. There is no right of review for evidence that the Decision Maker determines is not relevant or permissible. Parties who are provided access to evidence must not copy or reproduce it and must agree not make any unauthorized disclosure of the information and evidence obtained solely through the grievance process, except for purposes of the grievance process or litigation related to the complaint. In order to ensure parties' opportunity to access evidence, at least 10 calendar days prior to completion of an investigative report, the Investigator shall provide both parties the following written notice:

11.5.1 Written notice of the conclusion of evidence gathering and anticipated date that the investigation stage will close and an Investigative Report will be issued to the Decision Maker;

11.5.2 The written notice will include, in the Investigator's discretion, either an accurate description of the relevant and permissible evidence gathered and relied upon in the investigation or notice of the parties' equal opportunity to access and review any evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible with instructions on how to arrange such access and review.

11.5.3 The written notice shall advise the parties their equal opportunity to submit a written response to the evidence and the deadline for such response, which shall be at least 10 calendar days. Responses received after the deadline may not be taken into consideration.

11.5.4 The Investigator shall consider any such timely written responses prior to completion of the investigative report.

11.6 Investigative Report. At the conclusion of the investigation, the Investigator will prepare a written Investigative Report. The Investigative Report is typically issued within sixty (60) calendar days after receipt of the formal complaint, subject to reasonable extensions.

11.6.1 The Investigative Report will include:

- 11.6.1.1** A summary of the allegations;
 - 11.6.1.2** A statement of the scope of the investigation and methods of evidence gathering used;
 - 11.6.1.3** A fair summary of the relevant evidence, including disputed and undisputed material facts, credibility assessments of parties and witnesses subject to the limitations above, and a numbered list of all documentary and physical evidence relied upon in the report.
- 11.6.2** The Investigator shall provide an electronic or hard-copy the Investigative Report to the Title IX Coordinator, who shall forward a copy, along with copies of all documentary and physical evidence relied upon in the report to the assigned Decision Maker.
- 11.6.3** The Investigative Report is not released to the parties or other persons. However, both parties are entitled to an equal opportunity, upon their request, to access the relevant and not otherwise impermissible evidence considered by the Investigator and/or Decision Maker.

12 Determination of Responsibility

- 12.1** Upon receipt of an Investigative Report, the designated Decision Maker shall review the Investigative Report and evaluate all relevant and not otherwise impermissible evidence, and determine whether the Respondent is responsible for a violation of PS 4.
- 12.2** **Standard of Proof.** The standard of proof for a determination of responsibility shall be by a preponderance of the evidence, meaning the Decision Maker must determine that credible facts supported by the evidence show that it is more likely than not that Respondent is responsible for Prohibited Conduct under PS 4.
- 12.3** **Objective Decision.** The Decision Maker is obligated to be free from bias and conflicts of interest and objectively evaluate all relevant evidence, both inculpatory and exculpatory, and must therefore independently reach a determination regarding responsibility based on the standard of proof. If the Decision Maker is not persuaded under the applicable standard by the proof that Prohibited Conduct occurred, whatever the quantity of the evidence is, the Decision Maker must not determine that Prohibited Conduct occurred.
- 12.3.1** The Decision Maker's determination of responsibility will generally be based upon evaluation of the Investigative Report along with the relevant and permissible evidence. However, to the extent that credibility of a party or a witness is both in dispute and relevant to evaluating one or more allegations of Prohibited Conduct, the Decision Maker may require such party or witness to appear before the Decision Maker for direct questioning. The Decision Maker's assessments and determinations of consideration of credibility must not be based on a person's status as a complainant, respondent, or witness.
 - 12.3.2** The preceding section shall not be interpreted to prohibit the Decision Maker from seeking legal advice from University legal counsel.
 - 12.3.3** In the event that the Decision Maker determines that the Respondent is responsible for a violation of PS 4, the Decision Maker may also, prior to determining sanctions

and issuing a written decision, consult with the Title IX Coordinator and any other appropriate University officials with disciplinary authority or responsibility regarding appropriate sanctions or discipline to be imposed.

12.4 Written Notice of Determination Required.

12.4.1 The Decision Maker shall issue a written Notice of Determination, which shall be provided to both parties by the Title IX Coordinator simultaneously, and will include:

12.4.1.1 A description of the alleged Prohibited Conduct;

12.4.1.2 Information about the policies and procedures the University used to evaluate the allegations;

12.4.1.3 The Decision Maker's evaluation of the relevant and not otherwise impermissible evidence and determination whether Prohibited Conduct occurred;

12.4.1.4 A rationale for such determination;

12.4.1.5 When the Decision Maker finds that Prohibited Conduct occurred:

12.4.1.5.1 Any disciplinary sanctions the University will impose on the Respondent;

12.4.1.5.2 As determined in collaboration with the Title IX Coordinator, any other remedies designed to restore or preserve equal access to the education program or activity that will be implemented or provided by the University to the Complainant and/or other persons identified as experiencing effects of a sexual harassment found to have occurred or having had equal access to a University education program or activity limited or denied by sex discrimination relevant to the complaint; and

12.4.1.6 The procedures, permissible grounds, and timeframe for appeal under this grievance process.

12.4.2 Timing. The Notice of Determination is typically issued within fourteen (14) calendar days after receipt of the Investigative Report, subject to reasonable extensions.

12.4.3 Effective Date of Determination. A determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of any appeal, 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 University will not impose disciplinary sanctions or be obligated to provide remedies until the determination is final as defined in this section except as permitted as part of an emergency removal as outlined above in this grievance process.

12.4.4 Title IX Coordinator Responsibilities following a Final Determination of Responsibility.

Following a final determination of responsibility, the Title IX Coordinator shall:

12.4.4.1 Coordinate the provision and implementation of remedies to the Complainant and/or other persons as stated in the Notice of Determination.

12.4.4.2 Coordinate the imposition of any disciplinary sanctions on the Respondent as stated in the Notice of Determination.

- 12.4.4.3** Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the University's education program or activity.

13 Sanctions and Remedies

- 13.1 Sanctions.** The Decision Maker may impose sanctions as allowed under PS 4 following a determination of responsibility. The Decision Maker will list all sanctions in writing within the Notice of Determination.
- 13.2 Remedies.** The Decision Maker may impose also direct the University to provide reasonable remedies designed to restore or preserve a Complainant's equal access to the education program or activity following a determination of responsibility.
 - 13.2.1** The University will not disclose to a Respondent any remedies that do not directly affect the Respondent. Such remedies will be listed on a separate sheet as an addendum to the Notice of Determination and will not be disclosed to the Respondent or any other third party, except the to the individual(s) to whom they are directly applicable, Title IX Coordinator, to University officials with a need to know in order to implement the remedies, or as required by law.

14 Timeframes; Extensions.

- 14.1 Calculation of Timeframes.** Throughout this grievance process, whenever a timeframe indicates a period of days by which some act must be performed, the relevant time period will be calculated as follows:
 - 14.1.1** Exclude the day of the event that triggers the period;
 - 14.1.2** Except where particular provisions indicate business days instead of calendar days, count every day, including Saturdays, Sundays, and holidays recognized by the University or federal/state government; and
 - 14.1.3** Include the last day of the period until 5:00 p.m. central time, but if the last day is a Saturday, Sunday, or holiday recognized by the University or federal/state government, the period continues to run until 5:00 p.m. central time on the next day that is not a Saturday, Sunday, or holiday recognized by the University or federal/state government.
- 14.2 Extensions.** Throughout this grievance process, whenever a timeframe is indicated, it is subject to reasonable and time-limited extensions for good cause with written notice to both parties in accordance with Section 9 below. Good cause for an extension may include but is not limited to:
 - 14.2.1** The absence of a party or witness at any meeting, investigative interview, or other proceeding when the presence of such party or witness is essential to proceed. However, the reasons provided for the absence(s) can be considered as a factor in determining good cause.
 - 14.2.2** Concurrent law enforcement activity.

- 14.2.3** The need for parties, witnesses, and other participants to secure transportation, or to troubleshoot and make arrangements for technology needs to facilitate a virtual meeting, investigative interview, or other proceeding.
- 14.2.4** The need to accommodate the schedules of the parties and/or witnesses upon reasonable request.
- 14.2.5** Determination by the Investigator that additional time is necessary to fully investigate a formal complaint and gather sufficient evidence to make a determination of responsibility.
- 14.2.6** Determination by the Decision Maker or Appeal Officer that additional time is necessary to make a determination of responsibility or appeal.

15 Appeals

- 15.1 Appeal Rights.** Either party is entitled to appeal from a determination of responsibility; a decision to provide, deny, modify, or terminate supportive measures applicable to them; or an emergency removal decision applicable to them.
- 15.2 Deadline and Submission of Appeal.** In order to be accepted, the appeal must:
 - 15.2.1** Be in writing and signed by the party requesting the appeal;
 - 15.2.2** State the name of the Complainant and Respondent and case number, if any.
 - 15.2.3** Be received by the Title IX Coordinator within seven (7) calendar days of the date listed on the Notice of Determination, or applicable written notice of supportive measures or emergency removal;
 - 15.2.4** State the grounds for the appeal as permitted under this grievance process;
 - 15.2.5** State the action requested on appeal (for example, a request to reverse the violation and sanctions or a request to modify the sanctions).
- 15.3 Grounds for Appeal.** A party may appeal only based on one or more of the following grounds, subject to the limitations therein:
 - 15.3.1** Procedural irregularity that would change the outcome of the matter;
 - 15.3.2** New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility or dismissal was made; and/or
 - 15.3.3** The Title IX Coordinator, Investigator, or Decision Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.
 - 15.3.4** A decision to provide, deny, modify, or terminate supportive measures may also be appealed on the basis that the decision was clearly unreasonable, erroneous, or arbitrary.
 - 15.3.5** An emergency removal decision may also be appealed on the basis that the determination that an immediate threat exists was clearly unreasonable, erroneous, or arbitrary.
- 15.4 Appeal Procedure.**
 - 15.4.1 Appeal Officer.** The Appeal Officer is responsible for determining if grounds for appeal exist and, if so, the appropriate remedy. The Appeal Officer may not be the

same person serving as the Decision Maker, the Title IX Coordinator, or the Investigator in any particular case.

15.4.2 Appeal Record. The appeal record consists of the complete investigative record (including the investigative report) and all evidence considered relevant and not otherwise impermissible, the Notice of Determination and any other notices issued during the course of the case, the written request for appeal, and any timely submitted party statements as permitted in the following subsection.

15.4.3 Appeal Process.

15.4.3.1 Upon timely receipt of an appeal that meets all the requirements of this section, the Title IX Coordinator will provide written notice of appeal to both parties, which will include the following:

15.4.3.1.1 A copy of the request for appeal;

15.4.3.1.2 Information about each party's opportunity to submit a written statement in support of or against the appeal and the requirement that such written statements be submitted to the Title IX Coordinator within five (5) calendar days of the notice of appeal;

15.4.3.2 The Title IX Coordinator shall provide a copy of the complete appeal record, including any timely statements submitted by the parties to the Appeal Officer.

15.5 Objective Appeal Determination. The Appeal Officer is obligated to be free from bias and conflicts of interest and objectively evaluate all relevant evidence, both inculpatory and exculpatory, and must therefore independently reach a determination regarding the outcome of the appeal based upon the Appeal Officer's independent review of the appeal record.

15.5.1 The Appeal Officer may not conduct independent research, solicit or accept other statements, or rely upon evidence or information outside of the appeal record. However, the Appeal Officer may consult with University legal counsel, Title IX Coordinator, and other appropriate University officials in the same manner as the Decision Maker as outlined in Section 14.2.

15.5.2 In resolution of an appeal, the Appeal Officer must determine whether grounds for the appeal exist and, if so, determine and direct an appropriate remedy for case resolution. In this regard, the Appeal Officer may:

15.5.2.1 Affirm or overturn the determination of responsibility;

15.5.2.2 Affirm, reverse, or modify the findings or determination; and/or

15.5.2.3 Affirm, reverse, or modify the sanctions and remedies.

15.5.2.4 In exceptional circumstances, primarily in cases of newly discovered evidence, an Appeal Officer may order a case to be returned to the investigative stage of the grievance process for additional consideration (i.e., for new evidence to be investigated by the Investigator and incorporated into the investigative report).

15.6 Written Notice of Appeal Determination Required. The Appeal Officer shall issue a written Notice of Determination, which shall be provided to both parties by the Title IX Coordinator

simultaneously, which shall consist of a short and plain, written statement of the resolution of the appeal, including any changes made to the outcome, and the rationale for such result. The Notice of Appeal Determination is typically issued within ten (10) calendar days after the deadline for the parties' written appeal statements, subject to reasonable extensions.

15.7 Appeal Determination is Final. The Appeal Officer's decision is final and becomes effective immediately.

Supports Policy:	PS 4 Title IX Policy
Keywords:	Title IX, VAWA, sexual harassment, sexual assault, domestic violence, dating violence, stalking, retaliation, consent, hostile environment, report, complaint, supportive measures, informal resolution, grievance process, investigation, appeal
Responsible Office:	Title IX Coordinator
Contact Information:	402-557-7299 TitleIX@bellevue.edu
Approved by:	Kevin Cleary, Title IX Coordinator
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APPROVED:

This procedure document was signed by Kevin Cleary, Title IX Coordinator, on July 31, 2024.