



Title IX Grievance Procedures and Process

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Coastal Carolina University Title IX Grievance Procedures and Process

Pursuant to UNIV-468 Title IX Policy (the “Policy”), the University adheres to the following Grievance Procedures and Process when responding to and addressing a report of Prohibited Conduct (the “**Grievance Process**”). The University will follow this Grievance Process before the imposition of any sanctions, or other actions that are not supportive measures, against a Respondent. In order for this Grievance Process to apply, the following criteria must be met:

- The report of Prohibited Conduct must have occurred against a person in the United States and within a University Education Program or Activity, including those that take place off-campus within a University Education Program or Activity, or where the University exercised substantial control over both the Respondent and the context in which the Prohibited Conduct occurred or at a building owned or controlled by a student organization that is officially recognized by the University;
- The Complainant must be participating in or attempting to participate in the University’s Education Program or Activity at the time of the alleged Prohibited Conduct; and
- The Formal Complaint must include at least one allegation of Prohibited Conduct.

In general, the Grievance Process includes: (1) the filing of a Formal Complaint by the Complainant or the Title IX Coordinator; (2) an assessment regarding whether the Policy applies to the alleged conduct; (3) a determination regarding whether mandatory or discretionary dismissal under Title IX applies; (4) the Formal Resolution Process and/or Informal Resolution Process; and (5) the Appeal Process (if applicable).

Definitions

The capitalized terms set forth in this Grievance Process have the definitions provided herein, in the University Title IX Policy, or in Title IX and the regulations promulgated thereunder.

Filing of a Formal Complaint by the Complainant or the Title IX Coordinator

A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the University investigate the allegation(s) of Prohibited Conduct. As used in this paragraph, “document” means a physical or electronic submission (such as by email or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.

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.

A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by email using the contact information below.

Title IX Coordinator: Antoinette Bellamy, Ed.D.
Email: titleix@coastal.edu
Physical location: Kearns Hall - 211B
Mailing address: PO Box 261954
Conway, SC 29528

A Formal Complaint may also be filed by filling out the form at https://cm.maxient.com/reportingform.php?CoastalCarolinaUniv&layout_id=2. The University may provide or designate additional methods for filing a Formal Complaint, as it deems appropriate.

Upon receipt of a Formal Complaint, the University will first respond to any immediate health or safety concerns raised.

Supportive Measures

Supportive Measures may be available following a report of Prohibited Conduct and without filing a Formal Complaint.

Upon receipt of a Formal Complaint, the University may implement Supportive Measures for the Complainant and/or Respondent upon request of either party or on the University's own initiative in the University's discretion. If the Complainant and/or Respondent would like to request any specific Supportive Measure, they should direct such request to the Title IX Coordinator.

Supportive Measures are prospective, non-disciplinary, non-punitive individualized services offered in the discretion of the University as appropriate, as reasonably available, and without fee or charge to the Complainant and the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the University's Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter Prohibited Conduct.

The University will provide the Complainant and Respondent with equal access to Supportive Measures, and the University will endeavor to consider the Complainant and Respondent's wishes with respect to Supportive Measures.

The extent to which Supportive Measures are available is based on the facts of the specific incident of Prohibited Conduct and the needs of the individuals involved as determined in the discretion of the University. Supportive Measures are available to all parties involved in the alleged Prohibited Conduct. A Complainant is not required to file a Formal Complaint, report the alleged Prohibited Conduct to law enforcement, or pursue criminal charges in order to receive Supportive Measures.

Examples of potential Supportive Measures that may be generally available include the following:

- Imposition of a mutual no contact order;
- Access to counseling services and assistance in setting up initial appointments;
- Academic support;
- Living arrangement adjustments;
- Voluntary leave of absence;
- Academic or work schedule and assignment accommodations, in the discretion of faculty or supervisor(s);
- Campus escort services;
- Safety planning;
- Referral to campus and community resources; or
- Any other similar non-punitive measure that may be reasonably tailored to the involved individuals to achieve the goals of this Policy.

The University will maintain as confidential any Supportive Measures offered or provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the Supportive Measures.

Notice of Allegation(s)

Upon receipt of a Formal Complaint, the University will provide a written Notice of Allegation(s) to the parties who are known informing the parties of the Formal Complaint and the allegations of Prohibited Conduct therein, as well as informing parties of certain rights and obligations under the University Title IX Policy. This Notice of Allegation(s) shall be provided to parties in advance of any initial interview to allow sufficient time for the parties to prepare a response.

If, in the course of an investigation, the University decides to investigate any allegations regarding the parties that are not included in the Notice of Allegation(s), the University will provide written notice of the additional allegations to the parties whose identities are known.

Right to an Advisor

In this Grievance Process, the Complainant and Respondent each have the right to be accompanied at any Grievance Process meeting or hearing by an advisor of their choice. The advisor may be any person, including an attorney, but need not be an attorney. The advisor may not otherwise be a party or witness involved in the investigation.

The Grievance Process is not a legal proceeding and, although a party may be advised by their advisor, the conduct of the advisor will be governed by the Policy and this Grievance Process. A party's advisor of choice may provide support and advice to the party at any meeting and/or proceeding, but they may not speak on behalf of the party or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or proceedings. The advisor may observe, provide support, and provide guidance or advice to the party (in a non-disruptive manner). The

University may remove or dismiss advisors who do not abide by the restrictions on their participation or who are otherwise disruptive.

Generally, all communications between the Title IX Coordinator and/or Investigator and a Complainant or Respondent will occur through the party directly, not the advisor, and the party, rather than the advisor, is required to submit any written correspondence or documents. Although a party may authorize the University to share information with their advisor by executing a Family Education Rights and Privacy Act (FERPA) waiver, the University is not required to do so. An advisor should plan to make themselves reasonably available for all meetings and hearings. The University will not unduly delay the scheduling of meetings or hearings based on the advisor's unavailability.

A party may decline to use an advisor for all stages of the Informal Resolution Process or Formal Resolution Processes leading up to the live hearing. If a party does not have an advisor present at the live hearing, the University will provide, without fee or charge to the party, an advisor of the University's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.

Any University-appointed advisor will be trained on the definition of Sexual Harassment, the scope of the University's Education Program or Activity, the investigation and Grievance Processes, including hearings, appeals, and informal resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Determination of Application of Mandatory or Discretionary Dismissal

The Title IX Coordinator will conduct an initial assessment of the information in the Formal Complaint for the sole purpose of determining whether the alleged conduct, if substantiated, would constitute Prohibited Conduct under the University Title IX Policy.

If the Title IX Coordinator determines that the allegations forming the basis of the Formal Complaint would, if substantiated, constitute Prohibited Conduct within the jurisdictional parameters of Title IX, the Title IX Coordinator will initiate the investigation.

In certain instances, the University is required to or has the discretion to dismiss a Formal Complaint (a "**Dismissal**").

Mandatory Dismissal

If the allegations forming the basis of the Formal Complaint would not, if substantiated, constitute Prohibited Conduct within the jurisdictional parameters of Title IX, the Title IX Coordinator **must dismiss** the Formal Complaint from the Grievance Process. If appropriate, the Title IX Coordinator may then, in their discretion, refer the allegations to the Dean of Students or Office of Human Resources under other University policies. Either party may appeal the Dismissal by following the procedures outlined in "Appeal Process."

Discretionary Dismissal

The Title IX Coordinator **may dismiss** the Formal Complaint or any allegations therein, if at any time during the investigation or hearing:

- (1) The Complainant notifies the Title IX Coordinator in writing that the Complainant wishes to withdraw the Formal Complaint or any allegations therein;
- (2) The Respondent is no longer affiliated with the University; or
- (3) Specific circumstances prevent the University from gathering sufficient evidence to reach a determination as to the Formal Complaint or the allegations therein.

If any of these three factors are present, the University has the sole discretion to dismiss the Formal Complaint. It is the University's regular practice to automatically dismiss Formal Complaints once the Respondent is no longer enrolled or employed by the University. If the University dismisses a Formal Complaint, it will promptly send written notice of the Dismissal and reason(s) therefor simultaneously to the parties. Either party may appeal the Dismissal by following the procedures outlined in "Appeal Process." If the Dismissal is affirmed on appeal, then the Dismissal is **final**.

Nevertheless, in the case of a discretionary Dismissal based on the Respondent no longer being affiliated with the University, the University reserves the right to document the report and address the allegations with the Respondent prior to the Respondent returning to the University as a Student, Employee or campus visitor.

Informal Resolution Process and/or Formal Resolution Process

Informal Resolution Process

The Informal Resolution Process is an alternative to the Formal Resolution Process in which both the Complainant and the Respondent voluntarily agree to informally resolve issues or concerns involving Prohibited Conduct. The Informal Resolution Process is designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects in a manner that meets the needs of both the Complainant and Respondent, while maintaining the safety of the campus community, identifying and rendering harm in the community, restoring wellness, and promoting communication, engagement, and cooperation.

1. Limitations to the Informal Resolution Process

The Informal Resolution Process will only be used at the agreement of the Complainant, the Respondent, and the Title IX Coordinator, and must be deemed appropriate by the Title IX Coordinator. In making a determination as to whether the Informal Resolution Process is appropriate, the Title IX Coordinator will consider a number of factors, including, but not limited

to the following: (i) the gravity of the allegations, (ii) whether there is an ongoing threat of harm or safety to the campus, (iii) whether the Respondent is a repeat offender, (iv) and whether the parties are participating in good faith.

The Informal Resolution Process is **not available** to resolve a Formal Complaint of Sexual Harassment, Statutory Rape, or Sexual Exploitation by a Student against an Employee.

By agreeing to proceed with the Informal Resolution Process, the parties recognize that such process does not involve a full investigation or adjudication, and does not result in sanctions.

2. How the Informal Resolution Process Works

Prior to agreeing to the Informal Resolution Process, the Title IX Coordinator may gather information, including through interviews with the parties and witnesses, to determine if the report of Prohibited Conduct is appropriate for informal resolution. If the Title IX Coordinator determines that the report is appropriate for informal resolution, then the Title IX Coordinator will provide written notice to both parties simultaneously, notifying the parties of:

- The allegation(s) in the Formal Complaint;
- Any consequences resulting from participating in the Informal Resolution Process, including the records that will be shared and maintained;
- Any party's right to, at any time or to agreeing to a resolution, withdraw from the Informal Resolution Process and resume the Formal Resolution Process with respect to the Formal Complaint; and
- If the parties agree to a resolution during the Informal Resolution Process that is approved by the University, the parties are precluded from resuming a Formal Complaint arising from the same allegations.
- The anticipated scope of the Informal Resolution Process, which may include but is not limited to, an apology, research assignment, training, mutual agreement to cease communications, consent agreements, and/or the use of a third-party mediator. There are no strict parameters on the scope of the Informal Resolution Process and the scope may be specific to each situation and the parties involved.

Both the Complainant and the Respondent must sign an agreement to enter into the Informal Resolution Process. 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, or the Complainant may request to withdraw the Formal Complaint. **The University may withdraw its approval for the Informal Resolution Process at any time and decide to proceed with the Formal Resolution Process.** If the University identifies additional potential Policy violations during the Informal Resolution Process, the University may withdraw its approval and proceed with the Formal Resolution Process, or if both parties consent, the University may resolve the additional potential Policy violations through the Informal Resolution Process.

3. Resolution of the Informal Resolution Process

If the Formal Complaint is resolved pursuant to the Informal Resolution Process, then no record of the Formal Complaint will be added to the Respondent's official University records. However, the Title IX Office will record in its internal records both the facts of the report, complaint and the resolution achieved by Informal Resolution Process.

If a report of Prohibited Conduct is resolved by the Informal Resolution Process by agreement of the parties, then the resolution will be final. Once the Informal Resolution Process is final, neither party can request to proceed with the Formal Resolution Process, and the Complainant will be prohibited from filing or resuming a Formal Complaint arising from the same allegations.

Neither party may appeal the final outcome of the Informal Resolution Process.

Any resolution must be consistent with federal and state law and University policy. Specifically:

- The University may not require as a condition of enrollment or continuing enrollment, or employment or continued employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of Formal Complaints of Prohibited Conduct.
- The University may not require the parties to participate in an Informal Resolution Process and may not offer an Informal Resolution Process until a Formal Complaint is filed.

Formal Resolution Process

The Formal Resolution Process includes: (1) an investigation by one or more trained Investigators, concluding with an Investigative Report summarizing the relevant evidence gathered during the investigation, (2) a live hearing with questioning of both parties, (3) a Determination Memorandum written by the Decision-Maker(s) regarding responsibility for the alleged Prohibited Conduct and, if the Respondent is determined to be responsible, the issuance of one or more Sanctions, and (4) following the Determination Memorandum, either party will have the right to an appeal.

The University will strive to complete the investigation process as soon as practicable and in a reasonably prompt manner, efficiently navigating the schedules of the Complainant, Respondent, witness(es), support personnel, advisers, Investigators, and Decision-Maker(s).

Investigation Concluding with an Investigative Report

The investigation, conducted by a trained Investigator, involves the interviewing of parties and witnesses, gathering of evidence, and the opportunity for the Complainant and Respondent to review the evidence prior to the completion of the Investigative Report.

Interviewing of Parties and Gathering of Evidence

When investigating a Formal Complaint and throughout the Grievance Process, the University will (i) ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the University and not on the parties; (ii) not access, consider, disclose, or otherwise use a party's medical records, unless the University obtains that party's voluntary, written consent to do so for a Grievance Process under this Policy; and (iii) provide both parties with an equal opportunity to present witnesses, including fact and expert witnesses, and to present other relevant inculpatory and exculpatory evidence.

While the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University, the cooperation of the parties is often required in order for certain pieces of evidence to be obtained. Lack of cooperation and/or participation in the Investigation and/or Grievance Process may limit the University's ability to gather such evidence.

For a party whose participation in the Formal Resolution Process is invited or expected, the University will provide such party written notice of the date, time, location, participants, and purpose of the hearings, investigative interview, or other meetings, with sufficient time for the party to prepare to participate.

All relevant evidence, including party statements and witness statements, will be evaluated objectively, and credibility determination will not be based on a person's status as a Complainant, Respondent, or witness.

Evidence Review and Response

The parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Prior to completion of the Investigative Report, the University will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format. After receiving the evidence, the parties will have at ten (10) days to submit a written response, which the Investigator will consider prior to completion of the Investigative Report. Thereafter, the Investigator will prepare the Investigative Report.

Distribution of Investigative Report

At least ten (10) days prior to the live hearing, the Investigator will provide each party with a copy of the Investigative Report for their review.

Live Hearing with Questioning of Both Parties

At the live hearing, the Decision-Maker(s) will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the University to otherwise restrict the extent to which advisors may participate in the proceedings. At the request of either party, the University will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Decision-Makers and parties to simultaneously see and hear the party or the witness answering questions. Only relevant cross-examination and other questions may be asked of a party or witness.

Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-Maker(s) will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party does not have an advisor present at the live hearing, the University will provide without fee or charge to that party, an advisor of the University's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, 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.

If a party or witness does not submit to cross-examination at the live hearing, the Decision-Makers may rely on any statement of that party or witness in reaching a determination regarding responsibility; however, the Decision-Makers will 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 answer cross-examination or other questions.

Live hearings may be conducted with all parties physically present in the same geographic location or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. The University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

Written Determination by the Decision-Maker(s) Regarding Responsibility for the Alleged Prohibited Conduct

The Decision-Maker will issue a written determination regarding responsibility using the Preponderance of the Evidence standard (the "**Determination Memorandum**"). The Determination Memorandum will include: (a) the allegations, (b) the procedural steps taken during the formal resolution process, (c) findings of fact supporting the determination, (d) conclusions regarding the application of the Title IX Policy to the facts, (e) a determination of responsibility,

including any Sanctions to be imposed and supportive measures to be provided, and (f) the University's procedures and permissible bases for either party to appeal.

The University will provide the Determination Memorandum to the parties simultaneously.

Right to Appeal

Both parties are allowed the opportunity to appeal (i) a Dismissal of a Formal Complaint or any allegations therein and/or (ii) the Determination Memorandum regarding responsibility. The Appeal Process is explained in the following section.

Appeal Process

Both parties are allowed the opportunity to appeal (i) a Dismissal of a Formal Complaint or any allegations therein and/or (ii) the Determination Memorandum regarding responsibility.

Grounds for Appeal

Either party may file a notice of appeal on one or more of the following three grounds.

1. Procedural irregularity that affected the outcome of the matter.
2. New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter.
3. The Title IX Coordinator, Investigator(s), or Decision-Maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

How to File an Appeal and Appeal Timeline

A party has five (5) calendar days from the date of a Dismissal or Determination Memorandum to file an appeal. **Appeals must be submitted to titleix@coastal.edu.**

The appeal must contain the party's name, the ground(s) for appeal, and any supporting rationale and/or documentation for the appeal.

If both parties file an appeal, the appeals will be considered simultaneously.

Notification of Appeal and Equal Ability to Present Written Statement

Both parties will be notified of the file appeal via a notice of appeal issued by the University. The non-appealing party will have the opportunity to submit a written statement in response to the appeal.

The response to any appeal must be submitted to titleix@coastal.edu within five (5) calendar days of the date of notice of appeal issued by the University.

The case, the notice of appeal, and any response to the notice of appeal will be forwarded to the appeals panel for review and analysis. A decision will be rendered by the appeals panel within fifteen (15) calendar days from the date of the notice of appeal.

Power of Appeal Panel in Reviewing Appeals

Appeals are strictly limited to the three grounds set forth above. Appeals are not a full review of the Formal Resolution Process. The appeals panel will only consider those grounds raised in the notice of appeal. The appeals panel may only grant an appeal based on one the reasons set forth above.

The appeals panel shall put forth its decision in writing, and in issuing its decision. All decisions of the appeals panel are **final**.

If the Request for Appeal is Granted

Both parties will receive the decision of the appeals panel if it decides to grant an appeal.

If the appeals panel decides in the appealing party's favor (*i.e.*, grants the appeal) based on grounds for appeal 1 or 2, the appeals panel shall require a new live hearing in front of a new Decision-Maker(s).

If the appeals panel decides in the appealing party's favor with respect to grounds for appeal 3, the appeals panel, in addition to requiring a new live hearing, may also require a new investigation with a new Investigative Report if the appeals panel finds that there was a conflict of interest or bias with respect to a Title IX Coordinator or Investigator.

If the Request for Appeal is Denied

Both parties will receive the decision of the appeals panel if it decides to deny the appeal. Reasons for denial may include, but are not limited to (i) the request falls outside of the three grounds for appeal; (ii) the appeals panel disagrees with the appealing party's arguments; and/or (iii) the appeal did not meet the time limits outlined in this Grievance Process and Procedure.

The determination regarding responsibility becomes final either on (i) the date that the University provides the parties with the Written Determination of the result of the appeal, if an appeal is filed, or (ii) the date on which an appeal would no longer be considered timely.

Title IX Coordinator Designee

The Title IX Coordinator administers, monitors, and oversees the overall implementation of Title IX compliance at the University, including coordinating campus-wide education programs and

training regarding Title IX for all Students, Employees, and other members of the University community.

When circumstances necessitate the designation of another individual within the University community to stand in that role, such authority shall be delegated in the following order:

- Director of University Compliance
- Dean of Students
- Associate Vice President for Human Resources

Should any individual holding these positions have a conflict of interest at the time of their delegation, such authority shall move to the next individual in the delegation of authority.