



Title IX Grievance Procedure

- Understanding the process

Title IX Grievance Process

- Step 1: CSN Notified of Possible Title IX Incident.
- Step 2: Title IX Coordinator Meets with Possible Complainant.
- Step 3: Complaint Filed
- Step 4: Investigators send Notification of Investigation
- Step 5: Complainant interviewed by Investigator
- Step 6: If necessary, complaint dismissed
- Step 7: If necessary, dismissal appealed
- Step 8: Respondent interviewed by Investigator
- Step 9: Witnesses interviewed and Evidence Collected
- Step 10: Related evidence given to reporting parties and advisors
- Step 11: Investigative Report Written
- Step 12: Investigative Report given to appropriate personnel.
- Step 13: Live-Hearing Conducted
- Step 14: Decision-Maker completes the written determination of responsibility
- Step 15: If necessary, determination of responsibility appealed
- Step 16: If necessary, sanctions and remedies applied.
- Step 17: If necessary, Title IX Coordinator follows-up with department to ensure sanctions/remedies applied.

Grievance Process Step 1:

CSN Notified of Possible Title IX Incident.

- CSN Receives notification of a possible Title IX incident by:
 - Grievance Form Received
 - Phone call
 - Email
 - In person
 - Other

Grievance Process Step 2:

Title IX Coordinator Meets with Possible Complainant.

- Provide an overview of the process.
- Provide complainant with a Procedural Packet.
 - Procedural Packet Includes but is not limited to:
 - Grievance Form (if necessary)
 - Title 4, Chapter 8, Section 13 and Title IX Policy
 - Investigation process
 - Appeal process
 - Live-hearing process
 - Decision process
 - Available resources/supportive measures.
- Describe applicable supportive measures.

Grievance Process Step 2 Continued

- Supportive Measures are non-disciplinary / non-punitive individualized services, given without fee to the reporting parties. These supportive measures are designed to restore or preserve equal access to CSN's education program or activity without burdening either the complainant nor the respondent
- Supportive measures may include CAPS; EAP; extensions of deadlines; modifications of work or class schedules; security escorts on and off campus; leaves of absences; no contact sanctions given between the reporting parties; *etc.*
- The supportive measures are given regardless if a formal complaint has been filed or not.
- The supportive measures are confidential, to the extent that maintaining confidentiality does not impair the ability of providing the supportive measures.
 - For example, change of work hours would require informing the supervisor of the supportive measure. However, the reasoning / details of the complaint remain confidential.

Grievance Process Step 3:

Complaint is filed.

- There are two ways a complaint is filed. The Complainant signs and submits the OIE Grievance Form or the Title IX Coordinator signs the OIE Grievance Form.
 - If either of the above occurs, then the Title IX grievance process MUST begin.
- The Title IX Coordinator only signs the grievance form in the event the complainant does not want to file the complaint and the Title IX Coordinator believes the allegations must be investigated. The Title IX Coordinator's signature overrides the Complainant's wishes and is conducted at the discretion of the Title IX Coordinator.
 - If this occurs, then the Title IX Coordinator does not become the Complainant. The new complainant that is listed in the process will be CSN.
 - As previously stated, if the original complainant decides to not file, then they still receive supportive measures.

Grievance Process Step 4:

Investigators send Notification of Investigation

- The Notification of Investigation (NOI) is sent by the Title IX Investigator to both reporting parties simultaneously.
- The NOI informs the reporting parties that a formal Title IX Grievance Process has been authorized.
- The NOI must include sufficient details known at the time and with sufficient time to prepare a response before any initial interview.
- Sufficient details include:
 - The allegations that have been filed that constitute sexual harassment as defined by Title IX
 - Identities of the parties involved in the incident, if known
 - Date and location of alleged incident
- During the investigation, if allegations are presented that were not listed in the original NOI, then the Title IX Investigator must notify, simultaneously, all reporting parties of the new allegations being investigated.

Grievance Process Step 4 Continued

- The NOI must also include:
 - A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process.
 - Inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney.
 - Inform that the advisor will be a part of the entire process; will receive a copy of all related evidence; and must participate in the Live-hearing process.
 - A statement informing the parties of the prohibition against knowingly making false statements or submitting false information during the complaint process.
 - A statement informing the parties that retaliation is illegal.

After the NOI has been sent, at any point moving forward, the Complainant can request to withdraw their complaint.

Grievance Process Step 5:

Complainant interviewed by Investigator

- During the interview with the complainant, they must have an advisor.
 - If they do not have an advisor, then one will be provided by CSN at no cost.
 - If CSN provides an advisor, then the advisor will not be an attorney (as stated in NSHE BOR Handbook, Title 4 – Chapter 8 – Section 13).
- Investigators obtain incident information and applicable evidence
- Witness information obtained (if applicable)
- Evidence received from Complainant

Grievance Process Step 6:

If necessary, complaint dismissed

- There are two forms of dismissals: Discretionary and Mandatory
- Discretionary:
 - Where a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein.
 - Where the respondent is no longer enrolled or employed by CSN.
 - Where specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the allegations contained in the formal complaint.
 - *i.e.* where a complainant refuses to participate in the grievance process (but also has not decided to send written notice stating that they want to withdraw their complaint).
- Mandatory:
 - Not meeting the Section 106.30 definition of sexual harassment in Title IX
 - Alleged Incident did not occur in a CSN educational program or activity, or
 - Did not occur within the United States

Grievance Process Step 6 Continued

- If the complaint is dismissed, then all reporting parties must be notified simultaneously.
- The dismissal notification must include:
 - State the justifications for dismissing the complaint.
 - Statement informing all reporting parties that a Title IX Dismissal does not prevent CSN from utilizing a Non-Title IX Grievance Procedure as listed in the Board of Regent's Handbook, NSHE Code, or other CSN code of conduct policies.
 - Give both the complainant and the respondent an equal opportunity to appeal the dismissal.

Grievance Process Step 7:

If necessary, dismissal appealed

- Per Title 4 – Chapter 8 – Section 13 of the Board of Regents Handbook, any party has five (5) calendar days to appeal the dismissal of the complaint.
- An appeal can only be filed if it is based on the following:
 - Procedural irregularity that affected the outcome of the matter;
 - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
 - The Title IX Coordinator, investigator(s), or hearing officer(s) had a conflict of interest or bias that affected the outcome of the matter
- If any appeal has been filed based on the above, then all parties involved must be notified, simultaneously, that an appeal has been filed.

Grievance Process Step 7 Continued:

- The Decision-Maker for the appeal must be an individual who has not been involved in the Grievance Process at this point.
 - I.E., the Appeal Decision-Maker may NOT be the Title IX Coordinator, Title IX Investigator, or Live-Hearing Decision-Maker.
- During the appeal process, all parties must have an equal opportunity to submit a written statement in support of, or challenging, the dismissal decision. This written statement must be submitted within five (5) calendar days.
- After the parties have submitted their written statement or the deadline to submit their statement has passed, the Appeal Decision-Maker must issue a written decision to the involved parties, simultaneously, describing the result of the appeal and rationale for the result.

Grievance Process Step 8:

Respondent interviewed by Investigator

- During the interview with the Respondent, they must have an advisor.
 - If they do not have an advisor, then one will be provided by CSN at no cost.
 - If CSN provides an advisor, then the advisor will not be an attorney (as stated in NSHE BOR Handbook, Title 4 – Chapter 8 – Section 13).
- Before discussing the allegations/incident information, the Investigators inform the Respondent of the Grievance Process.
- Investigators provide the Respondent with a Procedural Packet
 - The Procedural Packet is the same packet the Complainant received from the Title IX Coordinator
- Investigators obtain incident information and applicable evidence
- Witness information obtained (if applicable)
- Evidence received from Respondent
- Lastly, the Investigators will request from the respondent, a written response to the allegations. The Respondent will have one (1) calendar week to submit their response.

Grievance Process Step 9:

Witnesses interviewed and Evidence Collected

- The Investigators will obtain statements from witnesses provided by the parties involved and, when applicable, other relevant witnesses that were identified by the Investigators.
- Additionally, during this step, the investigators will be conducting a diligent search for additional evidence related to the complaint.
 - Evidence include, but not limited to, the following:
 - Emails
 - Texts
 - CSN Security Camera Footage
 - Photos
 - Etc.

Grievance Process Step 10:

Related evidence given to reporting parties and advisors

- Once the statements and evidence has been collected, the investigator must provide all obtained documents to the involved parties.
- The involved parties are to receive the statements and evidence simultaneously. Additionally, the advisors of the involved parties must also receive the same information that were provided to the involved parties.
- The involved parties and their advisors have ten (10) days to review all related evidence and statements.

Grievance Process Step 11:

Investigative Report Written

- During the ten (10) day review of the evidence, all parties must be given equal opportunity to submit statements either supporting or questioning the evidence.
 - If statements were submitted to the Investigators, then the Investigators will take these statements into consideration.
- After the parties have submitted their statements or the ten (10) days have past, the investigator will write the Investigative Report.
- The Investigate Report fairly summarizes all statements; summarizes all relevant evidence; and provides a chronology of the events that occurred during the investigation.

Grievance Process Step 12:

Investigative Report given to appropriate personnel.

- Once the Investigative Report has been completed, the Investigators will provide the report to the involved parties and their advisors for another ten (10) day review.
- All parties must be given equal opportunity to submit statements either supporting or questioning the Investigative Report.
 - If statements were submitted, then the Investigators will take these statements into consideration.
- After the parties have submitted their statements or the ten (10) days have past, the Investigative Report will be given to the Title IX Coordinator.
- It is the responsibility of the Title IX Coordinator to provide the Investigative Report to the Live-Hearing Decision-Maker.

Grievance Process Step 13:

Live-Hearing Conducted

- Once the Live-Hearing Decision-Maker is in possession of the Investigative Report, they will conduct the live-hearing.
- The Live-Hearing must include a cross-examination of the evidence, witness(es), and the statements obtained during the investigation.
 - The cross-examination is conducted by the party's advisor. At NO time will the involved parties themselves directly question the other.
- The cross-examination must be conducted directly, orally, and in real time. Additionally, the live-hearing may be conducted with all parties physically present in the same locations or virtually through the assistance of technology.
 - If the live-hearing is held virtually, then the technology used must allow the live-hearing to still be held in real time. Additionally, all involved in the Live-Hearing must see and hear each other, and all witnesses.
- The Live-Hearing must either be transcribed or recorded with the use of audio/visual technology. The transcript or recording will be provided to the involved parties and their advisors for the review.

Grievance Process Step 14:

Decision-Maker completes the written determination of responsibility

- At the conclusion of the Live-Hearing, it is the responsibility of the Live-Hearing Decision-Maker to complete the written determination of responsibility.
- The written determination of responsibility must be issued within fourteen (14) calendar days.
- The written determination of responsibility informs the involved parties of the outcome of the Grievance Procedure.
 - i.e., is the respondent, responsible or not responsible for the alleged incident outlined in the filed complaint.
- The Decision-Maker must submit the written determination of responsibility to the Title IX Coordinator, the reporting parties, and the advisors simultaneously.

Grievance Process Step 15:

If necessary, determination of responsibility appealed

- Per Title 4 – Chapter 8 – Section 13 of the Board of Regents Handbook, any party has five (5) calendar days to appeal the dismissal of the complaint.
- An appeal can only be filed if it is based on the following:
 - Procedural irregularity that affected the outcome of the matter;
 - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
 - The Title IX Coordinator, investigator(s), or hearing officer(s) had a conflict of interest or bias that affected the outcome of the matter
- If any appeal has been filed based on the above, then all parties involved must be notified, simultaneously, that an appeal has been filed.

Grievance Process Step 15 Continued:

- The Decision-Maker for the appeal must be an individual who has not been involved in the Grievance Process at this point.
 - I.E., the Determination Appeal Decision-Maker may NOT be the Title IX Coordinator, Title IX Investigator, Dismissal Appeal Decision-Maker, or Live-Hearing Decision-Maker.
- During the appeal process, all parties must have an equal opportunity to submit a written statement in support of, or challenging, the determination decision. This written statement must be submitted within five (5) calendar days.
- After the parties have submitted their written statement or the deadline to submit their statement has passed, the Appeal Decision-Maker must issue a written decision to the involved parties, simultaneously, describing the result of the appeal and rationale for the result.

Grievance Process Step 16:

If necessary, sanctions and remedies applied.

- The written determination of responsibility is considered final when:
 - The date to file an appeal has expired
 - The appeal process is completed
- Only when the written determination of responsibility is finalized may sanctions and/or remedies be applied.
- If there are sanctions, then the Decision-Maker will notify the appropriate personnel of the sanctions to be enforced.
 - I.e., if the student is determined responsible, then student conduct will be notified.
 - If employee, then their department/supervisor will be notified.
- The Decision-Maker will not provide all information regarding the complaint.
 - ONLY the applicable sanctions may be given.

It is the responsibility of the Title IX Coordinator to apply any remedies, if applicable.

Grievance Process Step 17:

If necessary, Title IX Coordinator follows-up with department to ensure sanctions/remedies applied

- It is the responsibility of the Title IX Coordinator to ensure all remedies and/or sanctions have been issued.
- Once all remedies and/or sanctions have been applied, the Grievance Procedure ends, and the case is closed.