

Formal Grievance Protocol
As Required by the U.S. Department of Education Title IX Regulations
(34 C.F.R. § 106.45, effective August 14, 2020)

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I. Introduction

As required by the U.S. Department of Education (USDOE), effective August 14, 2020, this Formal Grievance Protocol (Protocol) addresses certain allegations of sexual misconduct subject to the Title IX Regulations as set forth in [Section II](#), below. This Protocol contains citations to the applicable sections of the Title IX Regulations (34 C.F.R. Part 106) throughout. For the complete Vanderbilt Sexual Misconduct Policy (the Policy), which addresses sexual misconduct beyond the scope of the Title IX Regulations, please click [here](#).

This Formal Grievance Protocol proceeds in four additional sections:

[Section II](#) defines the scope of this Formal Grievance Protocol. Under the Title IX Regulations, sexual harassment as defined by the Title IX Regulations (a subset of sexual misconduct prohibited by the Policy) must be investigated and adjudicated according to the procedure set forth in the Policy.

2. Unwelcome conduct dete

B. Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent. (§ 106.30) They may be sought or provided before or after a Formal Complaint is filed, or where no Formal Complaint has been filed. Supportive Measures are designed to restore or preserve equal access to Vanderbilt's education program or activity without unreasonably burdening the other party,

Respondent. Vanderbilt will provide necessary and appropriate training to each Title IX administrator. Training materials will not rely on sex stereotypes and will promote impartial investigations and adjudications of Formal Complaints of sexual harassment. (§ 106.45(b)(1)(iii).)

IV. Formal Grievance Process

This portion of the Protocol outlines the steps taken to initiate a grievance, as well as USDOE's procedural requirements for investigation and adjudication of Formal Complaints.

A. Formal Complaint

- i. A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment as defined by the Title IX Regulations against a Respondent and requesting that Vanderbilt investigate the allegation of sexual harassment. The submission of a Formal Complaint triggers the Formal Grievance Process when a Formal Complaint is received by the Title IX Coordinator.

A Formal Complaint must be in writing and may be filed with the Title IX Coordinator in person, by mail, or by email. The Formal Complaint must contain the Complainant's physical or digital signature, or some other indication that the Complainant is the person filing it. (

actual knowledge of sexual misconduct. Signing a Formal Complaint does not make a Title IX Coordinator a Complainant or otherwise a party. (§ 106.30.)

- v. Vanderbilt may, but is not required to, consolidate Formal Complaints arising out of the same factual circumstances in two scenarios:
 - 1. Where there is more than one Complainant or Respondent;

3. for other limited purposes;

provided that if a Formal Complaint is filed or signed, the Title IX Coordinator will fulfill the terms of this Formal Grievance Process, including the notice provisions immediately below and the more thorough investigation process described below even if it is somewhat duplicative of the threshold investigation.

- iv. Vanderbilt may remove a Respondent from the education program or activity on an emergency basis, provided that the Title IX Coordinator undertakes an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. The Respondent must receive notice and an opportunity to challenge the decision immediately following the removal. (§ 106.44(c).)
- v. Vanderbilt may place a non-student Respondent with a Vanderbilt employment relationship on administrative leave during the pendency of a Formal Grievance Protocol. (§ 106.44(d).)

C. Notice of Allegations (§ 106.45(b)(2))

- i. Upon receipt of a Formal Complaint, Vanderbilt will provide written notice to known parties of the following:
 - 1. Notice of Vanderbilt's Formal Grievance Process by providing access to this Protocol.
 - 2. Notice of the allegations potentially constituting sexual harassment, including sufficient details known at the time. Sufficient details are defined in the Title IX Regulations to include:
 - a. The identities of the parties involved in the incident, if known;
 - b. The conduct allegedly constituting sexual harassment; and
 - c. The date and location of the alleged incident, if known.
 - 3. Per the Title IX Regulations, the written notice must include the following statements:

D. Investigation Procedure

- i. The Title IX Coordinator will appoint an Investigator to investigate the allegations subject to the Formal Grievance Process. The investigation may include, among other steps, interviewing the Complainant, the Respondent, and any witnesses; reviewing law enforcement investigation documents if applicable; reviewing relevant student or employment files; and gathering and examining other relevant documents, social media posts, and other evidence.

The Investigator will attempt to collect all relevant information and evidence. While the Investigator will have the burden of gathering evidence, it is crucial that the parties present evidence and identify witnesses to the Investigator so that they may be considered during the investigation. As described below in [Section IV.E.iii.3.](#), while all evidence presented at a hearing by the parties will be considered, the adjudicator(s) may, in its/their discretion, grant lesser weight to information or evidence introduced at the hearing that was available to the party but that was not previously presented for investigation by the Investigator.

The investigation file should contain all information gathered during the investigation that is potentially relevant to the alleged misconduct; the Investigator should not filter or exclude evidence or decide the weight or credibility of evidence, unless the evidence is clearly irrelevant.

Following the investigation, the Investigator will draft an investigation report succinctly describing all collected information. The Investigator will not make any recommendation as to whether a Protocol violation has occurred or potential sanctions.

ii. Evidentiary Considerations

1. While investigating the allegations of any Formal Complaint of sexual harassment, the Investigator will conduct an objective evaluation of all relevant evidence. Relevant evidence is any evidence that may tend to make the allegations at issue more or less likely to be true, *i.e.*, both “inculpatory” or corroborating evidence and “exculpatory” or contradicting evidence. (§ 106.45(b)(1)(ii).)

2. Standard of Evidence

- a. In assessing allegations of sexual harassment and condoboraidtT(ii.)Tj2 (bow/P 4MCID 15Tw 0

6. Provide both parties an equal opportunity to inspect and review any evidence Vanderbilt obtained as part of the investigation, whether obtained from a party or other source, that is directly related to the allegations raised in a Formal Complaint. The provision of such evidence is intended to help each party meaningfully respond to the evidence prior to conclusion of the investigation. (§ 106.45(b)(5)(vi).)
 - a. Parties may elect to submit certain records of medical examinations, treatment, or mental health services. Vanderbilt will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or

v. Permissive Dismissal

1. At any time during the investigation or hearing, Vanderbilt may dismiss the Formal Complaint or any of its allegations if:
 - a. A Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint in whole or in part;
 - b. The Respondent is no longer enrolled or employed by Vanderbilt; or
 - c. Specific circumstances prevent Vanderbilt from gathering evidence sufficient to reach a determination as to the Formal Complaint in whole or in part.
(§ 106.45(b)(3)(ii).)
2. In all such circumstances, Supportive Measures may be continued.
3. Under the first circumstance ([Subsection v.1.a](#)), the Title IX Coordinator may choose in their discretion to sign the Formal Complaint to continue to the Formal Grievance Process. See also [Sections IV.A.iii-iv](#), above.
4. Under the second circumstance ([Subsection v.1.b](#)):
 - a. The Respondent's student or employment records may be marked to indicate their departure during a disciplinary process (which may resume if they return to Vanderbilt), but will not indicate that the Respondent was found or assumed responsible for any alleged misconduct pending at the time of departure.
 - b. The Respondent may be required to notify the Title IX Coordinator if they intend to visit any building owned or controlled by Vanderbilt or a student organization that is officially recognized by Vanderbilt, or if they otherwise seek to attend any Vanderbilt education program or activity or event, so that the Complainant may be given an opportunity to receive Supportive Measures if needed.
- 5.

2.

v. Determination Regarding Responsibility

1. The adjudicator will issue a written determination, typically within 15 days following the hearing. Based on a preponderance of the evidence, the adjudicator will decide if the respondent is responsible for engaging in the conduct alleged, and if so, what disciplinary action may be appropriate.
2. The written determination will include:
 - a. Identification of the allegations potentially constituting sexual harassment under this Protocol;
 - b. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
 - c. Findings of fact supporting the determination;
 - d. Conclusions regarding the application of this Protocol to the facts;
 - e. A statement of, and rationale for, the result as to each allegation, including:
 - i. A determination regarding responsibility;
 - ii. Any disciplinary sanctions the adjudicator imposes on the respondent; and
 - iii. Whether remedies designed to restore or preserve equal access to Vanderbilt's education program or activity will be provided to the Complainant; and
 - f. Procedures and permissible bases for the parties to appeal the determination.
(§ 106.45(b)(7)(ii).)
3. The written determination will be provided to the parties simultaneously.
4. Supportive Measures also may be provided to the Complainant that are designed to restore or preserve equal access to Vanderbilt's education program or activity, even if they are not listed in the written determination. Remedies and Supportive Measures that do not impact the Respondent should not be disclosed in the written determination; rather, the determination should simply indicate that "remedies will be provided to the Complainant." The Title IX Coordinator is responsible for effective implementation of any remedies and Supportive Measures. (§ 106.45(b)(7)(iv).)

vi. Range of Sanctions and Remedies (§ 106.45(b)(1)(vi))

1. Sanctions can include, but are not limited to, the following:
 - a. Expulsion
 - b. Suspension
 - c. Disciplinary Probation
 - d. Deferred Disciplinary Probation
 - e. Educational Conference
 - f. Additional components of sanctions may include, but are not limited to: restrictions, which may include limiting or barring access to certain facilities or activities and removal or reassignment from University housing.
2. Remedies can include, but are not limited to, the following:

affect the outcome of the matter that was not reasonably available to the appealing party before or during the time of the hearing or the dismissal, then the written appeal must include such information. The Title IX Coordinator retains discretion to verify and/or waive minor procedural variations in the timing and content of the appeal submission.

- iii. Upon receipt of an appeal, Vanderbilt will
 - 1. Notify the other party in writing when the appeal is filed and implement appeal procedures equally for both parties;
 - 2. Ensure that the decision-maker for the appeal is not the same person as the decision-maker that reached the original determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
 - 3. Ensure that the decision-maker for the appeal does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent, and that the decision-maker for the appeal has received the appropriate and necessary training;
 - 4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.
(§ 106.45(b)(8)(iii).)
- iv. Vanderbilt will provide a copy of the appeal to the non-appealing party. The non-appealing party may submit a written statement within 10 days that may seek to affirm the initial decision and/or respond to the appeal statement.
- v. The Title IX Coordinator has discretion to impose or withhold any applicable sanctions or supportive measures prior to the appeal deadline and prior to the resolution of any appeal.
- vi. The decision-maker for the appeal will issue a written decision describing the result of the appeal and the rationale for the result within a reasonably prompt time frame, typically within 10 days following receipt of all appeals materials. The appeal will determine whether the adjudicator made an error on the grounds alleged in the appeal statement. The appeal is typically determined based on the existing record, but the appeal decision-maker has discretion to convene a limited or full hearing if needed. The appeal decision will be given simultaneously to both parties. (§ 106.45(b)(8)(iii)(E-F).)
- vii. The Appellate Officer will take action on the appeal based on the relevant ground for appeal as set forth below:
 - 1. In cases where there has been a material procedural error sufficient to affect the determination posed, the Appellate Officer will remand the case to the Title IX Office with instructions, as appropriate.
 - 2. In cases where the Appellate Officer deems there is new evidence that was not reasonably available to the appealing party at the time of the hearing or dismissal, that could affect the

outcome of the matter, the Appellate Officer will remand the case to the Title IX Office with instructions, as appropriate.

3. In cases where the Appellate Officer deems the Title IX Coordinator or Investigator had a conflict of interest or bias for or against the Complainant or the Respondent generally or the individual Complainant or Respondent that affected the outcome of the matter, the Appellate Officer will refer the case to the Associate Vice Chancellor for Equal Access to assure the University provides a resolution process without conflict of interest or bias.
4. In cases where the Appellate Officer deems the determination cannot reasonably be supported by the evidence, the Appellate Officer will reverse the determination.

G. Informal Resolution

- ii. At any time prior to reaching a determination regarding responsibility, Vanderbilt may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. Vanderbilt may not offer an informal resolution process unless a Formal Complaint is filed. Both parties must agree to participate in an informal resolution process, and if they do, the

binding, and its breach gives rise to a new Formal Grievance Protocol, which may restart the Formal Grievance Protocol.

V. Retaliation (§ 106.71.)

- A. No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its regulation, or this Formal Grievance Protocol.