

Formal Grievance Protocol  
As Required by the U.S. Department of Education Title IX Regulations  
(34 C.F.R. §106.45)  
Effective October 13, 2021

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## Formal Grievance Protocol

This Protocol applies to all members of the Vanderbilt community and its terms supersede any contrary Vanderbilt

Sexual misconduct that does not satisfy the USDOE's jurisdictional requirement, campus behavior alleged to have an campus effect, may be addressed under alternative procedures, as provided in the Sexual Misconduct Policy, instead of this Protocol.

### C. Other Definitions

The terms "Complainant" and "Respondent" are used throughout this Protocol as well as the Sexual Misconduct Policy. For purposes of this Protocol, a Complainant is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. A Respondent is an individual alleged to be the perpetrator of conduct that could constitute sexual harassment.

Other terms that are used in this Protocol, like Supportive Measures and Formal Complaint, are defined below. All relevant terms, including Consent and Incapacitation, are defined in the Sexual Misconduct Policy.

### III. USDOE Statements of Equitable Treatment

A. As required by USDOE's Title IX Regulations, Vanderbilt's Formal Grievance Process Complainants and Respondents equitably by: (1) offering Supportive Measures (as defined below) to a Complainant, and following a grievance process that complies with the procedural requirements of the Title IX Regulations before the imposition of any disciplinary sanctions against a Respondent. Supportive Measures also may be offered as needed to Respondents and other members of the Vanderbilt community who may be affected by sexual harassment.

B. Supportive Measures are disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent. 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 activities without unreasonably burdening the individual.







ii.



Vanderbilt's decisionmakers will use the preponderance of the evidence standard [Section D.i.](#) above.

2. Provide an equal opportunity for the parties to present ~~testis~~ and other relevant evidence. (§106.45(b)(5)(ii).)
3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence (§106.45(b)(5)(iii).)
  - a. Vanderbilt does not prohibit any party from discussing their own experience. While Vanderbilt

the party, unless the party voluntarily consents in writing to their use in a Formal Grievance Process §106.45(b)(5)(i.)

iv. Investigative Report §106.45(b)(5)(wii.)

1. Prior to completion of the investigative report, Vanderbilt will send to each party, and the party's adviser if any, a preliminary investigative report and the evidence subject to inspection and review.
  - a. Such evidence will be available at any hearing, to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
  - b. Vanderbilt retains discretion to elect to send such materials in an electronic format or a hard copy. The provision of such evidence may include data security safeguards that prevent it from being downloaded, printed or forwarded.
- 2.

3. Under the first circumstance [\(Section v.1.a\)](#), the Title IX Coordinator may choose in their discretion to sign the Formal Complaint to continue to the Formal Grievance Process [\(Section A.iii\)](#), above.
4. Under the second circumstance [\(Section v.1.b\)](#)
  - 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.
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physically present in the same location, or any or all parties, witnesses and other participants may appear at the live hearing

iv. Cross examination

1. As stated above in [Section IV.D.ii](#), each party may be accompanied to the hearing by the adviser of their choice, whom may be, but is not required to be, an attorney. Advisers be present solely to advise or support the party and are prohibited from speaking directly to the Investigator, Adjudicator, other parties, or witnesses during the hearing, except for conducting a cross examination.
2. At the hearing, the Adjudicator will typically ask questions first, before the adviser. Subsequently, each party's advisers are permitted to ask the other party and any witnesses all relevant questions and follow questions, including those challenging credibility. Cross examination at the live hearing must be conducted directly, orally, and in real time by the party's adviser, and never by a party personally (§106.45(b)(6)(i).)
3. If a party does not have an adviser present at the live hearing, Vanderbilt will provide without fee or charge to that party, an adviser who may be, but is not required to be, an attorney, to conduct a cross examination on behalf of that party (§106.45(b)(6)(i).)
  - a. If a party does not have an adviser at the hearing, the party must notify the Title IX Coordinator or designee no later than the party's hearing disclosures. (See [Section IV.E.ii.2.](#) above.) Otherwise, the hearing may be delayed, and the appointed adviser will have less time to prepare for the hearing.
  - b. Vanderbilt will make available a pool of trained advisers from which the party may select an adviser.
4. Only relevant cross examination and other questions may be asked of a party or witness. See [Section IV.E.iii.](#), above, regarding relevancy. Before a party or witness answers a cross examination or other question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant (§106.45(b)(6)(i).)
5. Neutral records, including but not limited to medical records provided with the appropriate releases, police reports, Sexual Assault Nurse Examiner records, video or other security recordings, will be considered without requiring the author or custodian of those records to be present during the live hearing or to submit to cross examination unless the Adjudicator has a specific concern regarding the authenticity of the evidence.  
Text messages, emails, group chat messages, other social media posts, or records provided by a party or witness may be considered without the requirement that the party or witness who offered the record be present during the live hearing or submit to cross examination unless the Adjudicator has a specific concern regarding the authenticity of the evidence. If a party or witness does not appear at the live hearing

The Adjudicator, however, generally should not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from a hearing or refusal to answer cross examination or other questions.

v. Determination Regarding Responsibility

1.



## F. Appeals

- i. Either party may appeal from a determination regarding responsibility (including the sanction, if any), or from a dismissal of a Formal Complaint in whole or in part, on the following bases
  1. A procedural irregularity, meaning an alleged failure to follow the process outlined in this Protocol affected the outcome of the matter;
  2. New evidence



- v. Vanderbilt will provide a copy of the appeal to the appealing party. The 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.
- vi. 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.
- vii. The appeal will be referred to an Appeals Panel in the case of a faculty Respondent or an Appeals Officer for all other Respondents. For cases where the Respondent is a faculty member, the Appeals Panel will consist of an independent third-party Appeals Officer and two additional faculty Appeals Panel members, each of whom will have an equal vote. The faculty Appeals Panel members will be selected by the Title IX Coordinator or designee from a standing pool of faculty members created by the Deans of the schools. For all other cases, the Appeals Officer will be an independent third party. The Appeals Panel or Appeals Officer, as appropriate, will issue a written decision describing the result of the appeal and the rationale for the result within a reasonably prompt time, typically within 10 days following receipt of all appeals materials. The appeal will determine whether the Hearing Panel or Hearing Officer erred on the ground(s) alleged in the appeal statement. The appeal is typically determined based on the existing record, but the appeal decision maker has discretion to



