

Discrimination Grievance Procedures Accompanying the Discrimination, Harassment, and Retaliation Policy [INTERIM]

Montana State University
Office of Institutional Equity

Notice on Effective Date: These procedures apply to all reports of discrimination filed on or after August 14, 2020 with the Responsible Office. Reports received before that date will be addressed using the policy in effect at the time of filing.

I. Introduction and Purpose

The purpose of these Discrimination Grievance Procedures (the Procedures), as set forth below, is to provide prompt and equitable resolution of protected-class harm based upon race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, gender, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation as contemplated and prohibited by the University's Discrimination, Harassment, and Retaliation Policy (the Policy).

These Procedures address reports of protected-class harm, including conduct prohibited by the Policy (Prohibited Conduct). The Policy is referenced here and incorporated as if fully set forth herein.

II. Definitions

- a. **Advisor** means a person chosen by a party to be present during an investigation and hearing, and to conduct cross-examination on behalf of a party during any live hearing conducted under these Procedures. If a party does not have an Advisor during a live hearing, the University will appoint an Advisor to conduct cross-examination on behalf of that party.
- b. **Complainant** means an individual who is alleged to be the subject of Prohibited Conduct under the University's Discrimination, Harassment, and Retaliation Policy.
- c. **Day** means any day the University is open for business, which excludes weekends and University recognized holidays.
- d. **Exculpatory Evidence** means evidence that tends to weigh against establishing responsibility for Prohibited Conduct.
- e. **Formal Complaint**, as set forth in the Policy at Section III(C), means a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct by a Respondent and requesting that the University investigate and adjudicate the allegation of Prohibited Conduct; and meet the applicability and jurisdiction requirements set forth in MSU's Discrimination, Harassment, and Retaliation Policy at Sections II and IV, respectively. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, by electronic mail, or at the contact information listed the Policy at Section III. The Formal Complaint must contain the Complainant's physical or digital signature, or otherwise indicate that the Complainant is the person filing the Formal Complaint.

- f. **Grievance Proceeding** means the process described below in Section IV, and includes an investigation, live hearing, and where applicable, a sanction and opportunity to appeal.
- g. **Hearing Officer** is a person appointed by the President and is responsible for determining whether the Respondent(s) is responsible for the allegations of Prohibited Conduct. The Hearing Officer is responsible for the writing the final written report including findings of fact and conclusions as to whether the conduct rises to the level of a policy violation.
- h. **Hearing Officer File** means the final written decision, the recording or transcription of the live hearing, and all evidence directly related to the matter.
- i. **Inculpatory Evidence** means evidence that tends to weigh toward establishing responsibility for the alleged Prohibited Conduct.
- j. **Investigator** means an individual who does not have a conflict of interest or bias for or against complainants or respondents generally, or an individual Complainant or Respondent; has been trained on the definitions of Prohibited Conduct, and the scope of the University's jurisdiction, how to conduct a fair and impartial investigation, on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
- k. **Prohibited Conduct** means conduct described in Section XI of the University's Discrimination, Harassment, and Retaliation Policy.
- l. **Report of Prohibited Conduct** means information submitted to the Responsible Office at the contact information listed at Section III of the policy, or the form located in the Responsible Office website.
- m. **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute Prohibited Conduct.
- n. **Supportive and Protective Measures** are defined in Section VI of the University's Discrimination, Harassment, and Retaliation Policy.
- o. **Title IX Coordinator** means the individual who is responsible for coordinating efforts of the University to provide information about how to file reports of Prohibited Conduct, for maintaining the Policy and Procedures on the university website and, for coordinating responses to reports of Prohibited Conduct, for ensuring a prompt and equitable resolution of Formal Complaints of Prohibited Conduct, for ensuring that investigators, Advisors, Hearing Panel members, and all other University officials facilitating an Informal Resolution or Formal Grievance Proceeding are properly trained, and for ensuring effective implementation of any remedies. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.
- p. **University Program or Activity** means locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which Prohibited Conduct is alleged to have occurred, and also includes any buildings owned or controlled by a student organization that is officially recognized by the University.

III. University Response

- A. Following receipt of a Report of Prohibited Conduct and/or a Formal Complaint, the RO will promptly contact the Complainant to offer Supportive and Protective Measures, consider the Complainant's wishes with respect to Supportive and Protective Measures, inform the Complainant of the availability of Supportive and Protective Measures with or without the

filing of a Formal Complaint, and invite the Complainant to meet with RO staff to assess jurisdiction and discuss potential resolution options, including the process for filing a Formal Complaint.

B. The Title IX Coordinator may consolidate Formal Complaints as to allegations of Prohibited Conduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Prohibited Conduct arise out of the same facts or circumstances.

C. Notice.

Following receipt of a Formal Complaint, the Title IX Coordinator will promptly issue a written notice to the Complainant(s) and Respondent(s) who are known. The notice will include a link to or copy of these procedures; a description of the allegations in the Formal Complaint, sufficient details about the allegations, including the identity of the parties involved in the incident, if known, the conduct allegedly constituting Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s), if known. The written notice will include a statement that the Respondent(s) is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Process. The notice will inform the parties that they may have an Advisor of their choice, and that the parties may inspect and review evidence as described in these Procedures.

D. Dismissal.

The Title IX Coordinator may dismiss a Formal Complaint, if at any time during the investigation or hearing for the following reasons: the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint ; the Respondent is no longer enrolled or employed by the University; or specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein. Upon dismissal of the Formal Complaint for any reason, the Title IX Coordinator will promptly send written notice of the dismissal and the reason(s) therefore to the parties.

E. The University has two processes to resolve a Formal Complaint:

(1) Grievance Proceeding.

A Grievance Proceeding involves an investigation, a hearing, and, if applicable, sanctions and an appeal. There are two hearing formats to be utilized under these Procedures, one applies to any matter in which Sexual Harassment is alleged; the other applies to all other forms of Prohibited Conduct. All hearings under these Procedures will be conducted in accordance with directions of the Hearing Officer.. The format for all live hearings under these Procedures will comply with the Grievance Proceeding described below at Section IV.

(2) Informal Resolution.

An Informal Resolution, as described below at Section V, involves both parties' voluntary written consent to participate in the Informal Resolution Process. The Informal Resolution Process may not be used to resolve allegations that an employee Sexually Harassed a student.

IV. Grievance Proceeding

A. Burden of Proof and Standard of Evidence.

Neither a Complainant nor a Respondent has any burden to prove or disprove Prohibited Conduct. The University has the burden to prove through the Grievance Proceeding that a Respondent engaged in Prohibited Conduct. The University presumes that the Respondent has not engaged in Prohibited Conduct until it has made a final determination at the conclusion of the Grievance Proceeding. The standard of evidence for determining whether a Respondent has engaged in Prohibited Conduct is the preponderance of the evidence standard. The preponderance of the evidence standard requires that the evidence supporting each finding be more convincing than the evidence in opposition to it.

B. Investigation.

The Title IX Coordinator will assign a properly trained and impartial investigator.

- a. The investigator is responsible to gather evidence sufficient to reach a determination regarding responsibility or no-responsibility based upon the preponderance of evidence.
- b. The investigator may not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to a party, unless the University obtains that party's voluntary, written consent to do so for this Grievance Process.
- c. The investigator will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other Inculpatory and Exculpatory Evidence.
- d. The University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.¹
- e. The investigator will provide the parties with the same opportunities to have support persons, and an Advisor of their choice, present during any interview or meeting related to the investigation.
- f. The investigator will provide written notice of the date, time, participants, and purpose of all investigative interviews, and other meetings, with sufficient time for a party to prepare to participate.
- g. The investigator will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and Inculpatory or Exculpatory

¹ The University will not restrict students' and employees' ability to discuss the allegations under investigation to the extent such discussion aligns with a party's right to meaningfully participate in furthering the party's interests in the case. However, this provision in no way immunizes a party from abusing the right to discuss the allegations under investigation by, for example, discussing those allegations in a manner that constitutes Retaliation as defined at Section XI(C) of the Discrimination, Harassment, and Retaliation Policy. Similarly, where a party's conduct toward a witness might constitute tampering (for instance, by attempting to alter or prevent a witness's testimony), it is prohibited and may constitute a violation of the Student Code of Conduct or relevant employment agreement or policy.

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.

- h. If in the course of the investigation, information becomes available that leads to the investigation of additional allegations about the Respondent or Complainant that were not included in the initial written notice, the investigator will provide an additional written notice to the parties whose identities are known, of the additional allegations.
- i. Prior to the completion of the investigation, the investigator will provide to each party and the party's Advisor, if any, the evidence subject to inspection and review in an electronic format, and the parties will have at least 10 working days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- j. The investigator will create a pre-hearing investigative report that fairly summarizes relevant evidence. The pre-hearing investigative report will state whether there is reasonable cause to believe that Prohibited Conduct occurred based upon an objective evaluation of all relevant evidence. The objective evaluation will be based upon the presumption that the respondent(s) is not responsible for the alleged conduct and the preponderance of the relevant evidence standard.
- k. The investigator will send to each party and the party's Advisor, if any, the investigative report in an electronic format or a hard copy.
- l. Upon receipt of the investigative report, each party has 10 days to submit a written response to the investigator.
- m. After receipt of the parties' responses to the investigative report, or expiration of the time permitted for such responses, the investigator will provide the following to the Title IX Coordinator and to the parties and their respective Advisors, if any the following:
 - i. Written Notice described at Section III(C), above, and any additional written notices;
 - ii. Description of the procedural steps taken from the receipt of the Formal Complaint through the final investigative report and receipt of any responses to the final investigative report, including all notifications to the parties, interviews with the parties and witnesses, site visits, methods used to gather other evidence;
 - iii. All evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint and any additional allegations of which the parties were provided written notice, including evidence upon which the investigator did not rely in forming an opinion, and any Inculpatory or Exculpatory evidence whether obtained from a party or other source;
 - iv. The pre-hearing investigative report; and
 - v. All written responses and any other submissions provided by the parties, and their advisors to the investigator.

C. Hearing.

After receipt of the information described above, in Section III(B)(m), the Title IX Coordinator will provide such information to the Hearing Officer and will work with the Hearing Officer, the parties, and their Advisors, to schedule a date, time, and location for a live Hearing.

- a. The Hearing Officer may convene a pre-hearing conference with the parties and their Advisors to discuss matters of procedure, including logistics of technologies to be used, and any requests for parties to be located in separate rooms; time allocations; identity and

- logistics of witnesses to be called; sequestration of witnesses; evidence to be presented; recording or transcription of the hearing; identify of support persons to be present; process for questions and cross-examinations; anticipated evidentiary disputes; the Rules of Decorum for Equal Opportunity & Title IX Hearings; other matters that will help to enable a fair and impartial hearing. Prior to the pre-hearing conference, the Hearing Officer will request each party to submit a list of anticipated witnesses and cross-examination questions. The Hearing Officer will discuss the party's submitted questions with the submitting party and their Advisor during the pre-hearing conference.
- b. The Hearing Officer will conduct all proceedings in accordance with the rules established by the Hearing Officer. For all hearings conducted under these Procedures, the Hearing Officer will make determinations regarding relevancy and will permit only relevant cross-examination and other questions to be asked of parties and witnesses.
 - c. Each party will be afforded an opportunity to make an opening and closing statement, personally, or through their Advisor. Following any opening statements, the Hearing Officer may ask questions of parties and witnesses.
 - d. For charges of Sexual Harassment, cross-examination will be conducted as follows, in accordance with federal requirements:
 - i. Before a Complainant, Respondent, or witness answers a cross-examination question, the Hearing Officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
 - ii. 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.
 - iii. Asking a question of a particular individual previously asked of and answered by that individual is impermissible may be prohibited by the Hearing Officer.
 - iv. If a party or witness does not submit to cross-examination at the Hearing, the Hearing Officer may not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Hearing Officer 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.
 - v. Each party's Advisor will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination will be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally.
 - e. For Hearings involving only other charges of Prohibited Conduct and not Sexual Harassment, cross-examination will be conducted as follows:
 - i. Cross-examination questions will be asked directly by the Hearing Officer based on the questions submitted beforehand and discussed at the pre-hearing conference. Additional questions may be submitted to the Hearing Officer in writing during the hearing, which the Hearing Officer may ask of parties and witnesses.
 - ii. If a party or witness does not attend the Hearing or refuses to answer a specific question at the Hearing, the Hearing Officer may elect to consider any other evidence

made available to it during the hearing, including testimony offered by parties and witnesses present, and any documentation evidence included in the pre-hearing investigation report if authenticated by the Responsible Office. The Hearing Officer 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.

- f. Either party may request that the hearing occur with the parties located in separate rooms with technology enabling the Hearing Officer and parties to simultaneously see and hear the party or the witnesses answering questions.
- g. The University will create an audio or audiovisual recording, or transcript of the live hearing and will make it available to the parties for inspection or review. Other recordings or transcriptions of the hearing will not be permitted.²
- h. Following conclusion of a Grievance Proceeding, the Hearing Officer will promptly issue a written determination regarding responsibility. To reach this determination, the Hearing Officer will begin its analysis with the presumption that the Respondent(s) is not responsible for the alleged conduct and will weigh the evidence to determine whether the preponderance of the relevant evidence weighs in favor of a finding of responsibility or no finding of responsibility for the alleged Prohibited Conduct.
- i. The written determination will be provided to the Complainant and Respondent as simultaneously as possible and will include the following:
 - i. Identification of the allegations potentially constituting Prohibited Conduct;
 - ii. 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 other evidence, and hearings held;
 - iii. Findings of fact supporting the determination;
 - iv. Conclusions regarding the application of the Policy to the facts;
 - v. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the Respondent; and whether remedies designed to restore or preserve equal access to the University's Program or Activity will be provided by the University to the Complainant; and
 - vi. The University's procedures and permissible bases for the Complainant and Respondent to appeal.
- j. The Hearing Officer will provide to the Title IX Coordinator the final written decision, the recording or transcription of the live hearing, and all evidence directly related to the matter ("Hearing Officer File").

² Personal or unauthorized audio or video recording of any meeting, interview, Grievance Proceeding, or Informal Resolution contemplated by the Policy or these Procedures is prohibited.

F. Appeal.

Either or both parties may appeal from a determination regarding responsibility and from the University's dismissal of a formal complaint or any allegations therein.

- a. An appeal must be submitted to the Title IX Coordinator within 10 days of the date the written determination was submitted to the parties.
- b. Grounds for appeal are:
 - i. Procedural irregularity that affected the outcome of the matter;
 - ii. 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; and
 - iii. The Title IX Coordinator, investigator(s), or member(s) of the Hearing Officer 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.
- c. Upon receipt of an appeal, the Title IX Coordinator will notify the other party in writing when an appeal is filed and will issue instructions, including reasonable deadlines for the non-appealing party to submit a written response.
- d. Once the Title IX Coordinator has received the written statements or the deadlines for submission of the written statements has expired, the EO/Title IX Coordinator will provide to the President of the University or their designee, written statements submitted by the parties, the final written decision and will make available the Hearing Officer File.
- e. The President or designee will issue a written decision describing the result of the appeal and the rationale for the result and will provide the written decision simultaneously to both parties.
- f. A decision by the President or designee is the final decision of the University and thus the conclusion of the grievance proceeding. As such, appropriate disciplinary sanctions may be immediately imposed, regardless of whether a party files an appeal under Board of Regents Policy 203.5.2 described below. The University may also determine to impose interim measures/sanctions consistent with the final University determination, pending an appeal under the Board of Regents policy.

V. Informal Resolution

- a. At the discretion of the Title IX Coordinator, this process is available to resolve all allegations of Prohibited Conduct except Sexual Harassment by employees against students.
- b. After the parties are provided with written notice of Formal Complaint, pursuant to Section II.(C). of these procedures, the Title IX Coordinator may reach out to both parties to explore whether they would like to engage in an Informal Resolution Process.
- c. The Title IX Coordinator is responsible for either overseeing or conducting the informal resolution process. Examples of Informal Resolution include mediation, facilitated conversation, and education.
- d. Both parties must provide voluntary written consent to Informal Resolution, and the Title IX Coordinator must determine an Informal Resolution process is appropriate, before the Title IX Coordinator will initiate an Informal Resolution process.

- e. At any time, before completing 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. A completed resolution must contain signatures of the parties and the Title IX Coordinator. The Title IX Coordinator retains the authority to determine whether any Informal Resolution is sufficient.
- f. The only record resulting from the Informal Resolution process will be a Written Agreement of Informal Resolution signed by both parties and the Title IX Coordinator. Each party will receive a copy of the written agreement and the Title IX Coordinator will maintain a copy in the Title IX Office records.
- g. None of the information learned solely as a result of the Informal Resolution process may be used in the Grievance Process. The fact that the parties participated or that any party declined to participate or withdrew from the Information Resolution Process may not be considered in a Formal Grievance Process.

VI. Sanctions

- a. Student Respondents. The Hearing Officer is responsible for recommending sanctions against student respondents.
 - i. Possible sanctions against students may include one or more of the following:
 1. Disciplinary probation: A designated period of time during which the respondent is not in good standing with the University. The terms of disciplinary probation may involve restrictions of privileges and/or set specific behavioral expectations;
 2. Restriction from employment at the University: Prohibition of or limitation on University employment;
 3. Class/Workshop/Training/Program attendance: Enrollment in and completion of a class, workshop, training, or program that could help the respondent or the University community;
 4. Educational project: Completion of a project specifically designed to help the respondent understand why certain behavior was inappropriate and to prevent its recurrence;
 5. University housing transfer or removal: Permanent placement in another room or housing unit or removal from University housing. Housing transfers or removals may be for a specified time (e.g., a year) or permanent depending on the circumstances;
 6. Removal from specific courses or activities: Suspension or transfer from courses or activities at the University for a specified period of time or permanently
 7. Banning from all or specific University activities and events: The University may prohibit an individual from attending University sponsored activities either on or off-campus;
 8. Permanent No Contact: Restriction from entering specific University areas and/or from all forms of contact with certain persons;

9. Suspension: Separation from the University for a specified period of time or until certain conditions are met;
 10. Expulsion or permanent separation: Termination of student status for an indefinite period for students or termination from employment for employees;
 11. Transcript hold: The University may prevent a student from receiving a copy of their transcript; or
 12. The University may delay the conferral of the degree pending the outcome of an investigation or withhold the conferral of the degree due to a finding of prohibited conduct. In extraordinary circumstances, the University may revoke the conferral of a degree.
- ii. Student Respondents may submit to the Hearing Officer, a mitigation statement explaining any factors that the respondent believes should mitigate or otherwise be considered in determining the sanctions imposed. Complainants may submit to the Hearing Officer an impact statement describing the impact of the Prohibited Conduct on the Complainant and expressing the Complainant's preferences regarding appropriate sanctions.
 - iii. In determining the appropriate sanctions for students, the Hearing Officer will be guided by a number of considerations, including:
 1. The nature of the conduct at issue and the Prohibited Conduct for which Respondent was charged;
 2. The impact of the Prohibited Conduct on the Complainant;
 3. The impact of the Prohibited Conduct on the community or the University;
 4. Whether the Respondent has accepted responsibility for the Prohibited Conduct, which may be considered as a factor that may lessen, not increase, the severity of the sanctions;
 5. Maintenance of a safe and respectful environment conducive to learning;
 6. Protection of the University community;
 7. The necessity of any specific action in order to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects on the Complainant or other University community members; and
 8. Any other mitigating, aggravating, or compelling circumstances, including those set forth in the impact or mitigation statements.
- b. Employee Sanctions. If the Respondent(s) is an employee, the Hearing Officer will not make a determination regarding sanctions. After any appeal or opportunity for appeal has been exhausted, the Title IX Coordinator will provide the Hearing Officer's written decision, and any final decisions on appeal, to the University administrator with the authority to impose sanctions in accordance with applicable employment policies and procedures and collective bargaining agreements. The Title IX Coordinator will inform the Complainant(s) of the status of the employee sanctioning process and outcomes, as they directly relate to the Complainant(s)'s participation in University Programs or Activities.
 - c. Student-Employee Sanctions. If the Respondent is a student-employee, the Hearing Officer will determine sanctions with respect to the Respondent's status as a student and the Title IX

Coordinator will provide the Hearing Officer's decision to the Respondent's supervisor to impose sanctions in accordance with applicable employment policies and procedures.

VII. Records

- a. The Title IX Coordinator is responsible to maintain for a period of seven years the following records:
 - i. Records of the Grievance Process following the filing of each Formal Complaint including:
 1. Hearing Officer File;
 2. Any disciplinary sanctions imposed upon the Respondent(s);
 3. Any remedies provided to the Complainant(s) designed to restore or preserve equal access to the University's Programs or Activities;
 4. Any documents submitted as part of an appeal and any written decisions as a result of an appeal;
 5. Any written agreement of Informal Resolution.
 - ii. All materials used to train the Title IX Coordinator and any deputy Title IX Coordinators, investigators, the Hearing Officer, the President (or designee), all other decision-makers for appeals, and any person who facilitates an Informal Resolution Process. The Title IX Coordinator must make these training materials available on the Title IX Office website.
 - iii. Records of all Reports of Prohibited Conduct including:
 1. A record of the initial report;
 2. A record of any actions taken in response to a report of Prohibited Conduct;
 3. A record of supportive measures provided to a Complainant, or if supportive measures are not provided to a Complainant, documentation of the reasons why such a response was not clearly unreasonable in light of the known circumstances;
 4. Documentation of measures taken by the University to restore or preserve equal access to the University's Programs or Activities;
 5. Documentation of the basis for the conclusion that the University's response was not deliberately indifferent to a report of Prohibited Conduct.
- b. The University will take reasonable efforts to keep confidential the identity of any individual who has made a report or filed a Formal Complaint of Prohibited Conduct, any Complainant, any Respondent, and any witnesses, except as may be permitted by the FERPA statute, 20 U.S.C. § 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, appeal, or judicial proceeding arising thereunder.

VIII. Timeframe

Consistent with timeframes identified herein and where otherwise unspecified, the University will respond to and seek resolution of all Reports of Prohibited Conduct and Formal Complaints under these Procedures, promptly, as determined by fact and circumstance, and in accordance with federal regulation. The RO will set and provide advanced notice of timelines and deadlines to parties, witnesses, and Advisors.

Except as otherwise specified, the Title IX Coordinator may extend a deadline or permit delay of any resolution process described herein upon a showing of good cause and written notice to the parties of the reason for extension or delay. Good cause may include considerations such as the unavailability of a party, witness, or Advisor; concurrent law enforcement activity; or the need for language assistance or accommodation of disability.

IX. Board of Regents Policy 203.5.2 – Appeals

[Board of Regents Policy 203.5.2](#) provides that any party may appeal the final decision of a university president, within thirty (30) days of the president’s decision to the commissioner of higher education.