

HOWARD UNIVERSITY POLICY

Policy Number: 400-005 Governance, Risk and Compliance
Policy Title: TITLE IX (STUDENT) POLICY ON PROHIBITED SEXUAL HARASSMENT AND GENDER-BASED DISCRIMINATION IN EDUCATION PROGRAMS AND ACTIVITIES
Responsible Officers: Provost and Chief Academic Officer
Title IX Officers
Responsible Offices: Office of the Provost and Chief Academic Officer
Title IX Office
Effective Date: January 18, 2017 (Revised Policy)
April 29, 2016 (Updated)
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August 11, 2011 (Updated Title IX Contacts)
June 5, 1999 (Original)

I. POLICY STATEMENT

Howard University (the “University”) is committed to ensuring compliance with Title IX of the *Education Amendments of 1972*, as amended, and the *Violence Against Women Act*. To that end, the University reaffirms its commitment to providing students with educational opportunities free from sexual harassment and discrimination based upon gender, gender expression, gender identity, sexual orientation, or marital status. In furtherance of this commitment, the University strives to maintain an environment in which all members of the University community are: (a) judged and rewarded solely on the basis of ability, experience, effort, and performance; and (b) provided conditions for educational pursuits that are free from gender-based coercion, intimidation, or exploitation.

Sexual harassment (hereinafter referred to as "harassment") and gender-based discrimination (hereinafter referred to as "discrimination") are violations of both federal and local law. They can result in physical and psychological harm to victims, while corrupting the positive work and academic environment the University strives to maintain. Therefore, harassment or discrimination on the part of any member of the Howard University community shall not be tolerated under any circumstance and is strictly prohibited under both Title IX (applicable to students) and Title VII (applicable to faculty and staff).

The University considers harassment and discrimination to be extremely serious matters. In accordance with federal law, the University has a legal obligation to investigate all allegations of harassment and discrimination. This obligation arises when the University knows with certainty, or has reason to believe, that sexual harassment or discrimination may have taken place. Upon learning of any such allegations, the University must use its best efforts to investigate all matters brought to the attention of a Title IX Officer or a Responsible Employee.

Additionally, submission of a complaint alleging harassment or discrimination is considered to be a protected activity. As such, retaliation against a Complainant, Dean, Title IX Officer, administrator, faculty member, student, witness or individual involved in any aspect of the investigative process under this policy is strictly prohibited and will be sanctioned accordingly.

This policy is not designed to limit the academic freedom of University faculty. The University prides itself on affording faculty with a fair opportunity to teach, conduct research, and provide services to the community in a setting that allows the academic freedom necessary to cultivate a wide expanse of ideas and teaching methods. The University encourages the expression of such ideas or the use of such methods, provided that they are expressed or used in a manner that is consistent with this policy and the legitimate rights of students.

It is important to note three considerations that inform the application of this policy:

(1) University Prohibition on Consensual Relationships

Sexual relationships, including dating, between students and faculty, staff, or any other type of University employee are strictly prohibited under this policy, regardless of whether such a relationship may violate the law. Therefore, violations of this prohibition by a faculty member, staff member, or any other type of University employee and a student may lead to disciplinary action against one or both parties. This section does not prohibit consensual relationships between staff/employees who are enrolled as full-time students at the University, and other students, provided that the staff/employee does not have any form of supervisory responsibilities for the student, the student does not reside in the staff/employee's assigned housing unit, and the student is not enrolled in a class that the staff/employee is teaching.

(2) University Policy on Indemnification

In any legal action or proceeding precipitated by a violation of this policy, in which the University and a member of the University community are named as "co-defendants", the University may refuse to defend and/or indemnify any co-defendant who is responsible for that violation. If a complaint is filed in court and a legal action is thereby commenced against the University and/or such employee, the University may decline to represent the employee and may also decline to provide that employee any indemnification for damages awarded against the employee. Additionally, the University will not defend or indemnify any member of the University community in any legal proceeding or other similar action alleging conduct in violation of this policy if the Office of General Counsel determines that such member violated this policy and may have acted either (1) in bad faith; or (2) in a manner adverse to the best interests of the University.

The decision regarding defense and indemnification will be based solely on the General Counsel's determination as to whether the co-defendant acted in good faith and not in a manner adverse to the best interests of the University. In addition to its refusal to defend and indemnify, in appropriate cases, the University may also file a legal action against a member of the University community to reimburse the University for any loss it may incur as a result of that person's violation of this policy or any applicable provision of law.

(3) University Amnesty Statement

The University recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to file a complaint or provide a report because drinking and drug use may be a violation of the Student of Code of Conduct and/or District of Columbia law. In order to encourage reporting and remove barriers to doing so, any individual who reports discrimination, sexual harassment, sexual misconduct, sexual assault or sexual violence, either as a Complainant or as a third party witness, will not be subject to disciplinary action by the University for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health, safety or well-being of any other person at risk. The University may, however, advise a student to engage in an educational discussion regarding the dangers of alcohol consumption or drug use or to pursue other educational and counseling activities regarding such use.

Title IX Officers are primarily responsible for implementing this policy and ensuring that all students and Responsible Employees are adequately trained or otherwise made aware of their rights and responsibilities under this policy. The provisions of this policy extend to all undergraduate, graduate, transfer, international and/or domestic exchange students as well as all residents and individuals receiving education and/or training at the University. Additionally, each and every faculty and staff member is expected to comply with all terms set forth in this policy. In the event that a faculty or staff member experiences harassment or discrimination, they are also encouraged to contact the University's Equal Employment Opportunity Officer, in the Office of Human Resources, for guidance and further action under the University's Equal Opportunity in Employment and Education policy and Employee Policy Against Sexual Harassment in the Workplace.

The Chief Operating Officer shall ensure that appropriate notice of this policy and its contents are distributed to all University vendors and those seeking to do business with the University. These individuals are also required to comply with all of the University's prohibitions against harassment and discrimination, as set forth within this policy.

II. RATIONALE

Title IX of the Education Amendments of 1972, as amended ("Title IX"), and its implementing regulations (34 CFR Part 106), prohibit any individual from being excluded from participation in, denied the benefits of, or subjected to discrimination under any education program or activity on the basis of gender. In compliance with this federal regulation, it is the policy of the University not to discriminate on the basis of gender in the education programs and activities that it operates. This prohibition against discrimination also extends to employment in education programs and activities and to admission to such programs and activities.

Further, this policy is designed to protect all University students from illegal and improper forms of harassment and discrimination. It provides students with an opportunity to seek redress against any individual in violation of the policy and allows the University to reaffirm its commitment to providing educational opportunities free from the negative effects of sexual harassment and discrimination.

III. ENTITIES AFFECTED BY THIS POLICY

This policy applies to all students of the University community, and applies to conduct that occurs both on and off of the University's campus. More specifically, this policy will apply in any instance where a student is named as either the Complainant or the Respondent in a matter alleging harassment and/or discrimination. However, it is important to note that all faculty and staff members are expected to know and comply with the terms of this policy. Moreover, the prohibitions of harassment and discrimination contained in this policy extend to third parties, including those serving as contractors and vendors doing business at and/or with the University.

While it is the responsibility of the University to disseminate this policy, it is the responsibility of each member of the University community to read the policy and become familiar with its provisions. Moreover, failure to follow the procedures set forth in this policy may inhibit or prevent the University from properly investigating an instance of alleged harassment, or from taking appropriate remedial action.

Finally, it is important to note that the actions proscribed by this policy are also applicable to all individuals who are on University premises or on any other property where the University conducts its business. If such an individual commits an act in violation of this policy, the University will take appropriate measures under the circumstances to sanction the offender, to mitigate against the potential for recurrence, and to discipline any member of the University community who may have participated in such conduct, or may have failed to stop such conduct when they had the authority to do so.

IV. DEFINITIONS

A. **Complainant** - The party reporting the alleged Title IX violation. The Complainant can be the person who experienced the alleged action, a third party who witnessed the alleged action or a person who knows or has reason to know of the alleged action.

B. **Confidential Employee** - Licensed counselors and pastoral counselors whose official responsibilities include providing mental health counseling to members of the University community are not required by Title IX to report any information regarding an incident of alleged sexual violence to the Title IX Officers or other appropriate school designee. However, licensed counselors and pastoral counselors not acting in the capacity of a licensed counselor or pastoral counselor at the time of the disclosure **ARE NOT** considered confidential employees. **NOTE:** Interpersonal Violence Prevention Program advocates are Confidential Employees.

C. **Consent** - When a person clearly and decisively gives voluntary permission to engage in a specific sexual act without fear of reprisal or as a result of threats. A person can withdraw consent at any time during a sexual activity. Past consent does not imply future consent. Silence, or an absence of resistance, does not imply consent. Evidence of a prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual misconduct. A person cannot give consent to engage in a sexual activity if they are:

- (1) Under the age of consent.

- (2) Mentally or physically incapacitated.
- (3) Sleeping.
- (4) Being threatened or coerced.
- (5) Intoxicated by alcohol or drugs.

D. Dating and Domestic Violence - A pattern of controlling behaviors used by one partner to control the other partner. There are many forms of dating and domestic violence:

- (1) Physical Abuse - Dating and domestic violence that includes, but is not limited to, hitting, shoving, slapping, pushing, punching, burning, and stabbing. It can also include withholding someone from receiving needed medical care or medication.
- (2) Sexual Abuse - Dating and domestic violence that includes, but is not limited to, forced sex, and forcing someone to have sex without protection, with an object, or with another person.
- (3) Psychological and Emotional Abuse - Dating and domestic violence that includes, but is not limited to, controlling someone's behavior or actions, isolating a person from friends and family, making threats against a person, their family, friends and pets, using social media to make threats, and verbal abuse.
- (4) Economic Abuse - Dating and domestic violence that includes, but is not limited to, taking a partner's money, and not allowing a person, or disrupting a person's ability, to work or go to school.

E. Gender - The sex of an individual, male or female, based on reproductive anatomy.

F. Gender-Based or Sexual Orientation-Based Discrimination - Any intentional or unintentional act that results in an individual being excluded from participation in, denied the benefits of, or subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity, based upon the individual's gender, gender identity, gender expression, non-conformance with gender stereotypes or sexual orientation.

Examples of Gender-Based or Sexual Orientation-Based Harassment - Specifically, under this policy, in providing any aid, benefit, or service to a student, no person shall, on the basis of gender, gender identity, gender expression, non-conformance with gender stereotypes or sexual orientation:

- (1) treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;
- (2) provide different aid, benefits, or services, or provide aid, benefits, or services in a different manner;
- (3) deny any person any aid, benefit, or service;

(4) subject any person to separate or different rules of behavior, sanctions, or other treatment;

(5) apply any rule concerning the domicile or residence of a student or applicant, including eligibility for fees and tuition;

(6) aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of gender, gender identity, gender expression, non-conformance with gender stereotypes or sexual orientation. in providing any aid, benefit or service to students; or

(7) otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

G. Gender Expression - The physical manifestation of one's gender identity, usually expressed through clothing, grooming, mannerisms, chosen names, and social interactions that associate with the social definitions of masculinity and femininity, rather than birth sex.

H. Gender Identity - A person's self-conception of being a man or woman or boy or girl.

I. Marital Status - The legal status of being married or unmarried.

J. Preponderance of Evidence Standard - The standard upon which all complaints will be reviewed and decided. Under this standard, if the evidence suggests that it is more likely than not that the alleged incident occurred (51% likely), there will be a finding that a Title IX violation has occurred.

K. Respondent - The party accused of committing a Title IX policy violation

L. Responsible Employee - Every individual employed by Howard University and Howard University Hospital, and anyone employed, or retained under contract, in a security or safety position or in a University dormitory. **ALL** Responsible Employees have a duty, an obligation, and a responsibility to report any known or suspected violation of this policy to a Title IX Officer as soon as the Responsible Employee learns of it, no matter how they learn of this information.

M. Sexual Assault - Rape, attempted rape, forced sexual intercourse including forcible sodomy, sexual assault with an object and/or sexual battery; any unwanted sexual contact or threats; and any non-consensual sexual contact, including unwanted touching or forcible fondling.

N. Sexual Harassment - Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(1) submission to such conduct is made either explicitly or implicitly a basis for any decision affecting the terms or conditions of participation in any such program or activity or status in an academic course; or

(2) such conduct has the purpose or effect of unreasonably interfering with a student's educational right, privilege, advantage, or opportunity; or

(3) such conduct is so pervasive or severe that it creates an intimidating, hostile, or offensive environment for learning..

Examples of Sexual Harassment - The following examples are illustrative of conduct that, if proven, may be considered by the University to establish sexual harassment in an academic setting:

(1) unsolicited, unwelcomed flirtations, advances, and/or propositions of a sexual nature;

(2) insults, jokes, or anecdotes that belittle or demean an individual or a group's sexuality, gender, gender identity, gender expression, non-conformance with gender stereotypes, or sexual orientation;

(3) unwelcomed sexually-oriented gestures, verbal expressions, or comments of a sexual nature about an individual's body, clothing, or sexual experience;

(4) inappropriate displays of sexually suggestive objects or pictures;

(5) unnecessary and inappropriate touching, such as hugging, or brushing against an individual's body, patting, pinching,

(6) sexual assault (includes all incidents of "criminal sexual conduct" as defined by the District of Columbia Code or the applicable law where the sexual assault takes place); or

(7) suggestions that submission to or rejection of sexual advances will affect decisions regarding such matters as an individual's employment, work assignments, status, salary, academic standing, grades, receipt of financial aid, or letters of recommendation.

O. Sexual Misconduct - Sexual assault, sexual harassment, sexual exploitation and sexual intimidation.

P. Sexual Orientation - An individual's natural preference when developing emotional and/or sexual relationships with people of the same sex (homosexual relationships), opposite sex (heterosexual relationships) or either sex (bisexual relationships).

Q. Sexual Violence - Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's intellectual or other disability and/or use of drugs or alcohol. Acts of sexual violence include rape, sexual assault, sexual battery, and sexual coercion. Sexual violence is a form of sexual harassment prohibited by federal and local law.

R. Stalking - A course of conduct that is unwanted, unwelcome and unreciprocated that is directed at a specific person that would cause a reasonable person to feel fear. Examples of stalking behaviors include, but are not limited to:

(1) Waiting outside a person's class or residence.

- (2) Sending unwanted letters, phone calls, emails, texts, posts to a person.
- (3) Following the person.
- (4) Sending gifts.
- (5) Sending information to others about the person.
- (6) Threatening the person.
- (7) Vandalizing the person's property
- (8) Tracking the person's computer and internet use.
- (9) Posting improper messages on social media about the person.

S. Title IX Officers - Individuals tasked with the responsibility of investigating all complaints alleging harassment or discrimination under this policy and training the University community about Title IX and this policy. Title IX Officers include the Title IX Coordinator, the Deputy Title IX Coordinator and any other investigators working under the leadership and direction of the Title IX Coordinator.

T. University Community - All members of the Howard University community including, but not limited to, members of the Howard University Board of Trustees, students, faculty, administrative personnel, staff and those who are conducting any type of business on any of the University premises, i.e., independent contractors and individuals engaged and/or participating in educational or other activities hosted by the University.

V. POLICY PROCEDURES

In determining whether alleged conduct constitutes harassment or discrimination under this policy, the University will look at the entire record as a whole and consider the totality of the circumstances. This inquiry will examine information such as the nature of the sexual advances and the context in which the alleged incidents occurred. All determinations of the appropriateness of a particular action will be based upon a thorough and comprehensive review of the facts, and made on a case-by-case basis utilizing the preponderance of the evidence standard.

A. Rights of the Complainant

Any student member of the University community who believes that they have been subjected to harassment or discrimination in violation of this policy is urged to promptly pursue the matter and to file a complaint, as advised below. Additionally, any person who knows or has reason to know that a student has been subjected to harassment or discrimination is also urged to promptly report this information to a Responsible Employee or to file a complaint with a Title IX Officer. The complaining party will not be reprimanded, retaliated against, or discriminated against in any way for initiating an inquiry or complaint in good faith.

The Title IX Coordinator is Candi N. Smiley.

**She is located in the Administration Building
2400 6th Street, N.W., Suite 306
Washington, D.C. 20059
Phone: (202) 806-2561 Email: candi.smiley@howard.edu**

Title IX Investigator(s):

Marcus A. Winder
2400 6th Street, N.W., Suite 306
Washington, D.C. 20059
Phone: (202) 806-2550 Email: marcus.winder@howard.edu

All Complainants have a right to have an advisor of their choosing, who may be an attorney, present during any meeting or proceeding related to an investigation undertaken pursuant to this policy. However, any such advisors are not permitted to make statements on behalf of any party, to ask or answer any questions on behalf of any party, or to otherwise participate in any meeting or proceeding conducted in accordance with this policy.

Complainants have a right to present witnesses and evidence to the Title IX Officer on their behalf, and have a right to identify to the Title IX Officer individuals who may have information related to the investigation. Complainants do not have a right to address or question any other party to the proceedings, or witnesses presented by any other party.

Complainants have a right to file and pursue criminal charges before, during, or after a University investigation under this policy.

B. Rights of the Respondent

It shall be presumed that there has been no violation of any University policy by Respondent unless and until a thorough and comprehensive investigation has been conducted and there is a final administrative finding, or a stipulated admission of a policy violation.

Respondents have a right to have an advisor of their choosing, who may be an attorney, present during any meeting or proceeding related to an investigation undertaken pursuant to this policy. However, any such advisors are not permitted to make any statements on behalf of any party, to ask or answer any questions on behalf of any party, or to otherwise participate in any meeting or proceedings conducted in accordance with this policy.

Respondents have a right to present witnesses and evidence to the Title IX Officer on their behalf, and have a right to identify to the Title IX Officer individuals who may have information related to the investigation. Respondents do not have a right to address or question any other party to the proceedings, or witnesses presented by any other party.

C. Procedures for Investigating and Resolving Sexual Harassment and Gender-Based Discrimination Complaints in Educational Programs or Activities

(1) Immediate Assistance for Victims of Sexual Misconduct and Sexual Violence

Medical Services

If a student has been the victim of sexual misconduct or sexual violence, the student may need to receive medical treatment. Medical services are available at:

Howard University Hospital
2041 Georgia Avenue, N.W.
Washington, D.C. 20060
Phone: (202) 865-1131

Students can also receive medical services at:

Howard University Student Health Center
2139 Georgia Avenue, N.W.
Washington, D.C. 20059
Phone: (202) 806-7540

**NOTE: Rape Kits and SANE Exams are ONLY available at:
WASHINGTON HOSPITAL CENTER
110 Irving St. N.W.
Washington, D.C. 20010
Phone: (202) 877-7000**

Support Services

Support Services are available through:

The Howard University Interpersonal Violence Prevention Program
2225 Georgia Avenue N.W., Suite 508
Washington, D.C. 20059
Phone: (202) 238-2382

-and-

University Counseling Services
CB Powell/School of Communications Building
6th and Bryant Streets, N.W.
Washington, D.C. Phone: (202) 806-6870

Note that these resources are available regardless of whether or not an individual reports a complaint to a Title IX Officer or otherwise participates in an investigation. These resources are available to both Complainants and Respondents to provide ongoing support during an institutional or criminal investigation process.

Law Enforcement Assistance

Victims of sexual misconduct and sexual violence are strongly encouraged to immediately contact the Howard University Department of Public Safety (DPS) and/or the Metropolitan Police Department in order to report such incidences to law enforcement.

The Howard University Department of Public Safety may be reached at:

**Department of Public Safety
2244 10th Street, N.W., Suite 270
Washington, D.C. 20059
Phone: (202) 806-1100**

The District of Columbia Metropolitan Police Department may be reached at:

**Metropolitan Police Department
1620 V Street, N.W.
Washington, D.C. 20009
Third District Main Phone: (202) 673-6815; or
Detectives Office Phone: (202) 673-6918**

Note that any law enforcement investigation is separate from, and independent of, the University's Title IX administrative investigation. The University's Title IX administrative investigation will proceed simultaneously with any law enforcement investigation, whether by the University's Department of Public Safety or the Metropolitan Police Department.

(2) Filing a Complaint

Any and all potential violations of this policy, including known and/or suspected harassment or discrimination by or against a student, should immediately be brought to the attention of a Title IX Officer or a Responsible Employee. This includes acts of discrimination, harassment and retaliation that are committed by other students, faculty or staff members, administrative personnel at the University and at Howard University Hospital, individuals doing business on University property, those engaged in educational or extracurricular activities on University property and visitors. When reporting such incidences, the Complainant should do their best to provide as much information as possible, including, but not limited to, the name of each person involved, the date and time of the incident, the location where the incident occurred, a specific description of what occurred and any other information on which the complaint is based.

Immediately upon learning of a potential violation of this policy, the Responsible Employee must contact the Title IX Officer to report any and all known information related to the incident.

All complaints that are brought to the attention of a Responsible Employee must be submitted to a Title IX Officer by the Responsible Employee.

Students are encouraged to consult with the Title IX Officer if they have any questions regarding this policy, including, but not limited to, the appropriateness of filing a complaint.

Once the Complainant gives notice of a possible violation of this policy to the Title IX Officer or a Responsible Employee, whether written, verbal, or by any other means, the Title IX Officer will commence an investigation in accordance with this policy.

Upon receiving notice of a possible violation of this policy, the Title IX Officer will invite the putative Complainant to submit a written complaint which states the facts and allegations of the possible violation. If they elect not to submit a written complaint, the Title IX Officer will nonetheless conduct an investigation, but such investigation will be necessarily limited based upon the information provided.

NOTE: If the performance of a duty or responsibility under this policy creates an actual or apparent conflict of interest, or is a violation of another University policy, the General Counsel may reassign duties and/or responsibilities of such employees on a case-by-case basis to avoid such conflict or violation. The General Counsel will make all conflict of interest determinations.

Moreover, in addition to or instead of the persons described in the preceding paragraphs, a student may file a complaint of sexual harassment, gender-based discrimination, or discrimination based on race, color, or national origin with the United States Department of Education, Office for Civil Rights ("OCR"). The address and telephone number of the appropriate OCR District are as follows:

U. S. Department of Education
Office for Civil Rights
District of Columbia Office
400 Maryland Avenue, S.W.
Washington, D.C. 20202-1475
Telephone: (202) 453-6020
FAX: (202) 453-6021
TDD (877) 521-2172

Retaliation against a Complainant, Dean, Title IX Officer, administrator, faculty member, student, witness, party to a complaint, or any individual involved in any aspect of the investigative process under this policy is strictly prohibited, and engaging in such conduct will subject an individual to sanctions. Such sanctions may be imposed even if there is no finding of responsibility for the allegations in the Complaint. Retaliation may include, but is not limited to, deliberately making false statements to intimidate, threaten, or cause harm; and threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. Retaliation should be reported promptly to the Title IX Officer for investigation.

Under this policy, every complaint submitted to the University, by or against a student, will be reviewed and investigated to the fullest possible extent. However, the submission of false, spurious or frivolous claims will result in the immediate consideration of disciplinary action, up to and including suspension or expulsion.

(3) Time of Filing

Students are encouraged to file a complaint within 120 calendar days following the date of the alleged harassment or discrimination. However, the University will investigate each and every possible violation of which they receive notice, regardless of when the incident is reported. While the University is firmly committed to protecting all students from harassment or discrimination in educational programs or activities, failure to timely file a complaint with a Title IX Officer may adversely affect the ability of the University to take any remedial action under this policy.

(4) Notice to the Respondent

The Respondent shall be informed in writing of the complaint and the allegations made against them. The Title IX Officer will notify the Respondent of the allegations within 10 calendar days of receiving the complaint and speaking with the Complainant to learn more information, and/or the person who experienced the action if the complaint was submitted by a third party. Upon receipt, the Respondent will then have an opportunity to submit a written response to the allegations in the complaint. This response must be submitted to the Title IX Officer within 7 calendar days of receiving notice of the complaint.

The University will provide the Respondent with an opportunity to verbally present his or her position to the Title IX investigator during a personal interview. After that initial interview, the Respondent will have the opportunity to present any additional written evidence or documentation to the investigator at any time before the investigation is concluded.

Please be advised that any allegations of sexual harassment, sexual misconduct, or sexual violence may also be criminal violations. As such, any information obtained during the course of an investigation may be subject to review and action by law enforcement.

(5) Confidentiality

To the fullest extent practicable, complaints of harassment or discrimination will be processed confidentially and consistently with the University's need to investigate and take corrective action against such behavior. While the vast majority of investigations involve disclosure of the Complainant's identity to the Respondent, there may be situations where state and/or federal law prohibits disclosure, or where the Complainant requests for their identity to remain confidential during the course of the investigative proceedings. Therefore, unwillingness to be identified should not prevent a person from reporting and filing a complaint.

In the event a Complainant requests to keep their identity anonymous, the Title IX Officer will inform the Complainant that the confidentiality request may limit the University's ability to respond to the allegations and address the University's provisions against retaliation. However, in many cases, the confidentiality of the Complainant may be maintained, and the University may still take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without revealing the identity of the Complainant. Examples may include: providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; and providing training and education materials for students and employees.

If the Complainant maintains their request for confidentiality, the University will take all reasonable steps necessary to investigate the allegations contained in the Complaint. However, the University cannot guarantee complete confidentiality, especially if the Title IX Officer, after consultation with the Office of the General Counsel, determines that resolution of the complaint requires disclosure to conduct an effective investigation, or that confidentiality concerns are outweighed by the University's interest in protecting the safety, welfare, and well-being of others. Additionally, once a Title IX Officer knows or has reason to know of a potential violation of this policy, the Title IX Officer must use reasonable efforts to determine the threat to the University and investigate the allegations based upon the information provided/supplied by the Complainant.

The University is committed to maintaining the confidentiality of all Title IX matters, as well as the confidentiality of any and every individual participating in or aware of an investigation. Any willful and/or deliberate breach of this confidentiality is strictly prohibited and may result in disciplinary action, up to and including suspension, expulsion or termination.

(6) Interim Remedial Measures

Promptly upon learning of potential harassment or discrimination, the Title IX Officer will consult with the Complainant to determine whether interim remedial measures should be implemented during the duration of the investigation in order to alleviate problems or conflicts that currently exist or that may arise while the investigation is pending. Such measures may involve either the Complainant or the Respondent, and may include, but are not limited to, academic and residential accommodation or reassignment, no-contact orders for students, work reassignments for faculty or staff members, administrative leave, or excusable absences from class and/or work assignments. Such measures shall not be considered disciplinary action against any person and may only be taken with the concurrence of the Provost and/or an appropriate Cabinet-level administrator, after consultation with the Office of General Counsel.

(7) Investigation

The Title IX Officer endeavors to, within 60 calendar days of receiving a complaint alleging harassment or discrimination under this policy, conduct an impartial, thorough and timely investigation of the complaint, which results in a final resolution. In the event additional time is needed, the Title IX Officer will notify the Complainant and the Respondent, in writing, that additional time is needed for completion of the investigation.

Please note, at any time the University may decide that it is in the best interest of the University to have an outside law firm or consultant conduct a Title IX investigation. In these instances, the Title IX Officer, with the concurrence of the General Counsel, may delegate an investigation to one of these entities. Any law firm or consultant used shall be selected and retained solely by the General Counsel. In the event an outside law firm or consultant is used to conduct an investigation under this policy, the resulting Report of Investigation may be disclosed only to the extent authorized by the General Counsel.

(8) Methods of Investigation

The University affords both the Complainant and the Respondent an equal opportunity to participate fully in the investigation process. However, the Respondent may decline to participate in the investigation process. Should the Respondent opt not to participate, that refusal will not preclude the continuation of the investigation process and a resolution of the investigation, including possible sanctions against the Respondent, if a violation of this policy is found by a preponderance of the evidence.

Investigations must include an interview of, or written statement from, the Complainant, and may include one or more of the following fact-finding methods undertaken by the Title IX Officer:

- a. Review of all relevant documents including, but not limited to, academic and judicial records, emails, social media posts and communications, pictures, phone records, text and voicemail messages, handwritten notes, law enforcement records, and other documents submitted by the parties;
- b. Personal interviews of faculty, students, administrators, staff and other persons who may have knowledge or information relevant to the allegations in the complaint; and
- c. Letters of inquiry by the Title IX Officer to those person's described in (b) above.

(9) Resolution

Once the investigation has been completed, a Report of Investigation shall be prepared by the Title IX Officer (or the designated outside law firm or consultant). In most circumstances, this Report will be submitted to the Provost. However, in the event the Alternative Procedures are invoked, the Report of Investigation will be submitted in accordance with that provision. Alternative Procedures are set forth below in Section (11).

The Report shall contain a description of the complaint, a statement of the methodology used to investigate the complaint, findings of material fact, and a recommendation from the Title IX Officer as to whether the allegations are sustained by the facts. If the Title IX Officer determines that the University's Title IX policy has been violated, the Report shall also contain a recommendation stipulating what sanctions, if any, are appropriate under the circumstances. Please note, this Report is confidential and for internal purposes only, and will not be shared with any party.

The Title IX Officer will then forward the Report of Investigation to the Provost. Upon receipt, the Provost will then have ten (10) business days to review the Report and determine if they: (1) agree with the findings and the recommended disciplinary action; (2) agree with the findings but disagree with the recommended disciplinary action; or (3) disagree with the findings. In the event the Provost disagrees, in whole or in part, with the recommendations of the Title IX Officer, the Provost will make the appropriate changes and his or her changes will constitute the final decision on the matter.

(10) Outcome Notification

Once the Provost has rendered a decision, both the Complainant and the Respondent will be contacted to schedule an individual Findings Meeting. Initial contact to schedule the meeting will be made within 10 calendar days of the date the Provost renders the final decision. During this meeting, each party will receive written notification of the results of the investigation. In the event that either party is unable or unwilling to attend the Findings Meeting, the written notification may be mailed or e-mailed to the appropriate party. In the event the allegations are sustained, both parties will be apprised of the sanctions rendered by the Provost, and these sanctions will be implemented promptly following the Findings Meeting. Once the Provost has rendered the decision, that decision is final and may not be appealed to any other authority.

In the event that the allegations are sustained against a faculty or staff member, within 10 calendar days of the last Findings Meeting, the Title IX Officer will forward the recommended sanctions to the appropriate University Officer as follows:

- Faculty:** Provost & Chief Academic Officer and the Dean, as determined by the Title IX Officer
- Staff:** Director or Department Head
- Hospital Staff:** Associate Vice President for Administration and Operations

Recommended sanctions for faculty or staff may include, but are not limited to: administrative leave without pay, restitution, suspension, requirement to receive counseling through the Employee Assistance Program, Title IX training, a no contact order, a campus-wide barring order, and/or a requirement to cease doing business with the University or termination of employment.

In the event that the allegations are sustained against a student, within 10 calendar days of the last Findings Meeting, the Title IX Officer will forward the imposed sanctions to the Office of Judicial Affairs for implementation and execution.

Recommended sanctions for students may include, but are not limited to: academic and/or social probation, disciplinary probation, community service, restitution, limited-term suspension, indefinite suspension, expulsion, a campus-wide barring order, a no contact order, a written apology, a requirement to receive counseling through the University Counseling Service, and/or Title IX training.

Upon receipt, the appropriate University Office (i.e. Department of Public Safety, Office of the Provost, Office of the Registrar, Office of Financial Aid, Office of Human Resources, Athletics Department, etc.) will be responsible for implementing the imposed sanctions.

Even if no harassment or discrimination has been found, the Provost may determine that one or both parties should receive training on Title IX, alcohol consumption, drug use or any other subject matter relevant to the information contained within the Report of Investigation. Training is neither designed to be nor considered to be a punishment or sanction, and will not be characterized as such. However, if training is recommended, completion is mandatory.

(11) Alternative Procedures

If the Provost, a Vice President, or person of similar rank is the subject of a complaint of harassment or discrimination, the Title IX Officer will forward the Report of Investigation to the President, who will make the final determination regarding appropriate sanctions. If the President, in his individual capacity, is the subject of such a complaint, the Title IX Officer shall immediately notify the General Counsel who, in turn, will recommend a special investigative protocol to the chair of the Audit and Legal Committee of the Board of Trustees. Thereafter, the complaint shall be investigated as directed by said Committee.

VI. SANCTIONS

Engaging in any act that is found to be a violation of this policy, or failing to carry out the responsibilities established by this policy, will give rise to disciplinary action, up to and including separation from the University.

In all cases, the appropriate University Officer is responsible for imposing all sanctions. Additionally, after consultation with the Title IX Officer, the appropriate University Officer is responsible for taking any recommended remedial action necessary to promptly and effectively eliminate the harassment or discrimination, prevent its recurrence, protect the Complainant from future incidents as well as the entire University Community.

VII. HYPERLINKS

www.howard.edu/policy

[Emergencies & Alerts](#)

<https://www2.howard.edu/title-ix>

Related Policies:

[600-001 Student Code of Conduct](#)

[400-011 Response to Domestic Violence, Dating Violence, Sexual Assault and Stalking Policy](#)

[600-002 Students Privacy Rights Policy \(FERPA\)](#)

[400-006 Title VII \(Employee\) Policy Against Sexual Harassment in the Workplace](#)

[Equal Opportunity in Employment and Education](#)

Resources: [Title IX: U.S. Department of Education](#)