

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

Title IX Sexual Harassment Policy and Procedures

1. Background, Purpose, and Scope

The Wistar Institute (Institute) is a world leader in early-stage discovery science in the areas of cancer, immunology and infectious disease. The Institute is committed to accelerating research advances from bench to bedside through brilliant science and distinctive approaches to collaboration among scientific Investigators and academic and industry partners. Wistar’s single-minded focus is on making discoveries that will change the future of human health.

The Institute has a longstanding commitment to a work and learning environment that respects the dignity and worth of each individual. Inappropriate behavior and unlawful harassment in the Institute’s education programs and activities are wholly inconsistent with this commitment. It is the policy of the Institute to provide equal employment and educational opportunities to all individuals in its programs and activities regardless of race, color, religion, national origin, sex, age, veteran status, disability, sexual orientation, gender, or on the basis of genetic information, or any other characteristic protected by federal, state, or local law. The Institute does not discriminate on the basis of sex in its education programs and activities, nor will it permit or tolerate sex discrimination or sexual harassment against a student, employee, or other member of the Institute’s community.

This Title IX Sexual Harassment Policy has been developed to ensure the Institute’s compliance with Title IX of the Education Amendments of 1972 and 34 C.F.R. Part 106, including the 2020 Title IX regulations issued by the U.S. Department of Education and used by any other federal agency that provides federal financial assistance to the Institute. This Policy and the included procedures apply to Title IX Sexual Harassment that occurred on or after August 14, 2020. The Institute retains the right to revise this Policy in light of any changes to applicable law.

The Institute will respond to a report of Title IX Sexual Harassment or allegation(s) of Title IX Sexual Harassment that are received either by the Institute’s Title IX Coordinator or by any Institute official who has authority to institute corrective measures on behalf of the Institute in a manner that is not deliberately indifferent. The Institute will treat the parties equitably by offering supportive measures to a Complainant and by following the investigation and resolution process described in this Policy before imposing any disciplinary sanctions or other measures against a Respondent.

For the purposes of this Policy, the individual who is reported to have experienced prohibited conduct is referred to as the “Complainant.” The “Respondent” is the individual who is reported to have committed the prohibited conduct.

For allegations that fall outside of the scope of this Policy, the Institute may address allegations of misconduct as potential violations of the Institute’s *Policy Prohibiting Sexual and Other Unlawful Harassment*.

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

2. Applicability

This Policy applies to alleged violations of Title IX’s prohibition against sexual harassment in any education program or activity. This Policy applies to conduct by and against all persons involved in the Institute’s education program or activities, including Institute trustees, employees, supervisors, co-workers, trainees, contractors, unpaid collaborators, interns, students, volunteers, any individuals providing services pursuant to a contract, visitors and third-party non-employees or applicants for an employment, volunteer, training, or other position with the Institute.

This Policy applies to prohibited conduct that occurs in an education program or activity, which includes conduct:

1. on Institute property;
2. in the context of any Institute program or activity; and
3. any other location, event, or circumstance over which the Institute exercises substantial control over both the Respondent and the context in which the alleged violation of this Policy occurs.

3. Prohibited Conduct

3.1 ***Title IX Sexual Harassment.*** Conduct on the basis of sex that satisfies one or more of the following:

1. *Quid Pro Quo Harassment* - Any instance of quid pro quo harassment by an employee, *i.e.*, where the employee conditions the provision of an aid, benefit, or service of the Institute on an individual’s participation in unwelcome sexual conduct;
2. *Hostile Environment* - Any unwelcome conduct of a sexual nature determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Institute’s education programs or activities; or
3. *“Dating Violence,” “Domestic Violence,” “Sexual Assault,” or “Stalking”*
 - *Dating Violence* is defined at 34 U.S.C. 12291(a)(10) in the Violence Against Women Act of 1994 (“VAWA”). This misconduct is violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the person subjected to such violence, and (2) where the existence of such a relationship is determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
 - *Domestic Violence* is defined at 34 U.S.C. 12291(a)(8) in VAWA. This misconduct is a crime of violence committed by any person (including a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

common, a person who is cohabiting with, or has cohabited with, the victim as a spouse or intimate partner, or a person similarly situated to a spouse of the victim) against a person who is protected under the domestic or family violence laws of the state of the Commonwealth of Pennsylvania or the laws of the jurisdiction in which the crime was committed

- *Sexual Assault* is defined at 20 U.S.C. 1092(f)(6)(A)(v) of the Clery Act. This offense includes any sexual act directed against another person, without the consent of that person, including instances where the person is incapable of giving consent.
- *Stalking* is defined at 34 U.S.C. 12291(a)(30) of VAWA. This misconduct includes engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. This definition incorporates the concept of cyber-stalking, which employs the use of the internet, social media, blogs, texts, cell phones, or other similar devices or forms of communication.

3.2 Retaliation

All persons covered by this Policy are protected by law from retaliation as defined below. Retaliation is an adverse action taken against an individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy or as reprisal for filing a complaint or report, supporting a Complainant, and/or otherwise participating or refusing to participate in a proceeding pursuant to this Policy. Retaliation may include intimidation, threats, coercion or discrimination. Under no circumstances will the Institute tolerate any retaliation against an individual or group for making a complaint in good faith under this Policy or for participating in an investigation.

Retaliation may include charging an individual for code of conduct violations that do not involve discrimination or harassment, but arise out of the same facts or circumstances as a report or complaint of prohibited conduct under this Policy, for the purpose of interfering with any right or privilege secured by Title IX or this Policy.

Retaliation does not include charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a proceeding under this Policy, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Retaliation can be committed by or against any individual or group of individuals, including a Respondent or Complainant. Retaliation is still prohibited even when there is a finding of no responsibility for the allegation.

Any incident of retaliation should be reported immediately to the Title IX Coordinator and/or a supervisor. The Institute will take disciplinary action up to and including the immediate termination of any employee who retaliates against any covered individual. Complaints of

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

retaliation will be promptly and thoroughly investigated in accordance with the procedures set forth below.

4. Related Definitions

Actual knowledge means notice or allegations of Title IX Sexual Harassment to the Title IX Coordinator or to any the Institute official who has authority to institute corrective measures on behalf of the Institute.

Advisor. An individual chosen by either party, or if necessary by the Institute, to accompany the party to meetings regarding the investigation or to a hearing. The Advisor of choice may be, but is not required to be, an attorney.

Authority to Take Correct Measures. An Institute official designated as having the authority to take corrective measures on behalf of the Institute in response to notice or complaints under this Policy. The Institute has designated the Title IX Coordinator and all Institute employees in a supervisory position as having this authority.

Consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Consent cannot be given when it is the result of any coercion intimidation, force, or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop.

Complaint means a written document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that the Institute investigate the allegation. At the time of filing a complaint, the Complainant must be participating in or attempting to participate in an education program or activity of the Institute. A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information for the Title IX Coordinator listed in this Policy, and by any additional method designated by the Institute. The phrase “document filed by a Complainant” means a document or electronic submission that contains the physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint.

Incapacity occurs when an individual lacks the ability to knowingly choose to participate in sexual activity (e.g., the person lacks the ability to understand the “who, what, when, where, why, or how” of engaging in sexual activity). Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

may be incapacitated and therefore unable to consent. This Policy covers a person whose incapacity results from mental, intellectual, or other disability, involuntary physical restraint, and/or from the use of alcohol or drugs.

Remedies are measures taken by the Institute that are intended and designed to restore access or preserve equal access to the Institute’s education programs and activities. Remedies may include supportive measures, as defined below.

Report means any written or oral report submitted to the Title IX Coordinator and/or any Institute official with the authority to take corrective action on behalf of the Institute (as defined above) containing information that could constitute a potential violation of this Policy. The term “report” includes “complaints,” as defined by this Policy, and also includes other situations where a complaint has not been made, but the Institute has actual knowledge of Title IX Sexual Harassment or allegations of Title IX Sexual Harassment, as defined by this Policy.

Supportive measures mean services offered without fee or charge as appropriate and to the extent reasonable to the Complainant or the Respondent.

5. Consensual Relationships

Consensual romantic and/or sexual relationships between a manager or supervisor, and non-managers or supervisors, or between an employee with supervisory authority and his or her subordinate, will compromise the Institute’s ability to enforce its policy against sexual harassment. Consequently, if such relationships arise they will be considered carefully by the Institute, and appropriate action will be taken. Such action may include a change in the responsibilities of the individuals involved in such relationships or transfer of location within the Institute to diminish or eliminate the supervisory relationship contact that may exist. Any manager or supervisory employee involved in such a relationship is required to report the relationship to the Vice President of Human Resources.

6. Title IX Coordinator

The Title IX Coordinator is responsible for coordinating the Institute’s compliance with Title IX. This responsibility includes the implementation of this Policy and coordinating the effective provision of supportive measures and, as appropriate, remedies. References to “Title IX Coordinator,” throughout this Policy also includes a designee of the Title IX Coordinator.

The contact information for the individual responsible for ensuring compliance with this Policy, and for receiving and responding to reports of conduct prohibited under this Policy, is as follows:

Jo-Ann Mendel
 Vice President, Human Resources and Title IX Coordinator
 3601 Spruce Street, Philadelphia, PA 19104
 T: 215-898-3968 | F: 215-898-2204 | E: mendel@wistar.org

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

Questions or concerns may be directed externally to the Office for Civil Rights (OCR), U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202.
<https://ocras.ed.gov/contact-ocr>.

7. Reporting Title IX Sexual Harassment

The Institute encourages strongly the prompt reporting of all incidents of Title IX Sexual Harassment. Any person may report Title IX Sexual Harassment at any time, including during non-business hours, by using the telephone number or e-mail address of the Title IX Coordinator, or by meeting with or sending a written complaint to the Title IX Coordinator. All employees who receive a report or complaint under this Policy must promptly refer the report or complaint to the Title IX Coordinator.

A Complainant may, but is not required to, file a formal complaint that will initiate the Institute's complaint resolution process, including an investigation led by the Director of Institutional Compliance.

The Title IX Coordinator and/or the Director of Institutional Compliance will keep the parties timely informed of the status of any investigation and inform the parties of any extensions of time to complete the process and the reason(s) for the extensions.

A Complainant will be informed that they may pursue a criminal complaint with the appropriate law enforcement agency (if applicable), pursue a complaint through this Policy and Procedures, or pursue both processes consecutively or concurrently. A Complainant may withdraw a complaint or involvement from the Institute process at any time. If a Complainant pursues a criminal complaint, the Institute may temporarily defer the investigation and/or resolution process for a reasonable time to allow law enforcement to complete their factual finding. The Institute will maintain documentation of the date of deferral. The Institute may continue its investigation where it has reason to believe that the Respondent may be an imminent threat to the safety of the Complainant and/or other individuals. The Institute will provide written notice to the Complainant and Respondent when it resumes its investigation and resolution process as appropriate.

8. Supportive Measures

Upon receiving a report or complaint of Title IX Sexual Harassment, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint. The Institute will offer supportive measures without fee or charge as appropriate and reasonably available to the Complainant and/or to the Respondent. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

Absent a finding that a complaint has been made in bad faith, supportive measures will be offered before or after the filing of a complaint or where no complaint has been filed. Supportive measures will include individualized services reasonably available that are nonpunitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to restore or preserve equal access to the Institute’s programs and/or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Institute’s educational environment, or deter Title IX Sexual Harassment. Supportive measures, among other things, may include, but not be limited to:

- assistance in connecting to community-based counseling services;
- assistance in connecting to community-based medical services;
- assistance with obtaining personal protective orders;
- mutual restrictions on communication or contact between the parties; or
- a combination of any of these measures.

The Institute must maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures.

Both the Complainant and the Respondent may submit a written request to the Title IX Coordinator to be afforded prompt review, reasonable under the circumstances, of the need for and terms of any supportive measure and accommodation that directly affects them, and shall be allowed to submit evidence in support of their request. The Title IX Coordinator will issue a determination regarding the supportive measures within five (5) calendar days of the receipt of such a request.

9. Privacy and Confidentiality

At the beginning of the process, the Title IX Coordinator will inform the Complainant and Respondent about the Institute’s confidentiality standards and privacy measures. In all cases, privacy of information about complaints and investigations will be maintained to the extent required by law and to the extent possible given the Institute’s obligations under the law and under this Policy. The Institute does not restrict the ability of either party to discuss an investigation with other individuals. The Institute is not responsible and cannot be held liable for statements made by either party to other individuals. Individuals should be cautious not to make statements that may lead to a possible legal claim by another individual who believes that the statements are false, identify him or her to others, or have harmed his or her reputation.

The potential Complainant may request that the Title IX Coordinator not share their name (or other identifiable information) with the Respondent, or that the Title IX Coordinator take no action in response to a Report. The Title IX Coordinator will evaluate a request for confidentiality or no action on a complaint in the context of the Institute’s obligations to provide a safe and nondiscriminatory environment for all community members, and to remain true to the principle of fundamental fairness, which requires that a Respondent be provided with notice of the allegations

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

and an opportunity to respond before any disciplinary action is taken against a Respondent. The Title IX Coordinator will make this determination on whether to respect a request for confidentiality or no action on a complaint consistent with the following considerations: 1) the seriousness of the conduct; 2) the respective ages and roles of the Complainant, and the Respondent; 3) whether there have been other complaints against the Respondent; and 4) the right of the Respondent to receive notice and relevant information before disciplinary action is sought. A Complainant will be informed that a request for confidentiality may limit the Institute’s ability to respond.

10. Conflicts of Interest or Bias

Both parties have a right to an investigation and resolution process free of conflicts of interest or bias by any Institute employee or individual designated by the Institute who is involved in the process, including the Title IX Coordinator, Director of Institutional Compliance, hearing officer, appeal decision maker, any person designated by the Institute to facilitate an informal resolution process, or any other individual designated by the Institute to participate in the investigation and resolution process under this Policy. The individual involved in the process should disqualify themselves in a matter or proceeding in which the member’s impartiality might reasonably be questioned, including but not limited to instances where:

- The individual has a personal bias or conflict of interest concerning a participant in the process, or has personal knowledge of disputed facts concerning the matter;
- The individual has a personal bias or prejudice against Complainants or Respondents generally;
- The individual was directly involved in the matter in controversy, or a subordinate whom the individual previously supervised is involved in the matter,
- The individual was a witness to the matter; or
- The individual or a person in the individual’s family is related to a participant in the process.

A Complainant or potential Complainant and the Respondent have the opportunity to object to the participation of any Institute official or employee or other individual designated by the Institute involved in the process on the grounds of bias or conflict of interest. Any such objection should be raised as soon as possible. The investigation or proceeding will be temporarily suspended and the Title IX Coordinator or another appropriate official who is not the subject of the objection will evaluate whether the objection is substantiated. The parties will be notified in writing of the findings within five (5) calendar days.

11. Investigation and Resolution Process

When the Institute receives a complaint or report under this Policy, in an education program or activity of the Institute against a person in the United States, it will respond promptly in a manner that is not deliberately indifferent, including following the requirements of the procedures described in this Policy to provide appropriate supportive measures and/or conduct an investigation of the complaint.

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

The following apply to all investigations conducted under this Policy:

1. The Title IX Coordinator and Director of Institutional Compliance will conduct a thorough, objective, and equitable investigation of the complaint, or will designate appropriate individuals to do so.
2. In this process, the Institute will treat Complainants and Respondents equitably by providing remedies to a Complainant where a determination of responsibility has been made against the Respondent, and by following the investigation and resolution process described in this section before the imposition of any disciplinary sanctions or other actions that are not supportive measures, as defined in this Policy, against a Respondent.
3. The Institute recognizes, and will advise the parties, that there is a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the investigation and resolution process.
4. The Institute will use the preponderance of evidence standard to determine responsibility for any alleged violation of this Policy. A preponderance of the evidence means that it is more likely than not that the alleged misconduct occurred.
5. In all investigations and determinations of responsibility, the Institute will conduct an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person’s status as a Complainant, Respondent, or witness.
6. The Institute will keep confidential the identity of Complainants, Respondents, and witnesses, except as may be permitted or required by law, or as necessary to carry out a Title IX proceeding.
7. The Institute will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
8. The sexual predisposition and prior sexual behavior of the Complainant are generally not relevant and will not be considered as evidence. However, either party’s prior sexual behavior may be offered as evidence under the following limited circumstances:
 - To provide that someone other than the Respondent committed the conduct alleged by the Complainant; and
 - To prove consent by offering specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent. As noted, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

A. Timeframes

The Institute strives to complete the investigation and resolution process promptly, generally within 90-120 calendar days. The process may be delayed or extended for good cause, such as the absence of parties or witnesses, concurrent law enforcement activity, or the accommodation of disabilities. The Institute will inform the parties in writing of the delay or extension and the reason(s) for the delay or extension. The Institute strives to complete the informal resolution process and/or appeals process, if applicable, within 30 calendar days.

B. Initial Determination

The Title IX Coordinator will make an initial determination as to whether the reported conduct, if true, could constitute a violation of the Policy.

If the reported conduct does not appear to allege a violation of this Policy, the Title IX Coordinator will dismiss the complaint if a complaint has been filed. The Institute will also dismiss the complaint if the Complainant is no longer a trainee or employed by the Institute and/or if the alleged conduct did not occur in the Institute's education program or activity, or did not occur against a person in the United States. The Institute may also dismiss the complaint or any allegations, if at any time during the investigation, hearing or appeal:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the complaint or any allegations;
2. The Respondent is no longer a trainee or employed by the Institute; or
3. Specific circumstances prevent the Institute from gathering evidence sufficient to reach a determination as to the complaint or allegations therein.

The Title IX Coordinator will promptly provide written notice to the Complainant of its determination to dismiss a complaint or any allegations, the reason(s) therefore, and the available appeal process for dismissals.

In all other instances, if the Title IX Coordinator determines that the allegations, if true, could constitute a violation of the Policy, and that an investigation will commence, the matter will proceed to an investigation. The Director of Institutional Compliance will conduct an investigation to determine if the Policy may have been violated. Upon notice of the assignment to the Director of Institutional Compliance, the parties will have seven (7) calendar days to raise any objections to the Title IX Coordinator regarding the ability of the Director of Institutional Compliance to conduct an impartial investigation.

The parties have the option of using formal or informal resolution procedures under this Policy. However, informal resolution is not an option for complaints of Title IX Sexual Harassment made by

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

a student or students participating in an Institute education program or activity against an employee. Under both options, the Director of Institutional Compliance will meet with the Complainant and the Respondent separately to discuss the complaint and the process.

The Institute may consolidate complaints as to allegations of violations of this Policy 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 arise out of the same facts or circumstances.

C. Notice of the Investigation to the Parties

The Title IX Coordinator will notify the Complainant and Respondent, in writing and simultaneously, of its decision to proceed to investigation of any alleged violation of this Policy. The written notification to the Complainant and to the Respondent will include the following, where known at that time:

1. A description of the allegations potentially constituting a violation of this Policy, including sufficient details known at the time about the identities of the parties involved in the incident, the conduct allegedly constituting a violation of this Policy, and the date and location of the alleged incident.
2. Notice that the Respondent will be presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the investigation and resolution process in this Policy and Procedures.
3. Notice to the parties that they may have an Advisor of their choice, who may be, but is not required being an attorney.
4. Notice to the parties of the Institute's Ethics Policy/Code of Conduct. that prohibits knowingly making false statements or knowingly submitting false information under this Policy.
5. Notice to the parties that the investigation, including written reports and other written statements, will be handled as confidentially as possible, consistent with a thorough investigation, an appropriate disposition of the matter, and current state and federal confidentiality and disclosure laws.
6. Notice to the parties that they may, as described below in this Policy, inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in a complaint.

The Institute will provide the parties with sufficient time to review the written notice and prepare a response before any initial interview. In the course of the investigation, the Institute will provide written notice of any additional allegations to the parties if the Institute decides to investigate additional or different allegations.

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

D. Informal Resolution Process

The purpose of the informal resolution process is to allow individuals who believe they have been harassed or discriminated against to resolve the issue through a voluntary consultation process rather than the formal resolution process provided by this Policy. The use of the informal resolution process is voluntary and must be agreed to in writing by the Complainant, the Respondent, and Director of Institutional Compliance. The informal Resolution process may be used at any time prior to reaching a determination regarding responsibility and after the filing of a complaint. Either the Complainant or the Respondent may end an informal process at any time until the conclusion of the informal resolution process and choose to pursue the formal resolution process.

The Institute will provide the parties with written notice disclosing: 1) the allegations; 2) the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming an investigation arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the formal resolution process; and 3) any consequences resulting from participating in the informal resolution process, including records that will be maintained or could be shared.

Individuals may be accompanied by an Advisor at any meetings related to the informal resolution process. Information shared or obtained during Informal resolution will be treated as confidential to the extent permitted by law and will not result in subsequent disciplinary actions by the Institute, unless additional action is deemed necessary to fulfill the Institute's legal obligations.

Written notification will promptly be sent by the Title IX Coordinator to the Complainant and the Respondent of the conclusion of the informal resolution process. The notification will describe the terms of the approved resolution, if any. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the resolution may result in appropriate responsive actions.

If the informal resolution process is used, the Institute strives to resolve complaints within 30 calendar days of the Institute's receipt of the complaint under this Policy.

E. Formal Resolution Process

If the complaint proceeds to the formal resolution process, the Director of Institutional Compliance will conduct a prompt, adequate, thorough, reliable, impartial and equitable, investigation incorporating applicable investigation techniques, including, but not limited to, interviewing relevant parties and witnesses, and obtaining available and relevant evidence.

When investigating a complaint under this Policy, the Institute will:

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

- Ensure that the burden of proof and the burden of gathering evidence rest on the Institute and not on the parties;
- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The Complainant and Respondent will be asked to provide a list of possible witnesses to the incident, as well as any supporting documents (e.g., text messages, emails, social media, photographs, telephone records, etc.) that they wish to be considered during the investigation." A "witness to the incident" is defined as an individual who had direct contact with at least one of the individuals involved in the incident(s) before, during, or after the incident(s) occurred. Character witnesses are not permitted.
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- Provide the parties with the same opportunities to have others present during the process, including the opportunity to be accompanied to any related meeting or proceeding by the Advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice of Advisor for either the Complainant or Respondent in any meeting or proceeding under this Policy;
- Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
- 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 a complaint. The Institute will also make all such evidence subject to the parties' inspection and review available at any hearing; and
- Prior to completion of the Investigative Report, the Institute will send to each party and Advisor the evidence subject to inspection and review in an electronic format or a hard copy.

i. Investigation Report

a. *Draft Investigation Report*

Once the investigation is complete, the Title IX Coordinator and Director of Institutional Compliance will prepare a written Draft Investigation Report, which fairly summarizes relevant evidence gathered during the course of the investigation. The Draft Investigation Report will state specific factual findings and will include the Title IX Coordinator's preliminary determination as to whether the evidence supports that Respondent has violated the Policy. The standard for determining each factual finding will be the preponderance of the evidence standard (generally understood as more likely than not").

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

The Draft Investigation Report will be provided in electronic format or in a hard copy to the parties and their Advisors, if any, for review at least ten (10) calendar days prior to a hearing. The parties must respond to the Draft Investigation Report within ten (10) calendar days of receipt. The parties may provide: 1) a written response to the information and findings in the Draft Investigation Report, including the provision of additional clarifying information; 2) identification of new witnesses; and/or 3) submission of new evidence. The Title IX Coordinator will review any responses provided and consider whether the responses establish a basis for additional investigation and/or for altering any information or preliminary findings in the Draft Investigation Report.

b. Final Investigation Report

The Title IX Coordinator and Director of Institutional Compliance will issue a Final Investigation Report, which will include: the Draft Investigation Report; the parties' responses to the Draft Investigation Report (if applicable); the Title IX Coordinator's determinations regarding the parties' responses (if applicable); and the Title IX Coordinator's preliminary finding(s) as to whether the evidence supports that Respondent has violated the Policy. The Final Investigation Report will also, if applicable, describe any sanctions or discipline proposed for the Respondent or remedies for the Complainant. The Final Investigation Report will be simultaneously provided to both parties. Factors relating to possible sanctions, discipline and remedies are described below.

ii. Hearing

The Institute will provide a live hearing for both parties. The Institute will appoint a Hearing Officer who will not be the same person(s) as the Title IX Coordinator, the Director of Institutional Compliance or the Appeal Decision-maker. The Hearing Officer will determine whether the evidence supports a finding of "Responsible" under the Policy using the preponderance of the evidence standard. During the same hearing, the Hearing Officer will determine any applicable sanctions or discipline for violations of the Policy.

Hearings will be held in accordance with the following procedures:

1. The Title IX Coordinator and/or Director of Institutional Compliance will be called as the first witness and will testify as to the preliminary findings of the investigation.
2. Live hearings may be conducted with all parties physically present in the same geographic location or, at the Institute's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. Both the Complainant and the Respondent may choose to request that an in-person live hearing occur with the parties located in separate rooms. The technology used for virtual hearings and for in-person live hearings with the parties in separate rooms must allow the participants simultaneously see and hear the party or the witness answering questions each as one another.

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

3. Both the Complainant and the Respondent are entitled to have one Advisor or support person present, who may be an attorney. If a party does not have an Advisor present at the live hearing, the Institute will provide without fee or charge to that party, an Advisor of the Institute's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.
4. The Hearing Officer will provide each party with an opportunity for Cross-Examination:
 - 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.
 - Cross-examination will be conducted directly, orally, and in real time by the party's Advisor and never by a party personally, notwithstanding the discretion of the Institute to otherwise restrict the extent to which Advisors may participate in the proceedings.
 - Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Hearing Officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
 - If a party or witness does not submit to cross-examination at the live hearing, the Hearing Officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing.
5. Both the Complainant and the Respondent may rebut unfavorable inferences.
6. Both the Complainant and the Respondent may provide an impact statement.
7. The Institute will create an audio or audiovisual recording, or transcript, of the hearing and make it available to the parties, upon request, for inspection and review.

12. Sanctions and Remedies

Sanctions that may be taken against a Respondent in response to findings of a violation of this Policy include, but are not limited to, reprimand, reassignment, transfer, disciplinary action, or termination.

Title IX Sexual Harassment will be deemed to constitute just and reasonable cause for discipline up to and including termination and will be deemed to be insubordination and refusal to obey the policies of the Institute.

Appropriate action will be taken if further acts of Title IX Sexual Harassment occur or if there is any retaliation by either party or individuals acting on behalf of either party.

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

The Hearing Officer may also decide to provide remedies to the Complainant.

13. Written Determination

Both the Complainant and the Respondent shall be simultaneously provided with a written determination, which will include:

1. Identification of the allegations and names of the parties;
2. A description of the procedural steps taken from the receipt of the 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;
3. Applicable policies and procedures;
4. Information considered during investigation (witnesses questioned, documents and other evidence);
5. Supportive measures requested/provided;
6. Responses from either the Complainant or Respondent to the Draft Investigation Report;
7. Findings of fact to support the determination;
8. Conclusions, using the preponderance of evidence standard, regarding the application of the Institute's Policy to the facts;
9. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Institute imposes on the Respondent, and whether remedies will be provided by the Institute to the Complainant; the sanctions and/or other appropriate measures and remedies will be approved by the Hearing Officer; and
10. The Institute's appeal procedures and the permissible bases for the Complainant and Respondent to appeal.

The determination regarding responsibility becomes final either on the date that the Institute provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

14. Appeals

The Respondent and/or the Complainant may appeal the Institute's closure or dismissal of a complaint or allegations therein, or the Hearing Officer's written determination of responsibility. Either party may also appeal the sanctions or discipline imposed by the Hearing Officer. The Institute will appoint an Appeal Decision-Maker(s) who will not be the same person as Hearing Officer or the decision-maker(s) that reached the determination regarding dismissal, the Director of Institutional Compliance, or the Title IX Coordinator.

The Institute will implement the appeal procedures equally for both parties and will use the preponderance of the evidence standard for its determination. A request for an appeal must be submitted in writing to the Title IX Coordinator for consideration by an Appeal Decision-maker

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

within seven (7) calendar days of the issuance of the written determination. Upon notice of the assignment of the panel members, the parties will have seven (7) calendar days to raise any objections to the Title IX Coordinator regarding the ability of the panel to conduct an impartial appeal. When an appeal is filed by one party, the Institute will notify the other party in writing that an appeal has been filed. The Institute will provide both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

An appeal of the decision may be considered if one of the following grounds is present:

1. **Procedural Error:** A procedural error occurred that affected the outcome, including the findings and/or sanctions or discipline. A description of the error and its impact on the outcome of the case must be included in the written appeal. Minor or harmless deviations from the process will not invalidate the proceedings.
2. **New Evidence:** New evidence that was not reasonably available at the time that the determination of responsibility was made and that could affect the outcome, including the findings and/or sanctions. Information that was known to the Complainant or Respondent during the investigation, but which he or she chose not to present, is not new evidence. A summary of this new evidence and its potential impact on the investigation findings and/or sanctions must be included in the written appeal.
3. **Conflict of Interest or Bias:** The Institute’s Title IX Coordinator, Director of Institutional Compliance, or the Hearing Officer, or any individual designated by the Institute to perform the functions of the Title IX Coordinator, Investigator(s), or 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.

Once an appeal request is received, a decision will be issued on eligibility for appeal usually within five (5) calendar days. If the process is extended beyond five (5) days, the Title IX Coordinator will inform the parties of the extension of time to complete the appeal and the reason(s) for the extension. If the grounds for an appeal are not met, the request for an appeal will be denied and the parties will be simultaneously informed in writing. Regardless of whether all parties request an appeal, the Complainant and Respondent will be informed in writing, and permitted to participate in the appeal and to respond to the information provided by the other party.

The role of the appeal decision-maker regarding appeals is limited. Appeals are not intended to be a full rehearing of the complaint. The Institute strives to complete the appeals process within 30 calendar days after receipt of the appeal.

Appeals are confined to a review of the statements submitted by the parties and the investigative and hearing record for the grounds stated above, including but not limited to evidence presented at the hearing and documentation pertinent to the grounds for appeal.

The appeals panel will simultaneously notify both parties in writing of that outcome, including the

Policy/Standard/Procedure No	30.POL.522
Effective Date	September 13, 2021
Issued By	Human Resources
Superseded Version	None

result of the appeal and the rationale for the result. The decision shall be final.

15. Records

The Institute will maintain records relating to allegations of Prohibited Conduct under this Policy for a period of seven years and any applicable state requirements. Complaints and information gathered in the course of an investigation will be kept private to the extent permitted by law. The records shall include:

- i. Each Title IX Sexual Harassment investigation, including any determination regarding responsibility and any recording or transcript of the hearing, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant;
- ii. Any appeal and the result of the appeal;
- iii. Any informal resolution and the result;
- iv. All materials used to train Title IX Coordinators, Investigators, Hearing Officers, others decision-makers, Advisors, any person who facilitates an informal resolution process, and any other individual designated by the Institute to participate in the investigation and resolution of complaints under this Policy; and
- v. Records of any actions, including any supportive measures, taken in response to a Title IX Sexual Harassment report or complaint. The Institute will document the basis for its conclusion that its response was not deliberately indifferent, and that it has taken measures designed to restore or preserve equal access to its education program or activity. If the Institute decides not to provide a Complainant with supportive measures, it will document why such a response was not clearly unreasonable in light of the known circumstances. Documentation of certain bases or measures does not limit the Institute from providing additional explanations or detailing additional measures taken.

16. Amendment and Termination

The Institute reserves the right to amend or terminate this policy, in whole or in part, at any time in its sole discretion, except as required by applicable law.

17. Related Guidance

Policy No. 30.POL.513, Policy Prohibiting Sexual and Other Unlawful Harassment
Policy No. 30.POL.002, Equal Employment Opportunity (EEO) Policy